



Ofgem Consultation on the Retail Market Review – updated domestic proposals

Response by E.ON

Executive summary

1. E.ON wholeheartedly supports the objective of making the energy market easy for customers. Our Reset programme led us to a simple but innovative presentation “Best Deal for You” which was designed to be consistent with the RMR Core proposals.
2. We therefore strongly support Ofgem’s proposals to raise standards and increase transparency, but are concerned at the abrupt change in direction in tariff design from the RMR Core proposals in the December 2011 consultation.

Standards

3. The proposals to raise standards, through the Standards of Conduct and steps to standardise communications, are far reaching and likely to be the most significant element of the Retail Market Review in increasing consumer trust in the market.
4. Our only concern is the over-prescription arising from Ofgem seeking to design each communication in detail. We recommend that Ofgem provide a model example of each communication and allow suppliers flexibility to improve on this. The Standards of Conduct would require that such change was supported by a clear vision of benefit to customers, supported by evidence. There would be nothing to lose by such an approach. Suppliers might not be able to improve on Ofgem’s model, but if they could there would be a continual process of development of best practice, which Ofgem could incorporate in the model example.

Transparency

5. The proposals to increase transparency by raising consumer awareness of cheaper deals risk a reduction in price competition, but we believe are justified by the increase in fairness as energy is a necessity for consumers. The RMR proposals could be strengthened by:
 - prompt communication to on-line account managed customers of new offers;
 - transparency on supplier websites of lower priced deals, including regional variations.
6. An alternative proposal is required for bills (and statements) to avoid transparency undermining the simplicity. The primary purpose of the bill is to help consumers pay for what they use, with secondary purposes of: ease of reference for key information on safety, contact details and customer rights; assisting switching; helping consumers manage their usage. The RMR proposals would detract from these purposes by putting too much information into the bill, and yet not be effective in raising transparency due to the space and timing constraints. Providing information on cheaper tariffs in the annual statement, at renewal, at a price change and by email would be more effective and without untoward side effects.

Tariffs

7. We supported the RMR Core proposals as an effective means of increasing consumer trust through the simplification of the standard tariff, including the transparency of national unit rates, and the likely benefit this would have had in simplifying all tariffs. By encouraging fixed price offers, the RMR Core proposals would reduce the risk of loss of trust at price change, but in a way which did not inhibit innovation using smart meters. We asked that Ofgem set out its vision of what RMR core would mean for consumers as these proposals would transform the market for the remainder of the decade, but could see clear benefit from the proposals.
8. The revised proposals do not have the same coherence or likelihood of additional consumer benefit to that provided by the proposals to raise standards and increase transparency, which would justify the increased risk of adverse side effects.
9. Principles based regulation focussed on suppliers (and brokers) limiting the choice consumers face (ideally of three tariffs rather than four) would achieve the objective of simplicity, without much of the risk of a tariff cap. Ofgem¹ say that "a principles-based approach does not guarantee that the market will take the direction we want to see" but do not provide any clarity of what this direction is. It should not be supposed that principles based regulation is unworkable or a soft option; it is at the heart of the RMR proposals in the Standards of Conduct and although it would be up to suppliers how they made the choice simple, the principles would require supplier choices to be in the consumer interest and evidence based. We would expect Ofgem to complement the principles by formal regulation on contingent discounts.
10. Principles based regulation would avoid the risk, apparent from Ofgem's revised proposals, of extraordinarily complex licence conditions and restriction on innovation.
11. We are sceptical that prescriptive regulation can avoid these faults, but if it is to be attempted the detail must be right. We recommend that there should be:
 - Flexibility for smart meters. This would allow full scope for innovation, with consumers protected from complexity by the RMR proposals for higher standards and increased transparency. Smart meters would also of course increase consumer trust through enabling accurate billing. A tariff cap would not apply, only principles based regulation on simple choice of tariffs.
 - Different rules where consumers have to choose an option and where features vary with the consumer (these concepts are raised in the draft licence conditions, as contingent and non-contingent discounts respectively, but hardly used). A tariff cap, or principles based regulation, can help reduce consumers' need to choose, but applying it unnecessarily reduces consumer benefits.

¹ Impact Assessment Para 8.111

- Flexibility to encourage on-line account management, with a cost-based differential. Together with flexibility for smart meters, this step would ensure the RMR was forward looking, rather than focussed on the past. Imagine, for instance, if ten years ago, regulation had placed the same restriction on direct debit?
12. In the body of our response we seek to comment on all aspects of the detail of the proposals, but in view of the extent and complexity of the proposals also recommend that Ofgem conduct a further round of review of the proposed licence conditions to allow comment on whether these accurately reflect the policy intent. This additional consultation should not delay implementation of the key measures of the Retail Market Review, to raise standards and to increase transparency.
13. We wish to draw to Ofgem's attention two other issues:
- At renewal Ofgem propose that the default is for customers to move to the cheapest relevant evergreen tariff. Government propose that customers should go to the cheapest tariff of the same type, which could mean rollover to another, identically structured, fixed price contract. We believe Government's proposal is much more in consumers' interest, both directly in allowing consumers to stay on their preferred tariff type with least effort and indirectly in encouraging the market to move from a bewildering mix of fixed term products with different end dates to a simpler structure of one, or two, year fixed products. The transparency requirements to offer cheapest relevant and cheapest alternative tariff protect customers, although we also recommend that suppliers are required to explain the change in price.
 - Ofgem's revised proposals could lead to transient, local price competition. Suppliers would offer low priced acquisition products in a region where their sales force was directed, taking a limited risk that existing customers would switch tariff. We accept that such competition may provide more overall consumer benefit than new entry subsidised by avoidance of social and environmental costs, but are not sure that is fair to existing, loyal customers. To increase the fairness, we recommend that all new offers be emailed to existing eligible customers and also that supplier websites be required to make such offers transparent to all customers.

Timescales

14. We are concerned at the scale of change and the potential need to divert IT resource away from other projects which will improve customer service. We will give a detailed response together with the information on costs Ofgem has requested for January 18.
15. We are also disappointed that we may have to make significant changes to products we introduced as 'Best Deal for You' which were designed to be consistent with the RMR core proposals. We would seek to make any changes as promptly as possible, but would like the



potential to avoid change during the winter, which could be particularly disturbing for customers. We recommend that a final implementation date is April 2014.

Summary

16. In summary:
 - We support the proposals for higher standards and increased transparency. We believe these proposals could be introduced in July, with staggered implementation dates depending on the exact proposal.
 - We would support a principles based regulation to simplify tariff choice.
 - We do not believe that capping the number of tariffs has sufficient additional benefit to justify the risk to innovation or the potential detriment to customers from complex rules not being quite right.
17. Finally, we call on Ofgem to have a vision of the market later this decade. This vision should encompass the nature of competition and of consumer choice, the potential for innovation and also Ofgem's role in the market. We believe Ofgem should be confident in its ability to manage principles based regulation and to avoid the restriction and risk of detailed regulation.

Responses to specific questions

CHAPTER: Two

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

18. We broadly agree with Ofgem’s high-level analysis of the past, but are concerned that the analysis is not in sufficient depth for the far reaching solution now proposed.
19. The RMR Core proposals imposed a structure on tariffs (directly on to the evergreen tariff, which would then lead to benefits throughout the market), but did not seriously limit customer choice or the potential for innovation. The revised RMR proposals are more interventionist and severely limit choice. To be confident that this degree of intervention is justified we would expect more depth in:
- How consumer concerns may be addressed;
 - How competition works;
 - Likely future developments.

How consumer concerns may be addressed

20. Ofgem identify consumer perception that it is not worth engaging in the market as a reason why consumers are disengaged and list various examples e.g. powerless to manage energy costs, lack of confidence in the decision, lack of trust in information. To change this perception will take time and considerable effort as, of course, until consumers have engaged they are unlikely to be aware that their concerns have been addressed.
21. A detailed understanding of how consumers may engage (strictly, re-engage²) and what issues they may find is therefore essential. The following table is incomplete, but provides a useful checklist for the revised RMR proposals.

Consumer concern	Underlying issues	Implication for RMR proposals
powerless to manage energy costs	<ul style="list-style-type: none"> • No advance warning of price change, or prompt to choose to fix • Energy efficiency is necessary (given that cost increases affect all suppliers³), but difficult 	<ul style="list-style-type: none"> • Improve forecast annual cost methodology • Allow full information at price increase/renewal
lack of confidence in a decision to	<ul style="list-style-type: none"> • Little information on risk (e.g. to compare variable and fixed price products) 	<ul style="list-style-type: none"> • Best practice guidance plus enforce Standards of Conduct

² The vast majority of customers have engaged at some point, but for many we agree that it may have been a first switch to dual fuel some years ago.

