

RMR policy intent and legal drafting workshop

Information Remedies

10 May 2013

Workshop objectives

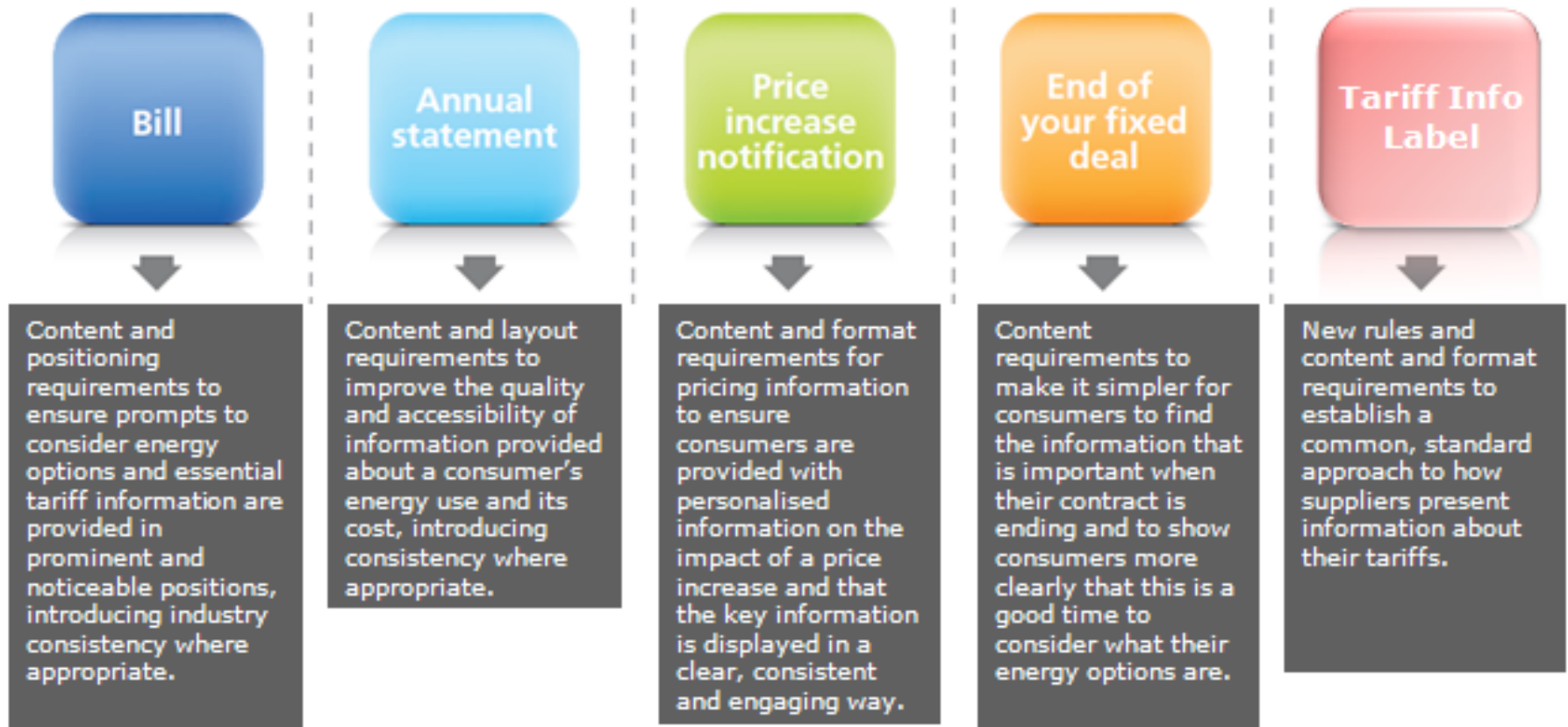
- **The aims of today's workshop are to:**
 - Explain legal drafting on RMR Information Remedies proposals.
 - Seek suggestions for legal drafting improvements to achieve greater clarity and simplicity (in line with policy intent).
- **Please bear in mind the policy brief for legal drafting:**
 - Fully transpose the policy intent, covering complex interactions and hierarchy between policies.
 - Avoid loopholes.
- **Reminder:**
 - Not a forum for discussion on the merits of proposals.

