

## **Appendix A: Detailed Response to Consultation Questions**

### **Chapter 2: Why the market needs reform**

**Question 1:** Do you agree with our characterisation of the problems in the retail energy market?

The market today fundamentally does deliver for consumers – most notably by helping GB consumers enjoy the lowest energy prices in Europe for many years. The current arrangements also allow for levels of innovation which have delivered huge benefits in terms of customer engagement. Our “Fix and Fall” tariff is an excellent example of this. This capped deal allows customers to fix their prices now, but also take advantage of future price reductions, and has been well received by customers. Despite only being launched three months ago, a significant number<sup>1</sup> of customers have already taken this tariff up.

Despite this, we recognise that there are some areas where improvements can be made. Against a challenging economic backdrop, and predictions of rising energy prices for the foreseeable future, it is essential that remaining issues are addressed. We therefore welcome the RMR as an important opportunity to build on recent progress.

We have previously acknowledged that excessively large numbers of tariffs may act as a barrier to customer engagement, and we have already reduced the number of tariffs we offer. We recognise there is more for the industry to do, and broadly welcome the intent of the RMR proposals. We do, however, have some concerns about the details of these proposals, and whether they strike an appropriate balance between enabling a vibrant and innovative energy market, while also ensuring energy tariffs offered by suppliers are easy to compare. These concerns are set out in more detail in our answers to Chapter 4.

We agree with Ofgem that, in order to allow customers to make informed decisions, it is important that the quality of information provided to them is improved. Again, suppliers like British Gas have made significant improvements in this area recently, but we accept more can be done if customers are to be confident that the tariff they choose represents the best deal for them.

In particular we recognise the lack of trust in the energy sector. Whilst a key contributor to this has been rising energy prices, we recognise customers’ *perception* is that suppliers exploit the market in order to make “excess profit”<sup>2</sup>. The Segmental Statements provide clear evidence that this is not the case, however the perception is critical. Against a background of increasing prices in the years to come, we agree that suppliers and Ofgem alike must act now to address these incorrect perceptions, and improve trust in the sector.

**Question 2:** Do you agree with the findings of our evidence base?

As above, we agree that excessive tariff proliferation may have a damaging effect on customer engagement, and whilst we do not necessarily accept the definition of “tariff” which Ofgem adopts, we concede that suppliers need to do more to simplify their offerings. Notwithstanding this, we also note contradictions in Ofgem’s evidence base here. Whilst customers say too many tariffs can deter them from shopping around for example, they also tell Ofgem that the reason they do not shop around is because they are happy with their current supplier<sup>3</sup>. Whilst we therefore accept the need for

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<sup>1</sup> Specific details about the number of customers to have taken up our “Fix and Fall” tariff to date are providing in confidential Appendix B.

<sup>2</sup> “The Retail Market Review – updated domestic proposals”, paragraph 2.8.

<sup>3</sup> 78% of those claiming to have never switched supplier say that is because they are happy with their current supplier, Ibid, paragraph 2.36.

controls on the number and structure of tariffs available, we caution Ofgem against taking an approach which is too restrictive. This point is explored further in our responses to Chapter 4.

Similarly, we do not agree with all the evidence presented by Ofgem on the problem of inadequate information. For example, we typically engage customers during the development of customer communications, to ensure that the result conveys the information they need, in a way they understand. The result is an industry leading annual statement design and bill design, the latter launched in August following extensive customer research<sup>4</sup>. It is also notable that we are one of the few suppliers to have had key communications approved by The Plain English Campaign.

Notwithstanding that, we agree that there is scope to provide more personalised information to customers, helping them understand their own specific circumstances and how they can find the best deal for them. This is reflected by the fact that we have recently updated our “Better Deal For You” messaging with personalised projections of how much a customer could save by moving to our cheapest tariff. More detail on our views for the proposals in this area is given in response to Chapters 5, 6 and 7.

We also agree with much of the evidence Ofgem have collected regarding the lack of trust in energy suppliers. It is not true to say that suppliers are “all the same”, make “excess profits” or “deliberately make it difficult”<sup>5</sup> for customers, but we accept that this may be many customers’ perception. It is vital that the industry as a whole continues to tackle this issue.

Whilst there is much we can agree on in Ofgem’s evidence base, we disagree with many of the conclusions drawn about the outcomes for customers<sup>6</sup>. We fundamentally disagree with Ofgem that suppliers place a “low priority on meeting consumer needs”<sup>7</sup>. We make strenuous efforts to meet the specific demands of our customers by offering a wide range of products, tailored to their needs. Some of these are truly innovative, for example our new “Fix and Fall” product, and can materially increase customer engagement as a result. It is important to note that, as a result of reduced scope for competitive differentiation, one unintended consequence of Ofgem’s tariff proposals will be a fall in the range of products on offer in the market. There is a risk that this may disengage some customer segments, and expect Ofgem to reflect this risk in its forthcoming quantified impact assessment.

We also reject the suggestion that energy supply margins have increased in recent years, and the argument that suppliers have little incentive to control their costs. The Supply Market Indicator (SMI) report tends to materially overstate levels of absolute margin due to a number of imperfections in the margin calculation methodology<sup>8</sup>.

These are important as the resulting systematic bias towards an over estimation of profit margin, in turn, drives unhelpful perceptions and inaccurate messages. Imperfections with the methodology include over-estimations of the customers’ average consumption, exclusion of any discounted tariffs from the methodology and inaccuracies in the way open hedging positions are valued. We appreciate that Ofgem has already made some improvements to the accuracy of the SMI, but the issues above must also be corrected before it can be relied on to provide reasonable estimations of net margin.

Furthermore, whilst we accept that indirect costs have increased in recent years, this has been driven by investment in new processes, procedures, and systems; designed to meet new customer needs and improve customer service. We are aware of at least three major system replacement programmes in the domestic market over the period of time Ofgem cites as evidence. Rather than being evidence of ineffective competition, we argue this is evidence of suppliers responding to

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<sup>4</sup> This research has been shared with Ofgem under separate cover.

<sup>5</sup> Ibid, p30-31.

<sup>6</sup> Ibid, p39-44.

<sup>7</sup> Ibid, p42

<sup>8</sup> We also note that independently assessed Segmental Statements show that supplier margins have generally been low or negative in recent years.

demand for improvements in customer service. Indeed, Centrica is on track to deliver £250m of cost savings in 2012 alone, with the majority of those efficiencies being realised in British Gas<sup>9</sup>.

Finally we would note that, whilst there may be increased alignment of retail pricing, this is due to the fact that costs which are common to all suppliers (for example, network charges and environmental costs), are rising across the board and becoming a larger proportion of the overall bill. We are also mindful of the impact previous regulatory interventions on price differentials will have had on convergence (most notably the undue discrimination licence condition which lapsed earlier this year).

### **Chapter 3: Rationale for our package**

**Question 1:** Do you agree with our rationale for the proposed RMR package?

We agree with the rationale presented by Ofgem for the proposed RMR package. We welcome Ofgem's acknowledgement of the progress suppliers have made in rebuilding trust with customers, but we agree that there is a role for the RMR to build on this.