³ Switching to a small supplier can allow a consumer to avoid some environmental and social obligations, but only at the expense of other consumers

Consumer concern	Underlying issues	Implication for RMR proposals
switch	<ul style="list-style-type: none"> • Too many choices offered by brokers • Websites do not guide selection • Tariff structures are complex, if consumers self-search • No information on service standards & risks⁴ 	<ul style="list-style-type: none"> • Improve Confidence Code ✓ Standards of Conduct ✓ £ & p/kWh simplification ✓ Standards of Conduct
lack of trust in information	<ul style="list-style-type: none"> • Sceptical of sales agents • Limited and opaque information in supplier communications 	<ul style="list-style-type: none"> ✓ Standards of Conduct + enforcement SLC25
Search will take too much time ⁵	<ul style="list-style-type: none"> • Poorly designed websites • Complex tariffs 	<ul style="list-style-type: none"> ✓ Standards of Conduct ✓ Restrict contingent discounts

22. Our conclusions are:

- The Standards of Conduct are probably the most important part of the RMR;
- The current proposals miss opportunities to address key consumer concerns;
- The headline message of 'four core tariffs' isn't critical, although some of the detail is.

How competition works

23. We do not accept Ofgem's assertion (Para 2.51) that suppliers are not seeking to reduce controllable costs. It is a key part of our strategy and although we accept more can be done, we also, rightly, have to meet increased service expectations from our customers. Moreover the assertion is contradicted by Ofgem's own analysis that suppliers tend to have similar prices – such pricing is inevitable in a competitive, undifferentiated, market, but also means that reducing costs is critical to meeting shareholder expectations. The assertion is also incompatible with the government's (and the EU's) belief in a supplier obligation as the most efficient means of delivering energy efficiency and warmer homes. Indeed the scale of ECO is such that how Ofgem e-serve fulfil their role in administering ECO may be as important to reducing consumer bills as aspects of the RMR proposals.

24. We agree (also Para 2.1) that supplier prices tend to move at similar times by similar amounts. This is inevitable when the majority of costs are outside of suppliers' control and margins are low. Notwithstanding this, Ofgem show in Figure 6 that price differences of £30-50 are commonplace (on a national average; variations are greater still in each region).

⁴ Some information may also be misleading – consumers may find it hard to accept some suppliers are 5*

⁵ Under 50% of consumers expect it would take less than 30 minutes to review and change tariff. E.ON unpublished research, November 2012.

25. We believe this leads to an important test for the revised RMR proposals: will they lead to greater customer switching for savings of a few tens of pounds? We consider this later in our response, but note that if Ofgem's belief is that consumer engagement will focus on larger savings then that should be made clear, and could lead to quite different (and less fair⁶) proposals.

Likely future developments

26. Two developments are particularly relevant to the revised RMR proposals:
- Increasing internet acceptance. On-line account management⁷ offers the potential for immediate update to consumers on new products, prices and promotions and also to provide key information in more engaging way whilst avoiding overloading bills and statements. It may be more effective, in increasing competitive pressure on suppliers, to have measures which primarily increase engagement amongst the 80%⁸ of households with internet access (and protection through the cheapest tariff proposals for the remainder) than to seek to increase engagement amongst all consumers.
 - Installation of smart meters. Smart meters will allow improvements in customer service, improved information for customers, a wider range of prepayment and time of use tariffs and potentially pricing for lifestyle and demand risk or opportunity. The last three of these are potential innovations which are hard to forecast the full benefit of and hence the consequences of restrictions on tariff design.
27. Neither of these developments is considered in any depth in Ofgem's assessment of the need for reform of the market and yet could be seriously hindered by revised RMR proposals designed, really, for a pre-internet, pre-smart market.

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

28. We broadly agree and Ofgem are to be complimented on the breadth of their research. However, there are some instances where it is not clear that the inferences which are drawn follow from the research. For example:
- In para 2.8, Ofgem say "it [the number of tariffs] may result in increased frequency of poor switching decisions" and note that the research shows that just under 30% of consumers were not confident that they had made a poor decision. This consumer concern, although important to the question of trust, is not the same as actually making a poor decision, or proof that the number of tariffs was a factor. We suggest

⁶ Deep online discounting would be part of a market which offered savings of £100+

⁷ As defined by Ofgem i.e. provision of an email address and preparedness to receive information electronically, although the term 'account management' could deter some users who perceive it to affect their financial payments.

⁸ <http://www.ons.gov.uk/ons/rel/rdit2/internet-access---households-and-individuals/2012/stb-internet-access--households-and-individuals--2012.html>

that the underlying reason is that price rises reduce consumer confidence in their decision making rather than anything to do with complexity of tariffs. Consumer uncertainty would be inherent in having any choice of a variable priced product⁹, although might be addressed by improving information on the likelihood of price rises.

29. We are surprised that Ofgem has not been ruthless in seeking to simplify the standardised communications. All research shows that customers value simplicity, particularly the less engaged customers who the RMR proposals should be most aimed at.

CHAPTER: Three

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

30. In our response to the December 2011 consultation we requested Ofgem paint a vision of what RMR core would mean for customers and suggested our own perception that RMR core would lead to a clear option for consumers of two different styles of buying energy – on price (following from the simplicity of the Standard product) or on a personal quote. We still request Ofgem paint a vision of the market as expected in, say, 2015, albeit different, for the revised RMR proposals.
31. Our perception is that although there are many good features in the revised proposals, there is no overarching design. There are instead a series of separate elements:
- Tariff cap
 - Tariff restrictions
 - Supplier cheapest tariff
 - Tariff comparison rate
 - Standardised communications
 - Fixed term renewals
 - Standards of Conduct
32. Each element has its own rationale, but insufficient account is taken of the interaction between elements. Some elements are therefore over restrictive and there is a missed opportunity to reduce the risk of adverse impacts.
33. The combination of supplier cheapest deal and Standards of Conduct are particularly powerful in forcing fairness and simplicity on suppliers. They would allow a principles based rule of only

⁹ During October, only 60% of online switchers chose our fixed products even though the premium was only 3% and it was well known from the media that prices were likely to increase.

offering customers a choice of four (or even three) tariffs, which would mean that consumers have a simple choice of fewer tariffs, without the complexity of the tariff definitions or consequent restriction on innovation.

34. We are unclear of the rationale for the proposed restrictions on tariff design. Whether there is an explicit cap or a principles based rule, there must be some restrictions, but it seems arbitrary to protect dual-fuel discounts, when the overall thrust of the proposals is to encourage customers to consider gas and electricity separately, and not to protect the potential benefit to consumers of the internet or of smart meters (see Q1). Greater clarity is also required on why non-contingent discounts are not treated quite differently from contingent ones, when the consumer concern is primarily over too much choice.
35. We challenge the finding, which is a key part of Ofgem's rationale, that consumers want fewer tariffs (see Chapter two Q2). We agree consumers want to have to choose from fewer tariffs.

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

36. We wholeheartedly support the overall objective of increasing consumer trust in the market and accept that although we and other suppliers have shown that we are committed to this through voluntary action, substantial regulatory intervention is justified.
37. The core requirements are for measures to ensure customers have a simple choice of tariffs, to be treated fairly in making existing customers aware of cheaper offers, for consistency in language and to raise standards of conduct.
38. Measures which go beyond this have a high risk of adverse impacts and must have a solid justification, both individually and in conjunction with other elements.
39. We are not convinced of the need for:
 - detailed tariff restrictions, instead of a principles based rule;
 - a generic tariff comparison rate;
 - the extent of standardising communications;
 - restricting fixed term renewals.
40. As a practical test, we struggle to accept that a package which does not allow us to offer an additional saving to customers who are over 80, requires that customer to reengage with the market every year, stops us simplifying communications and prevents us offering support if there is a price rise, can be proportionate.
41. We consider each item later in this response.

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

42. No. We believe the RMR Core proposals would have been more effective in simplifying the market for consumers, with fewer adverse side effects. The financial impact on customers of product standardisation would have been small and in time might be removed altogether by adjustments to networks charges and to the method of allocating environmental and social obligations. The simplicity over unit rates would more effectively have led to the separate gas and electricity decisions by consumers. There would have been no complex regulation of tariff design or potential restriction on innovation.
43. We also do not agree with the arguments against principles based regulation as a means of ensuring customers are helped to a simpler choice of four, or three, tariffs. Our experience of working with Ofgem's enforcement team has been positive and we believe the Standards of Conduct will be much more effective than assumed here. We also would much prefer to have some flexibility to make innovative tariffs simple for customers than to be effectively prevented from innovating.
44. We agree with the standardised communication and supplier cheapest deal requirements being mandatory, as it will be most helpful to consumers for there to be common language and layout, but propose these are ruthlessly simplified so that there is no confusion on bills or overlong wording in any communication.
45. Ofgem are not consulting on even more radical changes to tariff structures than the RMR Core proposals, but such suggestions are relevant in that they highlight potential issues that the final proposals might address.
46. One challenge is to require tariff structures which would make energy prices to be as simple to compare as petrol prices. The notional equivalence is gas & electricity = petrol & diesel. However, in the energy market one of the most important comparisons is between evergreen products and fixed price products. No-one should suggest that a consumer should make a decision of this nature and potentially for several hundred pounds in a few seconds, as one might when deciding on a weekly fill-up. Nor is it really necessary to try to make decisions this simple; the challenge is to engage customers in more years, not in more months. Confidence that it is a good decision is probably the most important requirement to increasing consumer trust.
47. Such simple tariff structures would also require cross-subsidy from one customer group to another (between regions and by usage). Cross-subsidy is inherently unfair. The benefits would need to be compelling to justify such intervention, giving confidence that even those customers who were paying the costs of another group would benefit from overall reductions in costs. A key element of the RMR is to show customers that the market is fair; it is important that this is not undermined by unfairness to individual customer groups.