Agenda

- **Welcome and introduction**
- **Overview of the policy and legal approach**
- **Discussion: licence consolidation**
- **Lunch**
- **Discussion: licence simplification**
- **Discussion: specific issues in licences**
- **TCR and Personal Projections**
- **Summary and next steps**



Summary of Domestic RMR information proposals



The level of prescription for language, formats and content varies across the communication channels

Improving information to customers



- Personalised consumption information
- **Personal projection** for current tariff
- **Cheapest tariff messaging** and personalised estimation of savings for switching
- **TCR** of current tariff
- Key details of current tariff
- Reminder to consider switching tariff or supplier

- Key tariff information
- TCR
- Estimated annual cost

Summary of the consultation responses to the domestic RMR information proposals

- Overall, respondents supported our amended proposals for improved information to consumers.
- They believed they created a better balance between information provision and flexibility.
- Some respondents still expressed concerns with the volume of additional personalised information required across the communications and to provide cheapest tariff messaging on page one of the bill.
- Our requirements to ban joint mailing for some communications was not supported by some largely due to their view of the potential cost implications of additional mailings

Suggestions on legal drafting in the consultation responses

Clarity, complexity and length	Repetition	Cross-referencing	Capturing policy intent
<ul style="list-style-type: none"> • Some of the conditions were felt to be unnecessarily lengthy, especially the number of schedules • It was noted that some of the conditions could be clearer, such as SLC 31A which deals with both Bills and Annual Statements 	<ul style="list-style-type: none"> • Repetition of overarching principles • Repetition of requirements relating to cheapest tariff messaging • Repetition of requirements in conditions and in schedules 	<ul style="list-style-type: none"> • In some cases, excessive use of cross-referencing 	<ul style="list-style-type: none"> • In some instance, clarifications of policy intent in the licence drafting was sought, such as the requirements for PPM customer receiving cheapest tariff messaging

General issues with legal drafting

- Ofgem notes general concerns with licence drafting
 - Clarity, complexity and length
 - Repetition
 - Cross-referencing
- Ofgem is generally content that the RMR licence conditions reflect policy intent, but is exploring ways of addressing general concerns
- Any drafting changes will have to meet the policy brief of:
 - Full transposition of policy intention
 - Avoiding loopholes

General issues with legal drafting - repetition

- Repetition is deliberate
- Most repetition reflects policy brief to avoid loopholes
 - e.g. repetition avoids arguments that paragraphs and sub-paragraphs don't apply to the same subject matter
- Some repetition is intended to help future-proof SLCs
 - e.g. Main content requirements for information remedies would still work in the event that Ofgem decide to remove (or grant derogations from) the detailed schedules
- Ofgem will be exploring options to reduce repetition
 - e.g. via overarching rules such as paragraphs 22B.31A to 31D on page 25 of latest SLC drafting

General issues with legal drafting – cross-referencing

- Cross-referencing reflects complex interactions and hierarchy between RMR policies
 - Without cross-references suppliers would be faced with uncertainty about interactions and hierarchy between SLCs
- Cross-referencing also reflects policy brief to avoid loopholes
 - Many SLCs include a general prohibition and then set out exceptions for particular things/circumstances
 - E.g. Ban on additional information being included in (or send with) Annual Statements and Price Increase Notifications is subject to exceptions arising from rules relating to the TCR and supplier cheapest tariff messaging
 - See next slide for explanation of cross-referencing used in SLC 23.4(c)

Cross-referencing: SLC 23.4(c) example

23.4(c) (without prejudice to SLC 23 Supplier and Customer Information, paragraphs 23.4B to 23.4E, the information required by sub-paragraph 31C.5(e) of standard condition 31C, the requirements of paragraph 23.1A of standard condition 23, and subject to paragraph 23.4A) must only include the information mentioned in sub-paragraphs 23.4(d) to 23.4(y);