We also welcome a number of important changes Ofgem have made to their December 2011 proposals. In particular we are pleased that Ofgem has decided against progressing their proposal to regulate the level of the standing charge. Had this proposal been implemented, it would have had material and negative implications for consumers and the competitive market.

Similarly, we also welcome the fact that Ofgem have recognised how much customers value discounts associated with particular cost saving behaviours such as, for example, dual fuel discounts. The offering of these discounts also plays an important role in encouraging customers to engage with the market, and we therefore welcome the fact that this is recognised in these updated proposals.

However it is unclear to us why online discounts have not been given the same treatment, when customers clearly value online discounts as highly as dual fuel discounts. We are concerned at the impact this may have on both customer engagement, and the cost of energy for customers that manage their accounts online. This point is expanded on in answer to the questions in Chapter 4.

**Question 2:** What are your views on the proportionality of the proposed RMR package in the light of the evidence we have presented?

We believe that, although they represent a major increase in the extent of regulation that applies to energy suppliers, the updated RMR proposals are considerably more proportionate than the December 2011 proposals. We are however deeply concerned at the Market Cheapest Deal proposal, which we consider to be both disproportionate and unsupported by the evidence presented. If implemented, this proposal would lead to an increase in the number of customers making poor quality switching decisions, and may even place suppliers in conflict with their obligations under competition law (i.e. were this to require suppliers to share future pricing information in order to avoid misleading customers).

We also have some concerns that some proposals, particularly those relating to tariff reform, do not strike the right balance between ensuring simplicity and transparency, whilst also protecting innovation and choice in the interests of consumers. Again, further details on these points are provided below.

**Question 3:** Do you agree with our reasons for not proceeding with the alternative options set out below?

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<sup>9</sup> Centrica Interim Management Statement, 11<sup>th</sup> May 2012. [Link](#).

Whilst we believe there may be merit in moving towards a “Principles Based” regulatory approach to tariff regulation at some point in the future, we accept that a cap on the number of tariffs may be more appropriate at this time. Ofgem should however consider attaching a sunset clause to the tariff proposals so that the decision to reject this alternative form of regulation can be reassessed once the Standards of Conduct have properly bedded in.

We also agree with Ofgem that both voluntary approaches to the Standards of Conduct and a narrow scope for the Supplier Cheapest Deal proposal would not necessarily drive the required improvement in trust across the whole market. We therefore agree with the decision to reject these alternatives.

We do however have concerns with the decision to reject the alternatives considered for the Tariff Comparison Rate (TCR). Whilst we appreciate the motivation for a national TCR, we have concerns that this may lead to poor quality switching decisions in some cases, and may not therefore be in customers’ interests. More information about these concerns is given below in response to Chapter 7.

#### **Chapter Four: Tariff Simplification**

**Question 1:** Are our rules to reduce the number of tariffs appropriate? Have we set the cap on core tariffs at the right level? Should a different cap be set for time of use tariffs? What derogations from our tariff cap would be appropriate?

As a direct way of limiting tariff proliferation, we accept that a cap on the number of tariffs a supplier can offer may be an appropriate intervention in the market. It is important that Ofgem’s RMR decision strikes an appropriate balance between simplicity and transparency on the one hand, and innovation or customer engagement on the other if it is to deliver in the interests of consumers. We therefore have concerns that the proposed four tariff cap does not achieve this, and specifically that the cap is set at too low a level to enable sufficient scope for innovation, and choice for consumers.

We also believe that, whilst a form of a tariff cap mechanism may be appropriate, special provisions must be made for smart meters if we are to avoid undermining the roll out. We also consider that there may be some instances where Ofgem may need to consider providing derogations, for example to allow suppliers to test new products or support industry initiatives such as the Low Carbon Network Fund. These issues are set out in more detail below.

##### *The level of the tariff cap*

British Gas has already taken steps to simplify its range of tariffs. We have reduced the number of tariffs we offer, changed our discount structure so that it is clearer, and committed to phasing out the two-tier tariffs. We recognise that there is more that can be done to improve transparency and simplicity of tariffs however, and we agree a cap on the number of tariffs will – on balance – may be a positive step forward (assuming the cap is set at an appropriate level).

Tariff innovation is the single largest tool that suppliers have to encourage customer engagement in the market, and is one of the largest benefits to consumers of retail competition. If the tariff cap is set too stringently therefore, there is a material risk that suppliers will be unable to develop innovative products which encourage customers to think about their energy usage in a different way. This may in turn lead to levels of customer switching to fall.

The majority of customers today demand a core range of three tariffs; a standard evergreen product, a short term fixed product, and a long term fixed product. These three products do not satisfy all customer needs however, and on their own, would be insufficient to sustain the levels of customer switching we see in the market today. In order to maintain customer engagement and switching levels, suppliers need to be able to supplement these three tariffs with additional innovative tariffs which can adapt to changing customer needs.

Our new “Fix and Fall” tariff is an excellent example of such a product. This product was launched in response to feedback from customers who told us they both wanted a different balance of flexibility and price certainty, and that they were unhappy being locked in to a fixed price deal when prices fell. Despite only being launched three months ago, a significant number<sup>10</sup> of customers have already changed to this tariff, evidencing the importance innovative tariffs have in stimulating customer engagement.

We have concerns that limiting suppliers to offering just four tariffs is overly restrictive, and would damage our ability to continue to offer innovative products such as “Fix and Fall”, forcing us to make a choice between which one additional innovative product we could offer. This would be compounded by the current proposal not to permit online to be an allowable discount, and “green” as an allowable surcharge.

These restrictions would make it impossible for us to offer the core range of three tariffs in at the same time as “Fix and Fall”, online and green propositions. It would also lead to the potential withdrawal of, or failure to launch, tariffs associated with specific bundles, for example tariffs bundled with Green Deal, home servicing products or other innovative technologies. In the absence of a quantified impact assessment, it is difficult to see how the cost to consumers of this material restriction in choice is outweighed by the less obvious benefit of a reduction in excessive tariff proliferation. As currently drafted, this proposal is not in customers’ interests.

These issues could be addressed by increasing the number of tariffs allowed within the proposed tariff cap to six. This would “lock in” some of the best practice the industry has seen to date on tariff simplification, prevent future tariff proliferation, yet allow suppliers to offer a core range of tariffs plus some new innovative tariffs designed to maintain engagement and trial new ideas.

A six tariff cap would also give suppliers sufficient scope to offer differentiated “affinity” tariffs. These are very effective at engaging with some customer groups (particularly when offered in partnerships with trusted third parties such as M&S and Sainsbury’s). Some of these tariffs also allow customers to make donations to charities such as Age UK, National Trust and Cancer Research.

Without such a change to the level of the tariff cap, it is inconceivable such tariffs could continue to exist. In the case of an evergreen affinity product, suppliers would need to devote at least one tariff “slot” to the partnership, or two “slots” in the case of any fixed term affinity product (on the basis that affinity partners would need an evergreen product for their customers to roll off on to at the end of the fixed term period). Many hundreds of thousands of customers have chosen to purchase their energy through such trusted third parties. Their removal from the market would not be in customers’ interests.