CHAPTER: Four

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?

48. The detail of Ofgem's proposals is complex. It would be helpful if there was a clear vision of how the proposals would benefit customers. For example, if Ofgem's intent is to make choice simple for customers, then principles based regulation which aspires to a choice of no more than four, and ideally three, products would be appropriate. Product features which follow from customer characteristics (such as location, age or tenure) would be consistent with this approach. Features which require decision or action (such as payment method, online account management, dual fuel and storecard points) would need a compelling case for inclusion.
49. However, if Ofgem's intent is to make it simple for customers to gather information, then the emphasis would need to be on early presentation of key product features in a consistent format such as the Tariff Information Label and full information around key risks, notably those of price and consumption uncertainty.
50. If Ofgem's primary intent is to reassure customers that engaging with the market will not be a daunting task, then all the ways customers might search for appropriate products must be simplified. It would not be sufficient for each supplier to simplify its own choice, as we have done with Best Deal for You. The Confidence Code for brokers would also need to be modified to ensure simplicity.
51. The challenge of this last example is which customers is the reassurance aimed at? The requirements to make it easy for customers on an evergreen product are quite different from what would be needed to help customers looking to move from a fixed term product (the latter having complexity around exit fees and of awareness of the product, except at renewal) and it would be highly desirable for the fixed term products to be standardised, for instance Fix 1y or Fix 2y. We suggest that the priority should be customers on evergreen products, with the emphasis for customers on fixed term products being on making choice easy at renewal and not necessarily mid-term. This would also be consistent with our customer research into information on bills, where an annual communication was preferred.
52. Our focus is on the first of these and, as explained in our response to Chapter three, we believe a principles based regulation would achieve the objective with fewer adverse side effects than a formal tariff cap.
53. However, the principles for limiting tariff numbers are similar whether there is principles based regulation or a cap. We offer the following commentary:



Contingent Discounts

54. We agree with the general principle that simplicity comes from customers having to make fewer choices and hence that contingent discounts should create a new tariff and therefore count towards the tariff cap. However, the likelihood of a customer finding the choice difficult should also be taken into account. Most customers will, for instance, know what their preferred payment method is or whether they want to manage their account online. Assuming that price differentials are cost reflective, it can be assumed that customers will normally stick with their current preferences. Most people will know whether they will usually pay promptly or would value storecard points, but these features can make it harder for the customer to value a tariff. Few consumers will easily be able to compare dual fuel and single fuel options, but those with a dual fuel discount would likely not want to lose it.
55. We agree that payment method should be excluded from the rules on contingent discounts, but would suggest that the next choice should be online account management. This would also have a side benefit to customers of encouraging online access, which would bring easy prompting of new offers and an ability to expand the standardised communications, whereas the dual fuel discount has a side disadvantage of reducing competition.
56. Note that the proposals to promote alternative cheapest tariffs would ensure customers whose current preference was higher cost (quarterly paper billing) were encouraged to lower cost preferences.
57. Please see our response to question 3 below for our comments on rules for contingent discounts.

Non-contingent discounts

58. E.ON's Best Deal for You (BDFY) products, launched at the end of September 2012, demonstrated how simple features can be added to products to customers' benefit without adding complexity. Customers who have chosen one of our new BDFY products can get a loyalty reward or no mains gas discount without having to provide any information at all – we already know who is off the gas network, and of course, we know how long our customers have been with us. Customers only need to provide their age to get an Age UK product which provides additional benefit to over 60s and more to over 80s.
59. We cannot believe that Ofgem's meaning in concluding that a tariff cap would better "[take the market in] the direction we want to see" was to remove benefits for loyal customers or for over 80s. We accept that removing these benefits would make it harder for websites to accurately present the value of such products as they would not have the same information about customers' age or tenure, but aside from that being relatively easily overcome with more effort to improve clarity, we would suggest that it undermines the focus of the RMR

proposals on customers who are less engaged and on evergreen products, if undue restrictions are proposed for fixed term products.

Licence condition

60. We recommend that the proposed SLC22B.3 reads '...each Contingent Discount...will be treated as a separate Core Tariff'.
61. If Ofgem wish to retain the RMR core proposal for extreme simplicity in an evergreen tariff (i.e. excluding non-contingent and dual fuel discounts) we suggest that this is added as a separate condition. This evergreen tariff would normally then be the Deemed Contract.

Time of use tariffs

62. We see no reason why the same principles shouldn't apply to static time of use tariffs, there being a similar scope for innovation as with single rate tariffs. However, we recommend that Ofgem develop a generic description of time of use tariffs rather than seek to list the options, which could be unintentionally restrictive in future.
63. We are sceptical of the potential for innovation in dynamic time of use tariffs before the advent of smart meters, but would not want to rule it out, and in any event believe that the RMR proposals should be resilient to new innovation. Moreover, this segment of the market suffers from a lack of tariff choice, not a surfeit. We recommend that dynamic teleswitch tariffs are not capped. They would not, however, be exempt from principles based regulation.

Smart meters

64. We strongly recommend that tariffs for smart meters are excluded from any tariff cap, but are instead subject to principles based regulation.
65. It is of course not possible to say with certainty what innovations there could be with smart meters in the future, but it is easy to see that limiting the number of available tariffs to four could be very restrictive, and could seriously undermine the benefits of the roll out of smart meters. For example, developments could include:
 - Individual prices based on a customer's (lower cost or risk) lifestyle;
 - Time of use tariffs with dynamic prices;
 - Demand side response products;
 - Using the increased billing accuracy, for instance a fixed bill product.
66. These would be additional to standard evergreen, fixed one year, fixed two year and tracker products.
67. Not extending a tariff cap to smart meters would also provide a natural sunset clause as proposed by our trade association, Energy UK.

White labelling

68. The rules for tariff choice should distinguish between a separately branded product which is fully controlled by a supplier and a true white label, where the supplier just provides parts of the supply chain under contract and does not have influence over the price. The former should be treated as one of the supplier's tariffs; the latter should not.

Deemed Contracts

69. A supplier's Deemed Contract should not count towards a tariff cap.
70. It is not a tariff which customers can switch to and hence there is no benefit of simplicity in forcing it to be aligned with another tariff. Aligning it to standard evergreen is common practice now, but is not required by statute and may not always be appropriate. For instance, if there are increased risks associated with customers supplied on Deemed Contracts, arising from uncertainty over usage or payment history, it may be appropriate to charge these in the Deemed Contract rather than smear them over all consumers.
71. The Standards of Conduct would require a supplier to go beyond the requirements of SLC7.7(b) and actively promote cheaper tariffs.
72. It is also not that easy to draft a rule restricting Deemed Contracts. The draft licence condition would imply that a Deemed Contract is expected to be an online tariff, if that is the lowest evergreen tariff.

Derogations

73. Derogations should be extremely rare, and time limited. We suggest that social tariffs are covered by derogation rather than general exemption. We would expect Ofgem to approve any heavily discounted social tariff, but a general rule could allow, for instance, the price of a social tariff to be increased to just below a supplier's cheapest tariff. Customers might not appreciate that they then would be better off if they switched. Derogation would allow Ofgem to add a condition such as offering a market cheapest deal.
74. A regime of derogations would undermine innovation for smart meters, due to the costs of the regulatory overhead, the risk of delay and of loss of flexibility. Instead a tariff cap should not apply to smart meters.

Collective switching

75. We are very uncomfortable with Ofgem picking one means of competition over another to relax the rules around tariff simplification. We understand that one of Ofgem's concerns over the number of tariffs is the difficulty this can cause to consumers in identifying their current tariff. Collective switching would compound this. We accept this concern may be exaggerated, as customers on fixed term contracts may be assumed to next engage in the

market at renewal rather than mid-term, but if this is true, then there should be less concern over non-contingent discounts.

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?