Text	Why is this necessary?
<i>Provisions set out above</i>	<i>In general, to reflect exception and hierarchy arising from policy intent regarding content restrictions</i>
<i>"without prejudice to SLC 23 Supplier and Customer Information"</i>	<i>Ensures that suppliers are able to include essential additional information in the notice</i>
<i>"without prejudice to...paragraphs 23.4B to 23.4E"</i>	<i>Ensures that suppliers are able to include supplier cheapest deal messaging in the notice</i>
<i>"without prejudice to...the information required by sub-paragraph 31C.5(e) of standard condition 31C"</i>	<i>Ensures that suppliers are able to include the additional information relating to the TCR in the notice</i>
<i>"without prejudice to... the requirements of paragraph 23.1A"</i>	<i>Ensures that there is no conflict with the requirements to provide Tariff Information Labels and Estimated Annual Costs (AKA Personal Projections)</i>
<i>"subject to paragraph 23.4A"</i>	<i>Ensures that there is no conflict with the requirements to have a combined gas and electricity notice</i>

Clarifications on issues that are within the scope of today's discussion

- Are there any further issues or clarifications participants would like to raise other than those which have been outlined, that are within the objectives of today's session?

Discussions on consolidation and simplification

- The first two group discussions focus on general principles through which licence conditions could potentially be improved:

1. Consolidation: Discussion groups consider examples of requirements in the licence conditions which could be consolidated. This may include requirements for:

- Plain and intelligible language
- Cheapest Tariff Messaging (CTM)

(Lunch break)

2. Simplification: Discussion groups to consider potential ways of simplifying SLC 23 and SLC 31A content requirements and schedules in a way which fully delivers policy intent.

- First group discussion for 50 min, then 10 min feedback per group.

Discussion groups

	Organisation	Attendees
Group 1 – Sarah Bradbury	British Gas	David Watson
	Consumer Focus	Gillian Cooper
	RWE Npower	Legal representative
	Utility Warehouse	Stephen Veal (AM)/Andrew Lindsay (PM)
	Scottish Power	Haren Thillainathan
	DECC	Patrick Whitehead
	SSE	Dan Ohara
Group 2 – Victoria Volossov (AM)/ Jemma Baker (PM)	First Utility	Malcolm Henchley
	Eon UK	Steve Russell
	EDF	Elizabeth Garber
	Utility Warehouse	John Cooper (PM)
	Energy UK	Alun Rees
	SSE	Roger Hutcheon
	Ecotricity	Holly Tomlinson
Group 3 – Ruben Pastor-Vicedo	British Gas	Camilla Oakley
	Eon UK	Louise Pearson
	RWE Npower	David Mannering
	EDF	Ann Neate
	Scottish Power	Pamela Mowatt

Discussion on simplification

- Please return to your groups at 12.45.
- The second group discussion focuses on:
 - 2. Simplification:** Discussion groups to consider potential ways of simplifying SLC 23 and SLC 31A content requirements and schedules in a way which fully delivers policy intent.
- Group discussion for 55 min, then 5 min feedback per group.

Discussion on specific issues in licences

- The next discussion group will focus on specific issues in licences that could potentially benefit the most from discussion.
- We selected two issues highlighted in consultation responses:
 1. What is the most effective way of capturing in legal drafting the requirement on the Annual Statement to record individual consumers' costs over a 12 month period?
 2. What is the most effective way of capturing in legal drafting "credit worthiness" for those PPM consumers considering changing meter as a result of the CTM?
- Please provide answers to these first. If you have free time then discuss as a group any other relevant specific issues in licences.
- Group discussion for 45 min, then 10 min feedback per group.

TCR and Personal Projections

- Overview of the policy intent
- Clarifications on effect of legal drafting of definitions and relevant SLCs

Next steps

We will...

- circulate brief notes based on the two sessions
- work on the issues raised by the workshops and clarify the points raised
- consider if any further steps are appropriate

We are happy to have further bi-lateral discussions but any further representations on the issues discussed today need to be sent to rmr@ofgem.gov.uk by the 15th May

The background of the slide is a composite image. On the left, there are rows of solar panels under a bright sun. On the right, a hand is shown holding a white document. In the bottom left corner, a blue gas burner is visible. The overall theme is energy and customer service.

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Promoting choice and value
for all gas and electricity customers