### *Collective Purchasing*

We have concerns that the proposal to allow an additional tariff under the cap in support of collective purchasing schemes will be unworkable in practice. Since they were launched in the market, the nature of these schemes has evolved from single national schemes to bespoke localised packages, designed to meet a variety of needs and respond to the specific demand of an area or region.

In this context it is not possible to design one collective purchasing tariff and seek to offer that multiple times to different schemes. The impact of the Ofgem proposals will therefore be to prevent any one supplier entering more than one collective purchasing scheme at any one time. Even if every domestic supplier supported one collective purchasing scheme each, this would be insufficient to support the level of demand to which industry and Government aspire.

We recognise the tension between the need to support the development of collective purchasing schemes and the wider RMR aim of preventing tariff proliferation. However, if Ofgem is to avoid

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<sup>10</sup> Specific details about the number of customers to have taken up our “Fix and Fall” tariff to date are providing in confidential Appendix B.

undermining the future development of such schemes, it is clear this is an aspect of the proposals which requires further thought.

#### *Smart meters*

Where customers actively choose innovative smart meters, we expect most will opt to take Time of Use products. As we accelerate the number of smart meters installed through the regular replacement programme however, more and more customers are likely to want to retain their existing “dumb” tariffs, at least in the short term. To deny them this opportunity because of tariff restrictions within Licence would be a poor customer experience. Some customers may even lose out financially if they were forced to take a Time of Use tariff and were either unable, or unwilling, to shift demand away from peak periods.

Suppliers therefore need to be able to offer the six “dumb” tariffs we propose for a non-smart meter, in addition to a further six Time of Use tariffs.

We therefore suggest that the tariff cap for smart meter tariffs should be offered in addition to the tariffs available on dumb tariffs. This would mean that a customer with a smart meter would have the option to access the core range of six “dumb” tariffs offered by their supplier, and six new smart meter specific tariffs designed to make best use of their new technology.

#### *Areas for potential derogation*

Whilst we welcome Ofgem’s suggestion that suppliers could apply for derogation from the cap for particularly innovative time of use propositions, we are mindful that derogations are not granted lightly by Ofgem. As such, even with a potential for derogation, we believe these proposals could represent a barrier to innovation in this crucial part of the market. Wherever possible, Ofgem must provide any derogation along with the licence drafting itself, not on an application by application basis.

In order to ensure any new products address specific customer needs, and will perform as expected after launch, suppliers like British Gas need the ability to trial new tariffs with small groups of customers before any full launch. Under the current proposals, such trial tariffs would require a tariff slot of their own, and in practice would effectively be banned.

Not only would this create a further barrier to tariff innovation, limiting suppliers’ ability to develop new products, it would also mean an increase in the number of products going to market without testing of the pricing, communications and structure. This would not be in customers’ interests, and is likely to lead to an increase in the number of poorly designed products entering the market - damaging customer trust still further. We also believe it would inhibit suppliers’ ability to comply with the Standards of Conduct. Regardless of the level of any tariff cap, Ofgem should provide derogation for such trials as part of its RMR decision.

Similarly, without derogation, the tariff cap would limit suppliers’ participation in Ofgem supported Low Carbon Networks Fund initiatives. British Gas for example is involved in the Customer Led Network Revolution (CLNR)<sup>11</sup> trial which is testing smart grid technology. Customers in the trial receive a range of energy tariffs which compliment the various technologies being trialled in the scheme. The bespoke tariffs created in support of the trial are only available to the small number of customers involved, and would not necessarily be commercially viable at any sort of scale. Without derogation from the tariff cap proposals therefore, it would not be possible for suppliers to create new innovative tariffs in support of schemes like these in future. Given the wider strategic benefit such trials have in the industry, Ofgem should provide derogation for these along with any final decision.

We also believe Ofgem should provide derogations for any fixed term contracts which started before, and have an end date after, the final RMR decision. Without such derogation any suppliers with more than the maximum number of tariffs could be forced to withdraw a fixed term product before its expiry date, breaching the contractual agreement made with the customer to honour that price until a date in

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<sup>11</sup> <http://www.networkrevolution.co.uk/default.aspx>

the future. This would unacceptably place suppliers in breach of their contractual obligations to customers, and potentially damage trust – especially if that customer was then subject to a future price rise.

Finally, there are a number of legacy tariffs created for a small number of ex-employees / pensioners at the time of the British Gas demerger which we are contractually obliged to offer in perpetuity. Closing these would place us in breach of contract, and would therefore require derogation. We also have a current employee discount scheme – and we would need to discuss with Ofgem how to ensure that this is consistent with the final RMR decision.

**Question 2:** What surcharges should suppliers be able to offer without this counting as an additional core tariff, and why? How could these be defined in a licence?

Surcharges are used to target costs at the specific customer groups who cause them, protecting the wider customer population from an unnecessary increase in price. If inefficiencies in the allocation of costs are to be avoided, it is important that suppliers retain the flexibility to levy surcharges where appropriate.

Whilst we support the proposal to ensure all surcharges are common across our tariff range, we have concerns that in seeking to specify precisely which surcharges are allowable, suppliers will be unable to target any new costs which may arise in the future. This in turn will lead to the inefficient allocation of those costs across our entire customer base. We recognise Ofgem’s need to ensure that suppliers do not use surcharges to circumvent the proposals on discounts, but believe this could be better achieved by stipulating which surcharges are prohibited, rather than which are allowed.

If Ofgem do decide to allow specified surcharges, they should as a minimum include green tariff surcharges in the list. Although this has historically been a tariff choice in its own right, customers are increasingly demanding the flexibility to demand low carbon energy as an optional extra against *all* tariffs. Without the ability to levy a “green” surcharge, meeting this demand will not be possible (leading to a material restriction of customer choice). Combined with the proposal to limit suppliers to offering just four tariffs, the RMR proposals will effectively prevent all but niche suppliers from offering green products. Again, this would not be in customers’ interests.

**Question 3:** Are our rules to simplify tariff structures and discounts appropriate? Should they only apply to open tariffs or be extended to cover dead tariffs too?

#### *Tariff structure*

We support the proposal to oblige suppliers to structure all tariffs in a standing charge and single unit rate structure, and believe this will help customers understand their energy costs more easily, and enable simpler, clearer, comparisons between tariffs. We have already introduced our “Clear and Simple” tariff which meets these requirements, and have committed to phase out all remaining two-tier tariffs in the near future.

#### *Discounts*

Whilst we also welcome the proposal to allow us to continue to offer dual fuel discounts, we are concerned that Ofgem will not provide the same protection for online discounts – forcing them instead to be treated as a separate tariff. The rationale for this is unclear. Ofgem acknowledge the value placed by customers on dual fuel discounts<sup>12</sup> and cite this as the reason why they have allowed their continued use. Online discounts are equally valued by customers however, with each customer receiving approximately an £80 per annum benefit per account compared to our standard tariff. There is no evidence that the corresponding benefit they will receive from tariff simplicity will offset this loss.

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<sup>12</sup> “The Retail Market Review – updated domestic proposals”, paragraph 3.10.