76. Any surcharge which a customer can avoid should be allowed without it counting as an additional core tariff. Ofgem should not seek to list these; suppliers must continually seek to reduce their costs and it is not possible to foresee how this might be done, and as noted earlier, the RMR proposals should not be drafted so as to restrict as yet unforeseen innovations. E.ON, for instance, has recently restructured its credit management charges so that costs of follow up letters and visits are borne by those customers who do not contact us, to encourage contact and to be fair to the general population of customers. The Standards of Conduct require that these costs are made transparent to customers.
77. We believe this principle will be robust, but it would be that it would be sensible to explicitly consult with stakeholders, albeit they will only of course only be able to consider current charges. Changing the location of a meter, for instance, is not charged for those customers who cannot avoid it because of a change in household circumstances.
78. We have recommended in our response to question 1 of this chapter above that a cost reflective discount should be allowed for online account management, in order to encourage consumers to take up these benefits.
79. We agree that cost of surcharges should be consistent across all products and payment methods to aid simplicity and comparability.

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?

80. Broadly yes, although as discussed in response to Chapter three, question 3, we believe the uniform standing charge and national unit rate structure of the original RMR core proposals would have been more appropriate, and would have better delivered Ofgem's stated aims.
81. The exception to this is the proposal to allow payment method differentials which are stated as p/kWh rather than in pounds. We agree that the cost differential for quarterly payment is closer to p/kWh than it is to pounds, but if accuracy is the principal criterion then a percentage differential should be permitted. If simplicity is the principal criterion, then pounds would be much better.
82. The rules should also apply to dead tariffs, although in exceptional circumstances Ofgem may give a derogation where the consequence of early change or withdrawal would be undue customer disturbance.



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?

83. Please see our comments under question 1 above on derogations.

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

84. We will reply to this question in our response to Ofgem's information request dated 30 November 2012.

Question 6: Is our proposed timeframe for implementation appropriate?

85. No. It is impossible to answer completely until we know clearly what the proposals are and what will finally be brought into effect through modifications to our licence, but based on current working assumptions, we believe that the level of implementation work would require significant time and resources to become merely compliant, and there would be a risk of missing the deadline. More importantly, Ofgem's current proposals would mean that customers would be migrated part way through winter, and would see their prices increase at the worst time of year. We therefore propose extending the deadline for migration to the end of the winter, to the end of March 2014, to protect customers from this.

86. Even if the deadline was met, it would likely be at a cost of product development which would be delayed. This would mean the true effect of RMR on the portfolio of products would not be known until suppliers had the opportunity and resource to launch their new, compliant products. The proposals would also create a varying amount of work amongst suppliers, with some having made fortuitous changes to their portfolios in advance of Ofgem's RMR proposals, and therefore having a portfolio that is already closer to compliance. Short implementation times accentuate this competitive advantage, as suppliers with less compliance work to do will be ready to offer new 'post RMR' products quicker than their competitors.

CHAPTER: Five

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

1. We recognise Ofgem's aims in prescribing the design of some key communications. However the templates provided by Ofgem, far from simplifying communications, are wordy and cluttered and, we believe, are likely to add to the confusion perceived by consumers.
2. While a prescribed format has the advantage of making it easy for consumers to know where to find certain important information, there is also a risk that consumers will become blind to the information as it becomes too familiar. This is particularly likely to be the case with information on quarterly (and monthly) bills, although the greater issue as we discuss in our

response to Question 2 is that customers would prefer bills to be kept simple than to have extra information, which although recognised as useful, is only wanted once a year and hence can be provided in the annual statement (customers will also see information on cheaper tariffs at price change and at renewal) We offer suggestions later in this response on how the standardised communications can be improved, including the results of our customer research, but it is a flawed approach to seek to perfect these communications and write the design into the licence. There will always be room for improvement and what appears best practice at one period of time may appear old-fashioned and uninspiring in another.

3. We therefore suggest that any templates provided by Ofgem should be benchmarks only, and that suppliers should be free to put their own stamp on the design, providing that they have research to indicate that their own design is at least as effective in communicating the desired messages as the Ofgem template. In this way Ofgem will not only be assured that suppliers are working towards the relevant objective, it will also have the opportunity of updating the design of their own template from time to time to reflect best practice.
4. Ofgem's timescales to adopt the new designs will be challenging. As there will be no certainty on the formats until spring 2013, our preference would be for these changes not to be effective until 1 January 2014.
5. Details of costs will be provided in our response to Ofgem's letter of 30 November 2012¹⁰.
6. Some additional comments on the design and messaging on key communications are provided in our response to Question 2.

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

7. We are fully supportive of Ofgem's plans to consult on standardisation of language used in key information provided to consumers. Consistency of terminology will improve consumer understanding and encourage confidence when engaging with the energy market. We look forward to discussing this with Ofgem over the coming months.
8. We do have some concerns, however, regarding certain aspects of the communications for which Ofgem have prescribed content. We discuss each communication separately below.

Tariff Information Label (TIL)

9. The proposed SLC 31B requires suppliers to provide an up-to-date TIL for each tariff on which it provides information to a consumer. We suggest that the TIL should be seen as a confirmatory step after a customer has chosen a few tariffs, rather than the first step in the process of engagement.

¹⁰ Request for information pursuant to SLC 5

10. For each Core Tariff there could be 3 different payment methods, therefore potentially six TILs per tariff (assuming the Core Tariff is available for both fuels). In addition, different pricing could apply for different type of metering (e.g. E7) and there could be a number of opt-in or opt-out bundles available to a consumer. There may be non-contingent discounts, such as an age related benefit.
11. We do not believe it is Ofgem's intention that, where generic Core Tariff information is provided on a suppliers' website or in other promotional materials, TILs are provided for every choice that the consumer could make and every meter type. We assume, therefore, that the full TIL should only be provided where the customer has requested a quote and specified their choices.
12. While SCL31B.3 allows for the customer to input address and/or postcode information on the suppliers website in order to view a TIL (which should allow for the meter type to be determined providing the supplier's website is linked to appropriate industry systems, although this could lead to consumer confusion if the customer has chosen a simpler tariff than the meter has the capability to support), there will still be a minimum of six TILs. It will therefore be necessary for consumers to also provide their payment method choice and any other relevant factors such as age or size of premises (if there is a different price for a single gas supply to sites with multiple occupancy). This should be reflected in the licence condition.
13. We do not believe it is sensible to provide a TIL when providing generic Core Tariff information, either on their website or in other promotional materials, but if there are circumstances where this might be appropriate Ofgem will need to specify a default TIL (e.g. based on monthly direct debit, unrestricted metering and no bundles) for suppliers to use
14. We agree with the content in the section titled 'About your [fuel] tariff', other than as per our comments above. We do not support the mass of information in 'Estimated costs' and also believe there is the potential for confusion, as the first section appears to provide bespoke information to the customer, whereas the second section, 'Estimated [fuel] cost for typical households on this tariff', is generic.
15. With regard to the second section itself, we believe that providing low, medium and high user information is unhelpful and potentially confusing. The amount of information makes the section look cluttered, and most consumers will be unaware which category they belong to. It would be an improvement to provide only one set of usage information; where the supplier is providing a quote, information relating to that consumer's category (as determined from information provided as part of the quote process), otherwise only the medium user information. It is quite inappropriate to include the estimated annual cost and monthly cost as these, being generic, would be misleading in any comparison to the customer's existing tariff (where annual cost is personalised) and unnecessary for a high level comparison where the TCR can be used.

16. The visual aid to low, medium and high user is unhelpful. For example, an elderly consumer who is house-bound and relatively inactive may be a high user, despite living alone. The visual aid may worry the consumer and lead them to feel they need to reduce their demand, with potentially catastrophic consequences. Conversely a family in an energy efficient house would have no prompt to reduce their usage.
17. The title 'Assumed annual consumption' could be confusing to some consumers. They may think it relates to their personal consumption. We recommend this item is not included, but if it is would suggest 'Typical household consumption'.
18. In the final section, 'Frequently asked questions', we query whether the example '1kWh will power a 40 watt light bulb for 25 hours' is particularly helpful, given that most light bulbs now use an array of different measures and it is no longer clear to the consumer whether a bulb is 40 watts or provides lighting equivalent to 40 watts. We would like to see a more constructive response to 'How is a low, medium or high user defined?'.

