



Via email

11th April 2014

Dear Jonathon,

Citizens Advice are very happy to respond to this consultation as the issue of rollovers has vexed the non-domestic market for several years. Ofgem will be aware that we (as energywatch then Consumer Focus/Futures) supported, with several key caveats, a ban on rollover contracts when Ofgem undertook its Probe. The 2010 Probe changes, which limited the rollover period to twelve months, were an improvement, but we felt at the time that they did not go far enough.

We continue to believe that the fundamental arguments against (or for) a ban have not changed. We have always viewed rollovers, especially at high levels, as a symptom of market failure rather than a discreet issue in itself. High numbers of rollover are a result of disengaged consumers. They also allow suppliers to lock in customers by fiat rather than through providing them with a compelling offer. It is imperative that whatever solution result does not lock in consumers. Rollovers do not have to last for twelve months; our preferred solution would be retained "rollovers" in some form (this could include out of contract rates, the semantics are not important) as long as consumers can leave at any time without penalty.

Rollovers are part of a policy area we have attempted to push in new directions by our advocacy of evergreen/continuous tariffs for the smallest businesses and new publishing of prices. It is important that all stakeholders note that banning or not banning rollovers will not in itself solve many of the issues of engagement and confusion that undermine the non-domestic market.

Recent moves by some suppliers to voluntarily restrict their use of rollovers shows that the industry is capable of moving on this issue. However, the differing policies adopted by suppliers have also complicated the debate further. We understand that some suppliers made voluntary moves to cease rollovers, based on the assumption that Ofgem was about to take decisive action to ensure a level playing field and real competition. Whilst none of these suppliers have announced plans to resume rollovers, it should be noted that their commitments were voluntary. It in this context that our response should be considered.

Do you agree with our proposal to reduce the maximum termination notice period to 30 days?

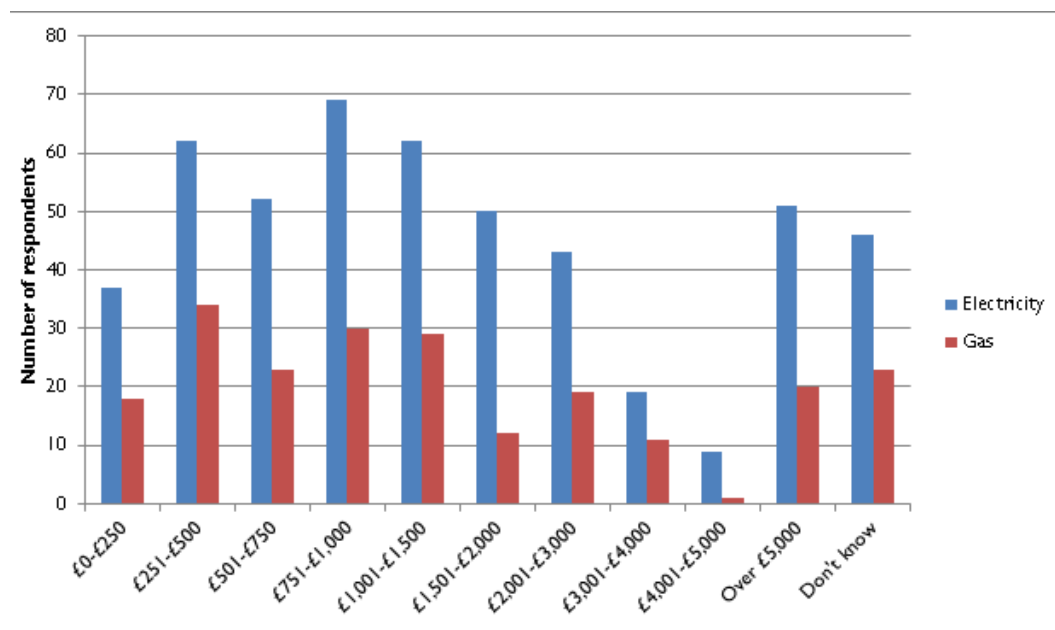
Yes, it is in and of itself a good thing regardless of the overall decision on rollovers. The current rules and timings are needlessly complex and 30 days is a much better rule.

Do you agree with our proposal to include current prices and annual consumption on contract renewal letters?

Yes, we consider that this is a useful and low-cost prompt to consumers so they have a real understanding of their current contract and thus their potential future one.

Inertia and confusion combine to stop consumers from engaging at this point of the contract cycle. Allowing consumers to opt-out at any point, as Ofgem has now done, should mitigate some of the date confusion seen previously. Also poor information can cause consumer confusion about contract end dates. Ofgem's recent rules, which require suppliers to publish contract end dates on bills should help to address this.