Discounts are also the single biggest way in which we can encourage customers to adopt cost saving behaviour. Managing their account online is the single biggest cost saving that can be made. If suppliers are forced to withdraw such discounts, it will not be possible to encourage customers to adopt such behaviour, hindering our ability to drive down costs and protect customers from future price increases.

Ofgem should allow online discounts to be overlaid on any tariff as a form of “wrapper” (in a similar way to the treatment of dual fuel discounts). So long as this discount is being applied on a consistent basis across all core tariffs when requested by the customer, transparency would be unaffected. This would also be consistent with the way in which online account management is increasingly being perceived by customers – as an optional extra which can be applied to any tariff rather than as a tariff in its own right.

We also have concerns with the proposal to restrict the way in which discounts must be structured. Expressing discounts in either a pounds per annum or pence per unit format will prevent suppliers from accurately sharing cost savings which are revenue and not volume based, for example, the savings we realise when customers pay by direct debit. This could be resolved by allowing suppliers to express discounts using both a pounds per annum *and* pence per unit format, or allowing a percentage off the annual bill where appropriate.

As the proposals currently stand, suppliers will be forced to apply the direct debit discount directly to the unit rate. This will mean that the discount would not reflect how the cost savings are realised, meaning customers with low consumption may be overcharged and high consuming customers undercharged. A flat, per unit, discount will also distort the way in which customers with Time of Use meters are rewarded for paying by direct debit, with it being unclear which rate the discount should be applied to, or which customers would win or lose under such a system. Given gas and electricity have different prices per unit, this proposal will also force suppliers to have different direct debit discounts for each fuel. This is likely to create more customer confusion, not less.

We do however accept the proposal to require discounts to be common across all domestic tariffs. This will prohibit customer-specific discounts and payments currently used by most suppliers as “acquisition” and “winback” offers. Although these are a useful way of engaging customers in the market, and can act as an incentive for customers to engage with the market, we accept they can complicate the comparison of products in the domestic market. They also tend to benefit just those customers who are already highly engaged in the market.

Whilst their removal could therefore be argued to create a fairer and more transparent market, it is important to note the risk that this proposal could, beyond the control of suppliers, lead to switching amongst the most engaged to fall. It is important that Ofgem quantifies this in the impact assessment that will accompany Final Proposals. It is also important that any reductions in switching are therefore not perceived subsequently as a failure of the final RMR package.

Finally, some of the benefits to consumers of these proposals may be put at risk if suppliers, restricted in the way in which they use discounts and offers, divert that funding in to deeply discounted fixed term offers (i.e. below cost). This is something British Gas opposes, and we do not believe that the resulting cross subsidies between customer segments would be in the long term interests of either consumers, or competition.

We also note that the proposals would not necessarily prevent suppliers from offering one-off acquisition discounts through third party intermediaries, such as switching sites. If the benefits of the prohibition of less transparent “ad hoc” discounts are to be realised, we would therefore suggest that Ofgem addresses this potential loophole (for example, through amendment of the Confidence Code).

**Question 4:** What categories of dead tariffs should be derogated from our proposals, if any? Are any other measures required to avoid any consumer harm?



Ofgem should provide derogation for any dead tariff which is cheaper than the relevant live tariff customers would move on to under these proposals. Forcing customers to move from a cheaper dead tariff to a more expensive live tariff would be an extremely poor customer experience arising from RMR. We also believe there may be legal issues with doing so without their consent, potentially opening up suppliers to claims for any loss suffered.

On the basis that customers are unlikely to consent to moving from a cheaper dead tariff to a more expensive live tariff, Ofgem should ensure that their proposals apply only to dead tariffs which are more expensive than the cheapest live equivalent.

**Question 5:** What would be the implementation issues and costs of our proposals?

An estimate of implementation costs is provided in confidential Appendix B of this response.

**Question 6:** Is our proposed timeframe for implementation appropriate?

Provided the derogations specified above are granted at the time Ofgem make their decision, we believe we will be able to meet the expected implementation timetable for tariff simplification. We also believe we will be able to commit to moving customers off dead tariffs in the time proposed, provided fixed term contracts are explicitly excluded from the definition.

### **Additional responses**

**The following responses to the consultation did not fit under any specific questions put forward by Ofgem but they are sufficiently important to merit being raised.**

#### *Sunset clause*

Many of the tariff proposals set out in the consultation represent a significant increase in the amount of regulation applicable to energy suppliers, and while these are much improved on Ofgem's December 2011 proposals, a significant risk of unintended consequences remains. As above, we believe there is a risk that the proposals for a tariff cap and standard discount structure may reduce customer engagement and therefore negatively impact customer switching levels.

We therefore suggest that the tariff proposals are introduced with a "sunset clause", with the conditions falling away in 2017 unless modified. This would be consistent with the way in which the undue discrimination licence condition was introduced – and which was subsequently removed (partly due to concerns regarding the detrimental impact this condition had on competition). This would also be more consistent with the Standards of Conduct proposal, which seeks to move the market towards a state (in the long term) where it can be regulated on customer outcomes rather than prescriptive rules.

#### *Bundles*

As with discounts, we accept that requiring bundles to be uniformly offered across the product range may better enable customers to make comparisons between tariffs and identify the best deal for them. We are however concerned that Ofgem are proposing to only allow suppliers to offer "non-energy related" bundles. We appreciate the concern that energy related bundles, for example paperless billing, could be used to circumvent proposals elsewhere in the RMR. Ofgem must however ensure that in doing this they do not prevent suppliers from offering products and services such as Green Deal, boiler cover or new technologies which help customers control their energy use, are welcomed by customers, drive engagement and can deliver benefits.

Bundled products like these are designed to both meet specific customer needs, and support Government schemes such as the Green Deal and Energy Company Obligation. They are also an important area of differentiation in the market and therefore promote customer engagement. An effective ban on them will not be in the interests of either the customer or the market. It may also

hinder the ability of the industry to offer customers truly innovative propositions like our new Remote Heating Controls product (as well as potentially making it harder to successfully market Government schemes such as the Green Deal, with consequential impacts on the potential cost of delivering the Energy Company Obligation).

#### *Small supplier exemptions*

We note that small suppliers have asked to be exempt from any of the tariff reforms that are ultimately introduced as a consequence of RMR. Existing exemptions were granted to give small entrants relief from the high fixed costs of participating in government social and environmental schemes. While innovations such as brokerage in the new Energy Company Obligation mean this argument is harder to sustain today in the context of government schemes, it certainly does not apply in the case of tariff reform. Compliance with the tariff reforms as proposed would not require small suppliers to incur large fixed costs. There is therefore no justification for any form of small supplier exemption from the RMR proposals.

We have wider concerns about the exemptions that small suppliers currently enjoy from government environmental and social obligations, which we expect will be worth approximately £97 per household bill in 2013. While we recognise this is the result of Government and not Ofgem policies, it is clear that the operation of small supplier exemptions is already causing a gross market distortion.

### **Chapter 5: Clearer and simpler information**

**Question 1:** What are your comments on the degree of prescription proposed, and on the design of the documents and messaging?