Summary boxes on bills and statements

19. Consumer research undertaken by E.ON earlier in 2012¹¹ has led us to the conclusion that bills should contain no more information that is absolutely necessary and extend to no more than two sides of an A4 sheet. This was confirmed in more recent research commissioned by us¹²; 61% of customers said they would be less likely to read their bill if it went over to three pages.
20. This recent research, commissioned to assess customers' views of Ofgem's proposals, showed that, while 87% of customers considered the information provided in the summary box was useful, 47% still preferred our current bill. Several customers commented that they would not expect to see this information on every bill, and some found the information confusing.
21. For these reasons we strongly recommend that personal projections, cheapest tariff information and detailed tariff information is not provided on bills, but is left to the annual statement. A simple prompt to consider alternative tariffs, as agreed with government, could be included and also key information needed to switch, such as annual consumption.
22. Should Ofgem consider, however, that there is still a need for this type of information on bills, our recent consumer research indicates that there are better ways for this information to be presented.
23. For the research, a sample of our 'Your say' panellists (see slides 31 and 32 of the research findings for details) were shown four bill designs:
 - our current bill;
 - a bill designed according to the current Ofgem proposals;

¹¹ Bill Redesign Research prepared by Truth, 2012 (copy of findings provided with this response)

¹² 20121218_YourSay_Ofgem bill changes Report, December (copy of findings provided with this response)



- the same with minor presentation changes and shown as dual fuel;
 - a hybrid version, designed to show the information required by Ofgem but in a different format.
24. Overall, customers preferred our current 2-page bill, but of those bills with summary box information, our hybrid version came out top, with customers generally preferring the tabular format and the simplicity of presentation.
25. We would also point out that the heading of Ofgem's template for the summary box on page 1 of the bill is likely to be met with cynicism by consumers. On P24 of the Ipsos MORI research¹³, several expert interviewees identified that consumers mistrusted suppliers' motives in providing them with accurate information about switching and warned against headings of this type. The Lawes Report¹⁴ (P29) suggests phrases such as 'Your right to switch suppliers' or 'How to change suppliers': however, this does not allow for the fact that a consumer could get a better deal with their current supplier. We suggest 'Could you save money on your bills?' or 'Could you make your money go further?'. This section could then include information on where to get energy efficiency advice.

Annual statements

26. We appreciate Ofgem's desire for this to be a separate document which is not included with any other information, and agree with Ofgem's aspiration for this to be akin to a P60. For this reason we agree that it should be largely prescribed in its format and content, and should be sent separately from bills/statements and marketing materials. We do, however, believe it could be useful to send the statement together with other important annual information, such as the Guaranteed Standards of Service; this appears to be Ofgem's intention, as on page 2 of the annual statement template provided in Appendix 4 of the RMR, under 'Key Contractual Terms', 'Additional charges', it states 'We may charge you for any additional visits, tests or work carried out at your request. Details of these charges are provided in the enclosed leaflet.'
27. We agree with research¹⁵ commissioned by Ofgem that found the word 'statement' was confusing for consumers, given that many of them will receive statements instead of bills where they pay by Direct Debit or prepayment. However we do not feel the words 'Your annual [fuel] summary' adequately express the importance of this document.

¹³ Ipsos MORI (2012) 'Prompting engagement with and retention of written customer communications, Final report prepared for Ofgem', October 2012

¹⁴ Lawes Consulting, 'Energy bills, Annual Statements and price rise notifications: advice on the use of language', November 2011

¹⁵ Lawes Consulting, 'Energy bills, Annual Statements and price rise notifications: advice on the use of language', November 2011, page 26

28. We recommend there should be a prominent heading at the top of the statement indicating that the document should be retained. The research commissioned by Ofgem¹⁶ suggests that consumers should be given an indication of how long the document should be retained for. We therefore suggest a heading to the effect of 'KEEP THIS LETTER - IT CONTAINS INFORMATION TO HELP YOU REDUCE YOUR ENERGY BILLS' and in smaller letter beneath: 'valid for one year'. It might help encourage customers to retain the document if there was reference to Ofgem, as customers may be sceptical of information from their supplier about how to switch.
29. Alternatively it may be sufficient to put the vital switching information (current tariff information and personal projection) in a text box, headed 'You'll need this information if you want to switch supplier'.
30. In view of the research we undertook earlier this year on bills¹⁷, we suggest that the annual statement should be succinct. The document should contain only what is absolutely essential in a clear and simple format,
31. We believe the first page should contain:
 - information about the customer's current tariff and their personal projection for use when switching;
 - cheapest tariff information, and how to switch to another tariff with the same supplier;
 - the end date of any fixed term and the amount of any termination fee, where applicable, making it clear that switching after the end date avoids any penalty;
 - advice about the switching process itself and where to obtain impartial advice.
32. We believe the second page should contain:
 - summary of usage over the past two years (if available), in chart form;
 - more details about their current tariff (principal terms);
 - jargon buster;
 - where to obtain energy efficiency advice.
33. The design and messaging should be relatively formal, but clear and simple. Particular elements of the current template that we have concerns about are detailed below.
34. 'Turn over to see if you could save money by switching'. A better phrase might be 'Turn over to see if we have a better tariff for you'.

¹⁶ Ipsos MORI (2012) 'Prompting engagement with and retention of written customer communications, Final report prepared for Ofgem', October 2012, page 27

¹⁷ Bill Redesign Research prepared by Truth, 2012 (copy of findings provided with this response)

35. While the chart is a useful visual aid for consumers, we do not believe that the quarterly price information is useful. It could be misleading if there were price changes during a period. The data itself would have to be dynamic, increasing the time to produce the statements and making them more expensive, thereby adding additional cost to customers' bills for little or no benefit.
36. 'How do you compare?' – we do not see any value in this. As we have already stated, the way this is presented is likely to scare certain consumers into actions that could have drastic consequences for them. Most consumers could easily reduce their consumption with simple measures, and it is more important that they are given advice on how to do this in order to save money and help the environment, rather than to see themselves in a race with other consumers.
37. As with other standardised communications we recommend Ofgem should only specify the elements to include and provide a model example. Suppliers could then make changes suggested by consumer research and, for instance, as appropriate to changing market conditions such as increasing internet use and the introduction of smart meters.

Price Increase Notification (PIN)

38. There is a great deal of information required in this notification, some of which is quite complex. As for other important documentation, we believe it is important that the notice covers no more than two sides of A4, to avoid putting customers off of reading it. The information needs to be displayed in an easy-to-read format; textboxes could be used to break information into manageable chunks.
39. The sample template provided by Ofgem in Appendix 4 is extremely wordy and we do not believe many consumers would read beyond the first few lines. We therefore appreciate the opportunity to design our own PIN, providing it contains the prescribed content and that the price information is in the prescribed format.
40. We are surprised, however, that Ofgem has not include energy efficiency advice in this notification as a prescribed content element. At a time of rising prices it is more important than ever to provide consumers with advice to help them reduce their demand. Ofgem has an obligation¹⁸ to heed guidance issued by the Secretary of State, under section 4AB of the Gas Act 1986 and section 3B of the Electricity Act 1989, relating to social and environmental policies. In addition, it has EU obligations to promote environmental sustainability¹⁹.

¹⁸ 'Social and Environmental Guidance to the Gas and Electricity Markets Authority' Jan 2010, article 14

¹⁹ Article 36 of Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC

41. We therefore believe that suppliers should be encouraged to include additional information in the PIN, which would probably need to be on a separate sheet, with advice on energy efficiency.

End of Fixed Term Notice and Statement of Renewal Terms

42. As we have commented in our responses Question 1, Chapter 9, we believe it is in consumers' best interest to allow auto-renewal from one fixed contract to another without requiring the express agreement of the consumer. This would not only be simpler and easier for consumers, it would result in the Statement of Renewal Terms being simpler and easier for consumer to understand.
43. There is a lot of new and potentially confusing information required on the Statement of Renewal Terms:
- the need for a customer to take positive action if they want to remain in a fixed term, fixed price contract which provides certainty (and potentially a better deal in the long run than the cheapest evergreen tariff);
 - when termination fees apply and when they don't;
 - information on three different tariffs:
 - one of which is akin to their previous tariff;
 - one provides cheaper prices at the time of entering into a contract; and
 - one which probably has a different payment method, or requires the customer to manage their account online.
 - a statement that changing tariffs may mean they have different terms and conditions, but doesn't explain what they are (even though the principal terms for each of the tariffs offered have been provided);
44. We believe the provision of so much information is counter-productive and will only serve to confuse consumers, particularly those who are vulnerable. It is difficult to see how this can be simplified given Ofgem's proposals.
45. We strongly believe that it is the process that is flawed, and that simpler rules around renewals are required.
46. We note that it is Ofgem's intention to issue guidance regarding the format and/or display of the end of fixed term notice and Statement of Renewal Terms. We recommend that Ofgem waits to see how suppliers interpret the final licence condition. If there are concerns that some suppliers have misinterpreted the condition, we believe that Ofgem's guidance should be restricted to provision of a benchmark template, as recommended in our response to Question 1.



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

47. There are opportunities for communicating with consumers who manage their account online that are not practical for those who prefer paper communications. For example, the immediacy and cost-effectiveness of communications means that it is quicker and easier to provide updated information, for example cheapest tariff information where a supplier introduces a new tariff. It is also easier to provide consumers with tailored energy efficiency information.
48. We recognise, however, that online/paperless communications are not without issues. We therefore welcome Ofgem looking into how such communications may be made more effective. Our hope is that this would encourage more consumers to manage their accounts online, enabling them to receive better and more tailored information and allowing for information to be provided more cost effectively, thus keeping the cost of energy down.