We believe that evolving customer needs and preferences can be better met by setting minimum standards for customer bills and statements, rather than prescribing format and content. Whilst we agree there is scope to improve the provision of customer communications, we have concerns that the level of prescription required will prevent suppliers from either adapting their communications to meet customer needs, or using the communications as a differentiating factor.

We have recently launched a new and innovative energy bill, which has been specifically designed around detailed customer research into what they want from their energy bill. This new design has been received exceptionally well. Whilst we understand why Ofgem want to ensure that all suppliers offer their customers high quality bills, it would be unfortunate if the major advances in understanding we have recently made were lost through prescriptive regulatory requirements.

In particular, we have concerns about both the format and proposed wording of Ofgem's draft energy bill. We recognise why ensuring all bills have a similar format may have some benefit, but we believe the proposed content could be improved. We would be happy to share our more detailed views on this with Ofgem, along with the research which underpins our new bill.

We are also mindful of the associated impact the proposals from the Welsh Assembly may have. These proposals will obligate all suppliers to provide all communications in Welsh and English to all customers in Wales. By extending the amount of information Ofgem require suppliers to provide, they also unwittingly increase the potential cost of complying with requirements in Wales. This is not necessarily an argument against providing more information to customers, but there is an opportunity for Ofgem to ensure that different Government agencies co-ordinate their proposals in a way which minimises the cost of regulation on customers. As a minimum, Ofgem should communicate their proposals clearly to the Welsh Assembly, and call for an impact assessment there which takes account of the RMR proposals.

**Question 2:** What are your views on the appropriateness of content requirements for each of the communication channels?

## *Bills*

As we have explained above, we have recently redesigned our energy bill, based around detailed research into what customers want to see. Whilst we recognise why increasing the degree to which energy bills become standard communications across the industry may have some benefit, we believe that the proposed content could be improved.

For example, customers tell us that the primary purpose of the bill should be to make it clear how much they owe and when they need to pay. In order to achieve this, we have stripped out all other information from the first page and moved it to other areas of the bill.

The Ofgem proposal to split a “summary box” over the first and second pages of the bill will put at risk the benefits our recent changes have realised, and potentially create customer confusion. We are also concerned that these proposals have not been subject to the same level of testing and research that we would normally expect from changes we had developed ourselves. For example, we believe that placing the proposed TCR on the same page as the unit rate is typically displayed would not aid customers’ understanding of the bill.

Furthermore, the design Ofgem have proposed relies heavily on text; something which customers have previously told us gives the bill a “cluttered” look, and creates disengagement. Similarly, some of the proposed language is very negative and is not likely to promote engagement. For example, the bold text in the tariff summary box on page 1 stating that “We are required to give you this information by the regulator”<sup>13</sup> is not customer friendly and creates an impression that the information within it is technical and uninteresting.

We are happy to work with Ofgem in improving their proposed designs, and have shared some of our previous research in this area under separate cover.

Whilst we appreciate Ofgem’s concerns that allowing suppliers flexibility over how new information is presented may lead to poor implementation, this can be overcome by providing an obligation on suppliers to provide the new information, and enforcing that provision through the Standards of Conduct.

## *Annual Statements*

We are pleased that Ofgem have decided to trial the proposed design of the Annual Statement and are happy to be supporting them in delivering this. We look forward to seeing the results, and hope that these will inform Ofgem’s final decision.

We strongly disagree with the proposal to require suppliers to send Annual Statements separately from any other mailings. This element of the proposal will add over £2m in extra postage costs alone; costs which will inevitably be passed back to the customer in the form of higher charges. Ofgem have not shown that the benefits of separate mailing will generate customer benefits which justify this extra cost.

We also have some concerns about the proposed design itself. As with the bill, we believe the focus on large sections of text, particularly on page two of the proposed design, will not engage customers. We also believe the design of some graphics could be improved. For example, the format of the “How do you compare?” box proposed on page one correlates usage with the number of people in a household. Usage levels are subject to a number of other drivers however – not least the energy efficiency rating of the property. As currently proposed, the proposed graphic would create significant confusion with customers who do not have the number of people in their household suggested by the graphic. This, in turn, will increase distrust in energy suppliers, increase call volumes and hence suppliers’ costs – none of which is in the customer’s interests.

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<sup>13</sup> As per the design shown in the Supplementary Appendix to the RMR Proposals, page 10.

We are also concerned with the proposed historical consumption chart on page one of the Ofgem Annual Statement design. Many customers do not have four bills per annum<sup>14</sup>, meaning the format may be complex and costly to implement. From our work in supporting the Ofgem field trial we also know that the calculations required to enable the inclusion of this chart on the annual statement will increase the amount of time to issue an annual statement and place strain on our back office systems. We would prefer if this information was not included on the Annual Statement.

Finally, we are concerned at the proposal to use the Annual Statement to advise customers about the length of their contractual term. We understand that, because British Gas tariffs are not offered for a fixed duration (e.g. one year) but instead run until a given date, we will be obliged to advise the customer how long remains in their contract term. Whilst it is possible to automate the calculation of this data, it would be incredibly onerous and would have material impacts on both the performance of our systems and our ability to issue the Annual Statement on time.

We are happy to work with Ofgem in finding solutions to these issues and improving their proposed design, and would be happy to share our previous research in this area if that would be helpful.

#### *Price Increase Notification*

We support the proposal to oblige suppliers to personalise the price increase notification, and agree that this will help to make it as meaningful as possible for customers. Ofgem should not however under-estimate the cost associated with such a change<sup>15</sup>. Whilst we recognise this change may deliver benefits to many consumers, suppliers will need a reasonable period of time to implement what are quite complex and costly changes to systems and processes.

Notwithstanding our qualified support for the format of the price increase notification, we strongly oppose both the ban on joint mailing of price increase notifications and the ban on including any related marketing materials. As above, the ban on joint mailing will add approximately £2m in postage costs alone for each price increase, costs which will again be passed to customers. No evidence has been presented to show the benefits of this proposal outweigh this new cost.

The proposed ban on including related market materials along with the price increase notification will also prevent us from engaging with customers at the time they are most likely to be considering whether they are on the best tariff for them. Perhaps more importantly, it will also prevent suppliers from promoting cost saving initiatives such as energy efficiency, cheaper tariffs, tariffs offering greater price certainty or direct debit payment options at precisely the time the customer is most in need of that messaging. This proposal will prevent suppliers' ability to help their customers mitigate the rising cost of energy therefore, and will be detrimental to customer interests.

Ofgem should instead seek to prevent the overall message about the price increase from being diluted by defining what "relevant" information may be provided along with it. This should include energy efficiency advice, messages about cheaper payment methods and information about that supplier's other available tariffs. The demand for this information is clearly evidenced by the large take up of such offers we see following a price increase notification. A significant number<sup>16</sup> of customers fixed their prices with our new "Fix and Fall" tariff following our last price increase, for example.

#### *Tariff Information Label*

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<sup>14</sup> The issuing of bills is largely dependent on the receipt of meter readings. Billing periods therefore typically vary between eighty and one hundred and twenty days. Customers who have had corrections applied to their account may have significantly more bills in any one year period.