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?

49. We agree with the principle that co-branding could help customers, but believe this would be more effective if done on the Annual Statement in order to encourage its retention than on the envelope, where it is unnecessary for most customers and potentially confusing as Ofgem is not a well-recognised logo.
50. We do accept, however, that messaging on bills can, providing it is not over-used, encourage customers to open an envelope. We believe that suppliers should be encouraged to find their own ways to improve engagement, with Ofgem providing advice on best practice as time goes on.

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

51. As previously stated, we strongly believe that important customer communications should not be longer than two sides of A4. Anything more than this is likely to result in the information not being read.

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

52. We are happy with separating the fuels when providing consumers with information on a dual fuel tariff. Gas and electricity are very different in many ways, and we believe it is important for consumers to have adequate information to help them make individual decisions on each fuel. Most suppliers treat the two fuels separately, with dual fuel being recognised by means of a discount; therefore we do not perceive this to be a major issue.



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

53. As has already been pointed out, Ofgem has obligations in respect of promoting social and environmental objectives. However, we believe that providing any detailed energy efficiency advice, or incorporating a separate energy efficiency notification along with the annual statement would detract from the official nature that is being created for this communication. Suppliers generally like to dress up energy efficiency information in a format that is more akin to marketing, as it is considered more appealing to consumers. This format would not be appropriate here. We therefore believe that energy efficiency advice should be restricted to a simple statement directing consumers to where they can obtain energy efficiency advice, and potentially guiding them to how they can obtain information on government schemes such as Warm Home Discount.
54. We do believe, however, that it is vital for energy efficiency advice to be included with price increase notifications.

CHAPTER: Six

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?

87. We support the principle that customers should be told both their Relevant Cheapest Tariff and their Alternative Cheapest Tariff, but have concerns that they could be confusing or annoying to customers if not used carefully.
88. For those customers who do not want to change their behaviour, the Relevant Cheapest Tariff could be the best option, but for those who are willing to change behaviours, and therefore potentially make more savings, the Alternative Cheapest Tariff could be a better option. Providing customers with both would give them a rounded view of what steps they could take to save money with their current supplier, and enough information to make an informed choice.
89. However, each presentation has the potential to confuse customers and, with familiarity, to reduce the impact of the next presentation. In order of importance of presenting cheapest tariff information to customers we would suggest: the annual statement, renewal, house move (strengthening the existing obligation to provide general tariff information), email when there is a new product, price increase, direct debit changes, quarterly bills, monthly bills.
90. Our principal concern over including cheapest tariff details on quarterly bills is the loss of simplicity on the bill (see our response to Chapter five Q2), but we also believe it to be particularly confusing for customers on fixed term contracts to, in effect, have their decision

challenged and for it to be implied that they should be engaging with the market every three months (indeed some may have chosen a two year fixed term contract to avoid having to think about energy – the annual statement would provide a prompt if market prices have fallen).

91. Similarly, when the customer's preferences regarding payment method are considered, the supplier could potentially be reminding them repeatedly via the Alternative Cheapest Tariff message that they could save them money by switching to a payment method they have only just chosen not to have.
92. We don't want to overwhelm customers with information but instead provide them with relevant information at appropriate times.
93. We support the proposal that this information should be provided on annual statements, price increase notifications and end of fixed term notices, as these are appropriate trigger points for the customer to consider changing tariffs and at the same time potentially payment method etc.
94. However, more thought is required for prepayment consumers. The draft license indicates they should be shown their Relevant Cheapest Tariff alongside the secondary message that they have the right to change supplier if they have a debt of under £500.
95. Although it is understandable that we do not want to frustrate consumers by offering them an Alternative Cheapest Tariff (which would require a change to a credit meter), it must be acknowledged that it is an option for some consumers. For example those who have moved into a property that already has a prepayment meter, or those with no debt. These consumers may have a real choice to change to a credit meter (and could do so without charge if they are E.ON customers) and so could realistically have more tariffs open to them. The legal drafting should be altered to allow suppliers to communicate this message in cases where it is appropriate.

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

96. No. A principle of fairness is that consumers are aware of the cheapest tariff and indeed Government are consulting on whether to put customers on the cheapest tariff. It would completely contradict this principle for suppliers to be able to provide prices for acquisition which were not, within the constraints of what is practicable, promoted to existing customers. The Standards of Conduct will require that suppliers work out how to present such offers fairly, for instance to hold them open for a period beyond the official closing date. We accept that this might reduce the cut and thrust of competition, but the importance all stakeholders place on fairness to existing customers means this should be accepted and in any case suppliers would surely develop acquisition strategies which are both fair and effective.
97. The sole question should be what is practicable? Suppliers can easily inform customers with on-line account management. We agree that it is harder to manage a communication on the bill, but suggest that this is fundamentally because the bill is not an appropriate medium for



promoting specific tariffs (as opposed to a signpost to a web-site or contact centre able to provide tariff information).

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.

98. Separate consideration should be given to these customers, as the cheapest tariff could involve a different tariff structure. For time of use tariffs it would be easy to calculate the costs of simpler tariffs (most obviously a single rate where there was low night usage on an E7 tariff), but this would be misleading if small changes in customer behaviour could nullify this calculation. We recommend Ofgem apply a threshold savings amount before a change in meter type is suggested. For smart meters, the number of combinations would be greater and a fair presentation more complex. Nonetheless, fairness requires that where practicable there is such a presentation, even if this was only to on-line account managed customers. In both cases the calculation should be annual.
99. We suggest that the converse calculation – of cheaper, but more complex time of use tariffs is not required. It would be theoretically possible with smart meters if the customer has given permission to access half-hourly data, but suppliers will offer this calculation as a benefit of sharing half hourly data with their supplier. It does not need to be regulated.
100. We think that Ofgem should give more consideration to the messaging that would be appropriate for customers with related MPANS and more complex metering arrangements, and to what meaningful messages could be provided to these customers. This is particularly true for customers with unusual meters, as it may be that there are no other tariff choices available to them, only the one they are already on.
101. This is particularly important if we consider monthly billed consumers who could get different advice on each bill because of seasonal behaviour patterns.

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

102. The cheapest tariff and the customers' current tariff will often be one evergreen and one fixed. Suppliers will know which direction the evergreen tariff is most likely to move, whilst few customers will. In a rising market, customers may not appreciate the value of fixed price product at a premium; in a falling market the benefit of remaining on evergreen. To ensure that consumers have a fair view of the expected annual cost of an evergreen product the forecast should be based on a suppliers' view of future costs, much as Ofgem do in the weekly report. It would not be necessary for suppliers to use the same methodology, just to make an honest forecast. Stakeholders and consumers would ensure effective scrutiny as at each price change they would challenge any unforeseen and unexplained movement.

103. If the Alternative Cheapest Tariff involves changing from being billed as Economy 7 (or similar) to being billed as a standard credit customer, the Relevant Meter Type should be included next to the tariff name. Without this, it will be difficult to communicate this message to the customer in a meaningful way; this should be reflected in the legal drafting.
104. The DTC flow which shows their previous supplier's consumption information is vital when calculating a personal projection for customers who have been supplied for less than 12 months. This flow is not mandatory and is frequently not sent by the previous supplier.
105. The consultation itself references 'including information on the exit fee' and 'inform the customer that their new prices may increase after the switch' if recommending a variable product. This is not currently reflected in the license drafting.

CHAPTER: Seven

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

106. No. We believe it would help get consumers engaged in the market if advertising could promote lower prices in a way which consumers' trust, but having looked at the detail it seems as likely that we would replace fear of too many tariffs with bamboozlement of too many price comparisons.

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?

107. We are comfortable with the terminology that has been proposed for Tariff Comparison Rates and Personal Projection. We would however, like to ensure that if the terminology is changed, the terms are not increased in length as this is likely to cause space issues on bills and other documents. We recognise that these terms will be new concepts to consumers and therefore it will be necessary to educate them regarding what these numbers represent. This will need to be completed before the introduction of the new terms.

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.

108. The aim of the TCR as stated in paragraph 7.33 of the consultation document is to:
 - prompt consumers to engage in the market by considering consistent data in a single number format; and
 - allow consumers to further investigate a tariff with a lower TCR than their own.
109. It should be clear that there is no expectation that a customer would be able to switch tariffs confidently on the basis of solely comparing the products' TCRs. The TCR could act as a prompt

to action to encourage the customer to find out more, but it must be recognised that they will need to do a full comparison based on their own consumption data.

110. We have a number of concerns that although the stated aims of the TCR may appear simple in concept, in practice, the ability to compare will be far from simple. The concept of one number to compare for each tariff had merit under the RMR Core proposals, where there would have been a single standing charge. Now that the standing charge may vary and the TCR will be weighted across GB, it will be much more difficult to compare.
111. Ofgem's current proposals will result in significant numbers of variations of the TCR for each of a supplier's core products. As the TCR is calculated by fuel (of which there are two), payment method (three options), fuel holding (dual fuel or not) and consumption band (high, medium and low) this will result in 36 different TCRs for each core product. Whilst the customer will not see all 36, they will need to be extremely careful to ensure that any TCRs they do compare have been calculated on the same basis and include the same options. Given advertising material will not, and should not, display all available TCRs, there is a danger that the consumer will not compare like with like and therefore may not investigate cheaper offerings. This issue will be of particular concern where the consumer's current product has been withdrawn from sale and so does not appear in best buy tables as a reference point.
112. There is a danger that the industry could be accused of moving from one system of many complex tariffs, but which could be compared accurately through a broker site, to another complex system with many different TCRs, which, although promoted as easy to compare, have inherent inaccuracies. Consequently, rather than an "at a glance" comparison the only way to compare products accurately is likely still to be via a brokers site, and using your own consumption data.
113. Comparison using TCRs in their current form based on p/kWh will be extremely difficult if the advertised TCRs do not match a consumer's circumstances. Consumers are unlikely to have any comprehension as to the effect of adding, for instance, a dual fuel discount of a fixed amount to a TCR. Indeed, the TCRs will change by differing amounts for each fuel. For this reason, it would be simpler if the comparison was on an annual basis as the consumer would be able to mentally reduce the TCR by a fixed amount if necessary, thus making the TCR more flexible to meet individual consumers' needs.
114. The proposed methodology for calculation of the TCR on a national customer weighted average basis may well cause confusion, owing to the lack of accuracy in the resulting TCR. This may result in anomalies in the outcomes as a customer may believe that an offer from one company is more expensive than another when in fact, owing to regional pricing and regional market shares, a different offer may be cheaper.



115. As an example, assuming there are only two areas for simplicity:

	Standing charge pence per day	Unit rate p/kWh	% customers	Bill size	TCR for medium electricity consumer
Supplier 1					
Area 1	30p	10p	95%	439	0.132
Area 2	20p	8p	5%	337	0.132
Supplier 2					
Area 1	28p	8p	5%	366	0.120
Area 2	28p	9p	95%	399	0.120

116. Although the bill size for supplier 1 in area 2 is significantly lower than supplier 2, the TCR does not suggest this and therefore, despite large potential savings, a consumer is unlikely to investigate supplier 1's product further.
117. Another issue related to the GB weighted TCR is that it could stifle competition in new locations. Previously, under Addressing undue discrimination decision document 26 June 2009 Ref 72/09, it was accepted that initial time limited offers in particular locations may be justified to assist a supplier in the acquisition of new customers or to allow them to penetrate a market in a particular region where they have few customers. Under the current proposal to weight TCRs by the number of customers in each area, the TCR which would be used in marketing materials and other publications is unlikely to reflect the lower prices in that geographical area as the weighting in that location would be extremely low. This would have the effect that customers are unlikely to investigate products that could well be cheaper for them.
118. In order to mitigate the accuracy issues outlined above, we believe that suppliers should not be forced to use the national GB weighted TCR in all marketing material. Instead, if the TCR is required, the licence conditions should allow suppliers the flexibility to use a more accurate locational figure which will be more suitable for the audience to which they are communicating - if an advert relates to a particular location, it should be acceptable to use a local TCR. In fact, this proposal is likely to be more closely aligned with the Standards of Conduct and to advertising standard requirements.

119. We believe that the use of TCR in marketing material is not necessary or particularly helpful to a consumer who, we believe, will base their action on the message itself. After all, adverts are required to meet advertising standards to be truthful and honest. We are unclear how the requirement to put in the low, medium and high consumption TCRs into an advert for the products, will assist the consumer in deciding whether to investigate the promoted product further, when the main message alone would achieve the same outcome. Indeed, given some of the potential inaccuracies in calculating TCRs there is a danger that they could counter the main advertising message and lead to confusion and further mistrust in the industry.
120. The proposed TCR calculation on a p/kWh basis results in the differences between TCRs appearing to be very low value. A small differential is unlikely to encourage consumers to investigate cheaper tariffs further and so the benefits of easy comparability are likely to be lost. For instance a difference in a gas TCR of 0.2p/kWh is unlikely to be large enough to encourage further action; however, it would translate to a potential saving of around £30/year. However, although stating the TCR as an annualised amount would show a larger difference, it would seem impossible to avoid customers being misled through comparison with their Personalised Projection.
121. It would be possible to display an annual TCR in a format that will make it clear to informed customers that it is not a personal projection, for instance always putting the TCR in italics or a certain colour or referring to it as average comparison costs rather than TCR. Moreover over time, customers would develop an understanding of what the TCR was and an appreciation that it is an "average" and that their annual bill will differ from an average number. However, in the meantime it could be very confusing for customers, at the time when we will also be making many other changes for customers.
122. The calculation of the TCR on a pence per kWh basis also has the potential to confuse customers when comparing time of use and non time of use tariffs. The TCR for a non time of use tariff will be higher than for an Economy 7 tariff, driven by the cheaper night rates on the E7 product. Indicative TCRs based on average consumptions of 3300kWh for non time of use and 5000kWh for current tariffs are set out in the tables below, using recently available products:

Unrestricted	Annual Bill	TCR for /3300kWh
ifix 201312	£435	13.2
Pocket fixed 4	£437	13.2



Unrestricted	Annual Bill	TCR for /3300kWh
Energy discount	£437	13.2
Online variable Nov 2013	£442	13.4
New energy fixed	£445	13.5
Pioneer	£447	13.5
Discount Variable Nov 2013	£451	13.7
Fixed price 2	£454	13.8
Fix and Fall	£461	14.0
Pocket	£461	14.0

E7	Annual bill	TCR for /5000kWh
ifix 201312	£522	10.4
New energy fixed	£525	10.5
Energy discount	£538	10.8
Energy discount	£538	10.8
Pocket fixed 4	£544	10.9
Pioneer	£547	10.9
Standard	£551	11.0
Pocket	£552	11.0
Fixed price 2	£556	11.1
Planet fixed	£557	11.1
E.ON energy	£569	11.4

123. If the customer chooses to investigate the lower TCRs they are likely to consider an E7 offering rather than an unrestricted one. The customer may either make an incorrect decision, or may become extremely confused by discovering that the lower TCR leads to a higher annual estimated bill. This would not happen if the TCR was stated as an annual amount. Note though that the whole table is confusing and we doubt whether it would really engage consumers; we recommend that Ofgem focus on the potential for TCRs to be used as a single advertising feature ("only 13p/kWh") as in the mobile phone sector, rather than a method of comparison as with the APR. Note that the TCR is not required as a safeguard for consumers, as SLC25 and the Standards of Conduct require suppliers to not mislead.
124. There is an expectation that the TCR will be used within best buy tables for comparison. In the past, best buy tables have generally been based on average annual bills for each product. These tables are trusted by the public and we would be surprised if the structure of these tables were to be changed because of the publication of TCRs - the small differences between TCRs on a p/kWh basis are unlikely to be particularly newsworthy. However, if TCRs are to be used as the basis for best buy tables, we would suggest that they were used purely for ranking suppliers' products, i.e. no TCR figures were included in the published table. Best buy tables in this format would encourage the consumer to investigate particular products further but without confusing them.
125. We understand the proposal that there should be rules around which tariffs should and should not be included in best buy tables including tariffs that are about to expire or have nearly reached their subscription limit. However, we would also question whether this is best for consumers. In this age of digital media there are many sites, such as Martin Lewis', which advertise deals which have very limited availability, be it time or quantity limitations. The users of these sites understand this and act accordingly. Withholding these products from best buy tables is likely to result in third parties using broker sites to provide estimated annual bill information. It may lead to further mistrust in the industry by increasing the perception that suppliers have better deals available, albeit for a short period of time, but are not prepared to tell consumers about it. Clearly if a best buy table is to be published, it would not be acceptable to include out of date information, but providing any limitations are made clear, there should be no restrictions on which products are included.

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.

126. We understand the rationale for all items that are included and excluded from the TCR, however, we believe that it is necessary to provide further guidance on what elements are considered to be included in each defined term.

127. The development of TCRs for time of use tariffs should be considered separately. The calculation of a TCR for E7 is relatively simple to achieve, if based on a simple 55% night split as suggested in Ofgem's consultation, but wholly misleading as E7 customers tend to have higher night usage (for electric heating) or lower night usage (and load shift). However, if a time of use TCR is to be calculated for products with many time periods, it will be necessary for Ofgem to make assumptions about a consumer's load profile and consumption level. We are not clear on what basis this data would be developed and are concerned that time and resources would be used for the development of a measure which may be meaningless, as each additional time period will add another layer of inaccuracy.
128. As many ToU consumers have limited product choice in the market owing to their metering and wiring configuration, the calculation of a time of use TCR would be of little use for comparison purposes. Therefore, we believe that at the present time, time of use TCRs should not be calculated. Instead, these customers should continue to rely on a personalised quote to determine which product to choose. We believe that more work is needed on time of use TCRs, and that their use should be reassessed once the best methodology to calculate them has been identified.