<sup>15</sup> An estimate of implementation costs is provided in confidential Appendix B of this response.

<sup>16</sup> Specific details about the number of customers to have taken up our "Fix and Fall" tariff to date are providing in confidential Appendix B.

We support the proposed content for the Tariff Information Label. We have some concerns about the TCR element within it however. These concerns are explored further in response to the questions in Chapter 7.

#### *End of Fixed Term Notice*

We broadly agree with the proposed content of the Fixed Term Notice, and believe this will give customers the information they need as their fixed term contract comes to an end. We believe the proposal to prevent suppliers from offering a further fixed term product however, where the duration of that product exceeds the duration of the customer's current tariff, will not be in customers' best interests. Having taken steps to establish they do value fixed term deals, customers would then be artificially precluded from a longer term product that might be precisely what they want based on their initial experience. This restriction explicitly reduces customer choice, and will mean customers are prevented from finding out about all the options available to them.

Ofgem should instead concentrate on ensuring that alongside any offer, suppliers make it clear that the customer does not have to accept that offer. They should also ensure that, in addition, suppliers indicate where customers can access information about the full range of products available to them from that supplier.

**Question 3:** Should Ofgem explore further ways in which suppliers might increase the effectiveness of online/paperless communications?

Whilst we are happy to work with Ofgem to increase the effectiveness of online communications, we would be concerned if Ofgem sought to limit customers' ability to opt out of paper communications. Online account management is a distinct, and growing, customer segment. Restricting suppliers from delivering it would not be in the interests of customers.

**Question 4:** Should Ofgem consider making further recommendations, or issuing best practice for enhancing the impact of Annual Statements by looking at messaging and co-branding of envelopes?

We have no specific views on whether Ofgem should also seek to prescribe the content and format of the envelope containing the Annual Statement. Ofgem should however be aware that any changes here will increase supplier costs. A fully quantified impact assessment of any proposal should therefore be undertaken before any proposal is brought forward.

**Question 5:** Do you agree with the view additional contractual information can be included on an additional page on the Annual Statement?

Whilst we agree that the Annual Statement should have a role in reminding the customer what the key terms and conditions are for their specific tariff, we do not agree that a third page to the document is warranted. A third page to the Annual Statement will simply add a further cost, without any evidence that this will result in greater customer benefit.

**Question 6:** What are your views on the classification of dual fuel for the purposes of the template designs?

Suppliers should have the flexibility to send dual fuel communications to customers, if they want it. This flexibility should include being able to have separate gas and electricity communications within the same envelope, or having one combined dual fuel communication. Provided the document contains the information provided by Ofgem, we do not believe there is any evidence to suggest separating them would be beneficial. On the contrary, any restrictions may increase the costs suppliers incur from making this mailing.

**Question 7:** What are your views regarding including energy efficiency advice in Annual Statements?

We are not opposed to suppliers providing energy efficiency advice in the Annual Statement. We do however believe suppliers should have the flexibility to identify which advice will be suitable for which customer, based on whatever information they may hold about the customer's individual circumstances. Ofgem should therefore avoid prescription in this space.

## **Chapter 6: Supplier Cheapest Deal**

**Question 1:** Do you agree with our view that the cheapest tariff message should include both supplier's cheapest tariff for their payment method, consumption and meter type, and the cheapest overall tariff from their supplier irrespective of their current circumstances, personalised by consumption?

We support this proposal, and agree that suppliers should advise customers of the cheapest deal they offer, both for that customer's circumstances and overall. We also agree with the proposal to personalise this information for the customer.

British Gas implemented a similar initiative for its customers in March, and recognises the benefit such messaging can have in helping customers find the best deal for them. Whilst we want to make clear that introducing such personalised messaging is a significant systems change, we recognise that the benefits of this proposal are likely to outweigh the costs.

**Question 2:** Do you agree with the approach to tariff eligibility criteria proposed for supplier's cheapest tariff?

Yes, we broadly agree with the tariff eligibility proposals outlined by Ofgem.

We have some concerns that including tariffs which will be available for "at least four weeks"<sup>17</sup> from the time the communication is sent may cause some problems however. Whilst most customers respond to communications within one or two days of receiving it, a minority of customers will respond up to six weeks later. This may result in some customers contacting suppliers to take up tariffs which are no longer available. Even if they contact suppliers immediately after receiving the communication, opting to change to a tariff which may be withdrawn just four weeks later is not likely to be of interest. The inability to communicate that to customers until they contact us would be a poor customer experience. We recommend that Ofgem increase this period of time to three months.

**Question 3:** We seek views from stakeholders on whether consumers with smart meters and any relevant time-of-use tariffs that the supplier is offering require separate consideration in relation to this policy proposal.

We believe that mandating the supplier cheapest deal for customers with smart meter or Time of Use related tariffs would not be in customers' interests and would be very difficult to implement. Calculating the cheapest deal for each customer would require both the customer's overall consumption level and their individual historical demand profile. As the latter will vary throughout the year and will not give a valid indication of future consumption, it may not be possible to say with any certainty which tariff would be the cheapest for that customer in the future over the medium to long term.

We believe that Ofgem should seek to exclude these customers from these proposals at this stage, and launch a separate workstream early in 2013 investigating how they might best be accommodated.

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<sup>17</sup> "The Retail Market Review – updated domestic proposals", paragraph 6.12.

**Question 4:** Do you have any suggestions regarding additional rules which they consider relevant for the construction of the cheapest tariff messaging?

It is important that Ofgem does not require the cheapest deal messaging on copy and final bills.

A copy bill may be issued to a customer several years after it was first sent. Including such messaging on these bills will mean the customer is given out of date information which may no longer be accurate, potentially driving poor switching decisions. Including the messaging on final bills is unnecessary and is likely to lead to a poor customer experience.

## **Chapter 7: The tariff comparison rate**

**Question 1:** Do you agree with our proposal to introduce a price comparison tool?

British Gas supports the introduction of a price comparison metric like the TCR and agrees it will help customers make informed decisions about the best tariff for them. We already offer our customers a similar price comparison metric to the one being proposed, and our post-implementation research shows that this has been beneficial to our customers.

**Question 2:** What is your view about the terminology we are proposing for the two price comparison metrics? Are they clear and easy for consumers to understand?

We have no strong concerns with either the name “Tariff Comparison Rate” or “Personalised Projection”.

**Question 3:** In your view, does our proposal for the TCR strike an appropriate balance between different trade-offs in terms of simplicity, accuracy, confusion and saliency? Please explain the reasons for your view.

No. We believe there are a number of problems with the proposed methodology of the TCR which should be addressed before it is launched.

- The proposal for a national TCR, calculated according to the weighted average of all the different regional values, may lead to inaccuracies, potentially driving poor quality switching behaviour. For example, incumbent electricity suppliers in areas with relatively low distribution charges may find their national average TCR is lower than it would ordinarily be. This will not only distort competition between suppliers, but may also mislead customers outside of that distribution area into thinking a tariff is cheaper than it actually is.
- The proposal to express the TCR in pence per unit rather than pounds per annum will create confusion and reduce the impact of the metric. Our own research shows that customers find pounds per annum to be more meaningful than the less accessible “per unit” metric. We also know from our own experience that a pounds per annum metric has more impact, and is more likely to drive customer engagement.
- The proposal to require the TCR to be the single most prominent piece of pricing information on any advertising and marketing materials is disproportionate and unworkable. The concept of a TCR is an alien one in the energy industry and assuming that customers will know, understand and accept it immediately following its launch is risky without significant investment from Ofgem to educate customers. Were this risk to materialise, the impact on suppliers’ advertising would be to make marketing copy very confusing, in turn reducing its effectiveness and suppressing customer switching. It is also unclear to us how the obligation

to include the TCR of all tariffs involved in a pricing comparison would be workable where absolute claims were made about a tariff being “cheaper than all other available tariffs in the market”.

These issues are material and would hinder the effective operation of what we believe could be a valuable piece of information for customers. We urge Ofgem to address these issues before proceeding any further.

**Question 4:** Do you agree with our proposal for the different features of the Tariff Comparison Rate, and our related proposal on the personal projection? Do you have any thoughts on whether and how time of use tariffs should be accommodated in the TCR and personal projection? Please explain the reasons for your view.

British Gas supports the proposed Personalised Projection, and believes that it will help customers better understand how much energy they are using, and make informed decisions about action they should take.

We do not believe it will be possible to provide an accurate TCR for customers on a time of use tariff as their bill relates not just to the amount of energy they use, but when they use it and how this changes as customers adapt their behaviour according to the tariff structure. As this will vary significantly from customer to customer, simply assuming a “typical” demand profile is likely to lead to poor quality switching decisions for some customers. Ofgem should therefore postpone the introduction of a TCR for these tariffs whilst an alternative solution is found.

Finally, and as above, we do not agree with the proposal for a national TCR, and believe this likely to lead to poor quality switching decisions. Whilst we appreciate the vision for national “best buy” tables, this ignores the reality of regional energy pricing. If the intention is to help customers make informed decisions about which product is the best deal for them, accuracy must take precedence over simplicity.

**Question 5:** In your view, should suppliers be required to make available up to date information on TCRs for their tariffs? What is your view on the barriers to the publication of best buy tables, and how could we better facilitate publication by third parties?

We agree that suppliers should be required to make available up to date TCR information for their tariffs. Notwithstanding this, the development of “best buy” tables may be limited by the accuracy of the data, and the potential for challenges on that data. There is for example, a risk that any inaccuracies in the data may result in any table being referred to the Advertising Standards Agency (ASA) by disadvantaged suppliers.

It is also unclear to us who would fund national “best buy” tables. We would be strongly opposed to funding what are essentially advertisements for our competitors’ products, especially given the accuracy concerns detailed above, but it is not clear to us that national publications would be willing to provide free space within their pages without the TCR first being well established.

Assuming the issues identified above are resolved, the market is ideally placed to provide such “best buy” tables. Ofgem may not therefore need to actively seek regulation to bring about their existence. Were regulation required, we suggest that Ofgem could influence potential providers of “best buy” tables by delivered it through the Confidence Code.



**Question 6:** Do you have any concerns regarding the implementation of this proposal? How long after a decision has been made would you take to implement this proposal? What drives those timescales?

The proposed implementation timescales are reasonable, and would allow us an appropriate time to deliver changes to both our systems and customer communications.

## **Chapter 8: Standards of Conduct**

**Question 1:** Do you agree that the revised Standards of Conduct (SOC) will help achieve our objectives?

British Gas fully support the implementation of the Standards of Conduct and agree with Ofgem that, if implemented properly, they will be a major step forward in regaining customer trust.

We recognise the need to improve customer trust in energy suppliers, and we believe that putting customer fairness at the heart of everything suppliers do is the single biggest step the industry can take towards achieving this.

Implementing the Standards of Conduct will be a significant undertaking however. Having recently entered the financial services market, with our home services insurance product, British Gas already has experience of implementing similar schemes under the Financial Services Authority (FSA) regulatory framework. Our experience from this market is that genuine compliance with the principles set out in the Standards of Conduct will involve:

- a) identifying the scope of the work required,
- b) engaging with customers and capturing their views,
- c) completing a gap analysis on the results,
- d) implementing changes to processes, policies, procedures and systems as required, and
- e) measuring the results and starting the process again.

This work cannot either be fully started before the end of June 2013 when Ofgem propose to finalise the Standards, and they certainly cannot be fully implemented by this time. In effect, an immediate implementation of the Standards of Conduct will arguably place all suppliers in immediate breach of their Supply Licence. This would be both unreasonable and inconsistent with the Better Regulation principles, which say new rules must “be implemented fairly”<sup>18</sup>. Whilst Ofgem have indicated that the time allowed to implement the proposals will be taken in to account *during* (as opposed to *before*) any enforcement action, this does not mitigate the significant increase in regulatory risk suppliers will face.

Finally, in designing the Standards of Conduct, it is important that Ofgem ensure the practical effect is the same as the FSA “Treating Customers Fairly” principles. This will protect suppliers from having to roll out inconsistent regulatory regimes when, like British Gas, they operate in both the energy and financial sectors. Given our employees may be called to handle financial and energy related enquiries in the same telephone call, managing any inconsistencies would be impossible in practice.

**Question 2:** Does our approach to enforcement mitigate stakeholder concerns about clarity and regulatory risk?

We are pleased that Ofgem has signalled that they will not seek to enforce the Standards of Conduct by imposing their own interpretation of the subjective principles within the Code, and will instead make a holistic assessment of the process which has been taken to arrive at the outcome. This, combined with the “reasonableness” test, should enable Ofgem to ensure that the Standards of Conduct are being properly adhered to without constraining suppliers’ flexibility to deliver outcomes which meet the needs of their customers.

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<sup>18</sup> “Better regulation - from design to delivery (annual report) 2005”, pages 26-27.

This will however necessitate subjective assessments of compliance against broad undefined principles, creating significant regulatory risk. Suppliers will effectively be put in a position where they are unable to tell whether they are compliant or not, yet face the subjective judgement of a Regulator. In effect, Ofgem are proposing Principles Based Regulation control of market with a Rules Based Regulation approach to enforcement. This is both unworkable and unacceptable.

We recognise that Ofgem should not be placed in the situation where they are expected to provide guidance on how to interpret the Standards of Conduct. Other Regulators have however overcome this problem by providing processes which allow for dialogue, a good example being the mediation and arbitration processes allowed for by the FSA.

The fact that these elements are missing from the RMR proposals is a serious omission. This is likely to lead to higher costs of regulation (as suppliers may feel it necessary to “gold plate” their processes), and create new barriers to entry. We urge Ofgem to reflect the best practice evident in other regulatory frameworks when implementing this important aspect of the RMR package of reforms.

**Question 3:** Is there a different name for the SOC that will have more meaning to consumers and can be used by stakeholders across the industry?

We believe the substance of the Standards of Conduct is captured by the requirement to “Treat Customers Fairly”. Adopting this name, although borrowed from the financial services sector, may have greater meaning for consumers.