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?

129. We would have no issue in providing up to date comparative tariff measures if required. However, the process for providing this information should not increase suppliers' costs. We believe that as this data is being used by commercial organisations, suppliers should be allowed to place the data on their website for viewing, as well as in a downloadable format rather than having to provide paper copies. The TCR calculation will be part of pricing decisions and so there is unlikely to be an issue in updating this information on suppliers' websites in a timely manner.

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?

130. We have significant concerns regarding implementing these proposals, as the calculation and publishing of TCRs and personal projections on bills, annual statements and PINs will require considerable changes to our systems. We are providing information on the costs we expect incur in response to Ofgem's information request dated 30 November 2012.
131. We have one further suggestion, which would simplify price comparison, and that is to move to VAT inclusive prices. This would halve the number of prices that consumers are faced with and reduce the potential for an advertised unit rate (which must include VAT) being incorrectly perceived as higher than the rate on the bill.

CHAPTER: Eight

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

132. We believe that the Standards of Conduct will help to improve customer engagement. The combination of Standards of Conduct and the supplier cheapest deal will have a significant effect on suppliers, and should help improve fairness and simplicity for customers.

133. Please note that there is a slight difference between the wording for residential customers and for SME customers. We recommend that the shorter, SME, wording is used.

Question 2: Is there a different name for the SOC that will have more meaning to consumers and can be used by stakeholders across the industry?

134. No. We don't believe that "Standards of Conduct" should be a customer term but one that is used in licences and between industry stakeholders. The customer presentation of the requirements should be left to suppliers as a point of differentiation - if all suppliers refer to the standards in exactly the same way, it will increase the perception that all suppliers are the same and that there is nothing to choose between them.

Question 3: Does our approach to enforcement mitigate stakeholder concerns about clarity and regulatory risk?

135. Not fully. We believe that the 'reasonable person' test is a pragmatic approach to determine the correct application of the Standards of Conduct with two important provisos:

- Firstly, it should be explicit in the reasonable person test that suppliers are only required to take steps which are proportionate to address the issue under review. Inevitably, the test of reasonableness will be subjective and what may be reasonable for one person may not be reasonable for another. By requiring the reasonable person test to consider proportionality it will mean over engineered solutions can be discounted, and the supplier would not be penalised for having rejected them.
- We have concerns regarding the application of the Standards from summer 2013. We recognise that there is still much to do by suppliers to build trust with their customers and that the Standards of Conduct are a critical element of this. However, we believe that Ofgem could do more to mitigate regulatory uncertainty whilst suppliers review their processes and make changes. This could either be through providing additional guidance on their regulatory approach during the transitional period, or by softening the requirement for a period of, say, two years, by requiring suppliers to use 'reasonable endeavours' to comply with the Standards rather than take the more stringent 'all reasonable steps' approach. The test of whether a supplier was using their reasonable



endeavours would be through evidence of an appropriate programme to implement the standards within their organisation.

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

136. We are currently assessing the cost implications of this regulation and will include in our response to the request for information dated 30 November 2012.

CHAPTER: Nine

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

137. No. Government propose that customers should go to the cheapest tariff of the same type, which could mean rollover to another, identically structured, fixed price contract. We believe Government's proposal is much more in consumers' interest than for customers to revert to an evergreen contract, both directly because it allows consumers to stay on their preferred tariff type with least effort and indirectly by encouraging the market to move from a bewildering mix of fixed term products with different end dates to a simpler structure of one, or two, year fixed products. The transparency requirements to offer cheapest relevant and cheapest alternative tariff protect customers, although we also recommend that suppliers are required to explain the change in price.
138. It seems unnecessary and indeed burdensome for customers to be forced to give 'express agreement' to enter into another fixed term offer, when their past behaviour indicates clearly that fixed term offers are their preference. This extra level of bureaucracy may indeed put off some consumers from choosing fixed terms offers because of the additional steps involved in them.
139. We suggest that a customer on a fixed term contract would receive an End of Contract Notification letter which would give them the principal terms for the supplier's Relevant Cheapest Tariff, alongside the principal terms for their new fixed term tariff. The 42 day switching window would allow plenty of time for the customer to make a decision about whether they wanted to reassess their preference for fixed term offers.
140. If a customer has changed their preference, then they would only have to contact their supplier and discuss the alternative products available to them. However, Ofgem's proposals would require the consumer to contact their supplier to confirm that their preferences have not changed and they wish to enter into another fixed term offer.
141. The standards of conduct will also ensure that suppliers treat their customers fairly. Part of this fairness test should be that the supplier clearly communicates to the customer that the product that they have accepted will automatically roll over onto the supplier's cheapest similar fixed product at the end of the contract term. It should be clear that this will not

necessarily be the supplier's cheapest overall tariff at that time but that it will be their cheapest fixed term tariff. Fairness would also ensure that the new fixed term contract should be of the same length and any cancellation fees of the same value.

142. We believe that 42 days is sufficient for a customer to make a decision regarding their next steps. We agree that during this period they should not be subject to a cancellation fee, but do not believe it is necessary to offer a further 20 days on the old prices from contract end date for the customer to change supplier, and do not understand Ofgem's proposal that a customer wanting to switch products with their current supplier should be allowed an additional 20 days to do so. Switching products can occur instantaneously, and this seems an to us an unnecessary extension to the timescales.
143. We also believe that the extended timescale proposed in Para 9.16 is inappropriate. We understand the rationale for not requiring customers to call their supplier to in order to avoid the effect of a price increase, but there must be a degree of practicality. Customers are being informed at least 30 days before a price increase and have time to search alternative suppliers' products and complete cooling off before the price effective date. A supplier will then know that a customer is leaving, through the industry flow, and subsequent bills can be at the old prices. The proposal in Para 9.16 would mean that customers who delay making a decision might be billed at new prices and then rebilled on leaving. This would be substantially more complex than the current requirement to hold prices if the customer contacts a supplier before the price effective date.

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

144. Yes, but this should not be interpreted as permission to vary the terms of a product advertised as fixed price.

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)?

145. We do not understand the need for this requirement. If the change is to the consumers disadvantage then the UCV rules would apply.
146. Direct debit amount variations should be an exception. We currently give 10 days' notice for direct debit variations, and the customer contacts their supplier if they are not happy with the change. The concept of the customer giving 'express agreement' would be difficult for both the supplier and the customer to manage, and would result in delays, as well as increased incoming calls to call centres or increased email or paper communications. The current system of the customer contacting the supplier if they are concerned, but having to do nothing at all otherwise, seems the most appropriate.



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

147. We have provided our views on the costs of Ofgem's RMR proposals in response to the information request on costs.

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

148. We have provided our views on the costs of Ofgem's RMR proposals in response to the information request on costs.

CHAPTER: Ten

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

149. We support Ofgem's aim to encourage customers to engage more with the market, and whilst we have reservations about how the Market Cheapest Deal proposals could be made to work in practice, even though we would hope that Ofgem are able to simplify the revised RMR proposals, it will be harder for many vulnerable customers to engage in the market.

150. We do not support trialling a Market Cheapest Deal proposal for loyal customers. The rationale for helping vulnerable customers is that the market design is hard for many of them; there is no such rationale for customers who are simply not interested. It is also to be hoped that the other RMR proposals are effective in encouraging interest, whilst a trial for vulnerable customers will test the practicalities.

151. We think that a possible area in which to consider a trial would be for customers on very favourable social tariffs that are coming to an end, and who are likely to see substantial price increases as a result. Whilst helping these customers make an informed choice from the whole market will not completely remove the effect of the price rise on them, it could at least support them through the process, and help them choose the best deal available to them.

152. It is important to note that any assessment of Market Cheapest Deal could not be done by suppliers. We do not have the capacity or the capability to continually monitor our competitors' products in enough detail to be sure of always having the most up to date, accurate information to give to our customers; instead, we believe that this role should be given to brokers, who already have the information to hand, and to whom suppliers already provide price change and new product information as a matter of course.

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?

153. We would encourage Ofgem to work with charities and other support groups for vulnerable customers to develop collective switching schemes. These may in fact better confirm that the needs of vulnerable customers are being met as suppliers would need to confirm the services they offered in order to participate.



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

154. We believe that more work is needed on the detail of this proposal, but we are prepared to support a Market Cheapest Deal trial in the circumstances outlined in our response to question 1 of this chapter.

E.ON

December 2012