**Question 4:** Do you have any information regarding potential costs this may impose on suppliers?

We have some indication of how much it may cost to identify the changes required to satisfy these new obligations from our experience of implementing similar rules in our services business. Here, completing steps (a) to (c) – as set out above – cost approximately £2m.

Until we go through this process, it will not be possible to identify the changes which will be required, and therefore how much the eventual cost will be.

## **Chapter 9: Protecting consumers on fixed term offers**

**Question 1:** Do you agree with our proposal for rules to be applied to fixed term offers in the domestic retail market?

We have concerns that Ofgem’s proposed changes to the fixed term contract market will increase costs for consumers without providing any benefit. In particular we believe that the proposal to allow customers to change supplier up to twenty working days *after* the end of their fixed term contract will be difficult to implement and will increase the cost of managing contract roll off processes.

If such a situation arose, suppliers would either be expected to

1. change the customer’s tariff at the end of their fixed term contract, start charging them the rates for their new tariff and then on receipt of a withdrawal notice, reverse all charges since the end of the fixed term contract and issue revised invoices and any associated refunds, or
2. continue charging customers their fixed term contract rates for twenty working days after the end of that deal, and then – if no withdrawal notice was received – correct those rates, issue revised invoices and any associated refunds.

Neither of these options is simple or cheap to implement. Similar complexities arise from the proposal to allow customers to pay off a debt following an objection within thirty working days, and still receive the price they received on their previous fixed term contract

We appreciate that Ofgem are keen to protect customers from unnecessarily rolling off a fixed term contract to another, more expensive, product when they wish to change supplier. This could be guarded against equally as well by bringing forward the notification of the end of the fixed term contract. This would avoid the complicated and costly process described above whilst still providing customers the opportunity to avoid any higher charges.

We also note that the prospect of having to supply energy to fixed term contract customers up to twenty working days after the end of their contract will change the way in which we price such products, and is likely to lead to an increase in the price charged equivalent to the extra risk we take with what are effectively 365, plus 20 working, day contracts. This would not be in the customers' interest.

Finally, we also have concerns with the proposal to prevent suppliers offering customers on a fixed term contract another product with a longer contract term. We do not see how preventing suppliers from offering customers a choice of all the products available to them is in the customers' interest – particularly when that restriction is not based on price. The emphasis should instead be on providing customers with the information required to make an informed decision about which tariff is best for them. The information remedies proposed by Ofgem will ensure this happens. Such restrictions are therefore unnecessary and likely to hinder customers' ability to make informed choices, and thus are not in their interests.

**Question 2:** Do you agree with our proposed strategies to mitigate concerns regarding increases in network charges?

No. It is not possible to always accurately predict at the point of agreeing a fixed term contract whether there will be any unplanned variations in network costs. Whilst initiatives to minimise the volatility in network charges are welcome, suppliers also need the flexibility to pass any unforeseen costs on to customers. Without this ability, the risk associated with providing a fixed term contract will materially increase. This increase in risk will manifest itself in the form of higher costs to customers, regardless of whether unplanned network costs arise or not.

A more appropriate solution would be to provide an exception in any licence drafting which permits variations in fixed term contract prices related to changes in network charges. Ofgem could, we suggest, use the proposed Standards of Conduct to take action against any supplier who abused the opportunity and increased prices beyond what was reasonable.

**Question 3:** Is 30 days the appropriate notification period for mutual variations? Should there be any exceptions to our proposals for mutual variations (e.g. direct debit amount variations)?

Whilst the thirty day notification period for mutual variations appears reasonable, we believe the wider mutual variations proposals are unworkable and will prevent any such variations occurring in practice. We appreciate the need to allow customers to accept or reject any variation they do not accept, but by preventing suppliers from gaining uniform agreement of the variation through a change to the terms and conditions for all customers will inevitably mean a mutual variation will create multiple versions of a product.

As well as creating complexity for suppliers to manage, the different versions of the terms and conditions will mean any mutual variation will also result in an extra tariff slot being taken up. In practice, suppliers will not be able to offer such variations.

**Question 4:** Are there any expected implementation issues or costs associated with this proposal?

An estimate of implementation costs is provided in confidential Appendix B of this response.

**Question 5:** Do you agree with our proposed timetable for implementation of our proposal?

No. Whilst implementing new rules for future fixed term contracts is acceptable, forcing suppliers to amend the terms and conditions for existing fixed term contracts may not be possible without also placing suppliers in breach of contract. Suppliers should instead be able to allow legacy fixed term contracts to expire on their original terms and conditions.

## **Chapter 10: Market Cheapest Deal**

**Question 1:** Do you agree that we should trial a Market Cheapest Deal initiative?

No – we do not believe the Market Cheapest Deal proposal should be pursued any further. Whilst we fully accept the benefits to consumers of providing information about the best deal they can get with their existing supplier, we are fundamentally opposed to any obligation to advertise our competitors' products. A decision to implement this proposal would be both unreasonable and without precedent in any other competitive industry.

Logistically, we have severe concerns that, in a market as dynamic as the retail energy market, information sent out quarterly to consumer would quickly become inaccurate, and misleading as consequence. Were consumers to switch on the basis of this information, there is a real risk prices could have moved in the intervening period.

To ensure pricing information was as accurate as possible, this proposal would also require suppliers to share pricing information frequently (in particular future pricing information) and in a structured way between each other. Were suppliers to do this on their own, it would be clearly anti-competitive. Being obliged to do so by Ofgem could provide some form of defence, but it would still adversely impact competition in the market, and simply exacerbate the misplaced perception that suppliers are acting within a cartel.

Perhaps most importantly, the proposal also fails to consider the overall impact on consumers from switching. For example, larger suppliers could be required to advertise a small supplier's tariff as the "cheapest in the market". However, customers eligible for the Warm Homes Discount could miss out on a payment worth up to £140 per annum if they move to an exempt supplier. This proposal therefore has the potential to mislead vulnerable customers, and cause them to make poor switching decisions.

Finally, it is also notable that this proposal does not feature in DECC's recent tariff reform discussion document<sup>19</sup>, published after this consultation was launched. Suppliers are therefore left in the difficult position of not knowing which set of proposals take precedence.

**Question 2:** Do you consider there are other approaches we should consider to address the particular issues with engaging sticky and/or vulnerable consumers? If so, what are they?

We believe that the package of information remedies, when taken alongside a reasonably set tariff cap, will benefit all customers – including those defined as vulnerable or "sticky".

**Question 3:** Would you be willing to work with us in conducting the trial?

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<sup>19</sup> ["Ensuring a better deal for energy customers: DECC discussion document"](#)

No. As set out above, we have real concerns that if implemented, this proposal would lead to an increase in the number of customers making poor quality switching decisions, and may even place suppliers in conflict with their obligations under competition law (i.e. were this to require suppliers to share future pricing information in order to avoid misleading customers).

Our concerns are so severe that we do not believe there is any value in even trialling this proposal. We would also note that the costs of conducting a sufficiently large scale trial would not be immaterial (particularly if this covered all representative customer segments, such as consumers in all parts of Great Britain).