We believe that one over-arching reason for inertia and confusion is the lack of published tariffs or domestic-style evergreen/continuous tariffs, which can make comparing prices a complex and confusing process for many consumers. Many very small micro businesses engage with the market in a similar way to domestic consumers and may find the need to regularly contract onerous and confusing. However unlike in the domestic sector, small micro businesses cannot use a price comparison website to compare the current offerings in the market. This graph from research by Cornwall Energy for Consumer Futures shows that a large amount of small businesses spend less than £1,500 a year on either fuel, (akin to the medium domestic user) – figures are based on a quantitative survey of 500 small businesses. Consumption by SMEs on energy¹ is clearly skewed to very low users²;



¹<http://www.consumerfutures.org.uk/reports/under-the-microscope-reviewing-the-micro-business-energy-market>

² Bearing in mind that many very small businesses either have very low or no gas consumption

We propose that one solution would be for suppliers to develop evergreen tariffs suitable for consumers in this small end of the market – evergreen tariffs being like most domestic tariffs whereby there is no contract end date and in most cases the price can go up and down. We are aware that some suppliers have introduced or are developing an evergreen offer for its micro-business customers.

We would also encourage suppliers and Ofgem to look at the issue of how to deliver greater price transparency by publishing tariff prices. More transparency could empower all businesses as they will be able to search for the best deals, without the need for brokers. We believe that this could help address the lack of engagement, which has helped lead to rollover issues in the first place. Our recent research by BMG³ suggested that only half of all small businesses with an energy supplier (55%) find it easy to compare energy prices and understand if their contract is suitable for them. A third of all (34%) businesses do not find it easy at all. The larger the business, the more confidence in comparing deals between energy suppliers. The smaller the business, the closer their experience and perception of the market is to that of individual consumers.

As Ofgem will be aware, we are beginning the process of engaging with all suppliers to explore their appetite for publishing their tariff rates for their smallest non-domestic consumers.

Do you agree with our proposal to require suppliers to acknowledge termination notice received from a customer? Do suppliers already do this?

Some suppliers already do this but not a majority. Thus we support its mandate.

Do you agree with our proposed implementation dates?

Yes they seem reasonable.

Do you have views on the proposed amendments to standard licence condition 7A in Appendix 2?

Yes insofar as they support the option chosen by Ofgem in this consultation.

Do you agree that the current licence conditions provide sufficient protection to consumers on deemed contracts?

The licence conditions protect consumers but only if they, and other Ofgem powers, are used. We would like Ofgem to undertake a review of non-contract prices charged by suppliers as we are far from convinced that they are fair, competitive and accurately reflect risk. Ofgem had previously signalled that it was planning to review deemed contract rates when publishing its RMR documents in 2013 (and through verbal discussions). We felt, at the time, that further investigation was needed to establish whether the prices were sufficiently transparent and reasonable. We have not seen any evidence that suggests that the situation has improved in the interim.

³ To be published imminently

Do you agree that more consistent use of terms across suppliers would benefit consumers?

Yes, and this is a process we are happy to say we are already engaged with you, Energy UK and others on.

Should suppliers be able to object to the transfer of a deemed consumer with outstanding debt?

No. As long as there is a credible process that enables the old supplier to have debt paid off, blocking transfer here is anti-competitive. Anecdotally we are aware of a handful of suppliers who seem to continually abuse the objections process and we have already informally shared our concerns with Ofgem.

Do you consider there are any other options we have not considered?

There is an argument to be made for decoupling the rollover price and duration arguments. We recognise that hedging is more difficult for the smaller suppliers and so if rollovers are retained, a time period might be specified. Indeed, we recognise rollover contracts can offer some protection to customers in that, by definition, they prevent a consumer, particularly the disengaged consumer, from unwittingly ending up on more expensive out-of-contract rates. This could be a particular problem for very disengaged businesses who may not even realise they are out of contract until they get their first (significantly higher than expected) bill.

Rollovers can also be seen as convenient to some businesses that are happy to remain with their current supplier and do not wish to spend the time renegotiating a new contract. This probably comprises a very small number of consumers, however, given the much better rates on offer even when staying with a supplier. However, this does not mean that the rate itself need be so much higher than when under contract. These rates are punitive and in many cases we have seen are far closer in price to out-of-contract rates than the old contract rate.

Do you agree that we should not ban automatic rollover contracts?

This is a complex question to answer in isolation. For example, if rollovers were the same rate as the consumer's contract it would change our thinking on risk and punitive pricing. Our view is that rollovers are a symptom of low engagement by consumers and it is unclear whether the improvements Ofgem is proposing to introduce will lead to a significant improvement on the current engagement levels.

The differing numbers on page 42 of the consultation illustrate part of the problem. The annualised difference of around £500 between the acquisition/retention and rollover prices is telling and suggests consumers who do not switch pay more purely because of staying with their supplier who takes the opportunity to enjoy a wider margin. The rollover rate is somewhat punitive and it would be hard to argue how this accurately reflects risk and hedging given the consumer's demand pattern is known to the supplier. This is especially true given that a majority of micro-businesses fall way below the SLC7A consumption threshold, that is they use very

little energy, less than the average domestic in some cases (see chart above). Thus they are in the main very small consumers who on out-of-contract rates do not represent a large risk to suppliers, even the smaller ones.

We thus support rollovers being banned only if the related problem with costly out-of-contract rates are dealt with by Ofgem. Businesses should not be 'punished' for not understanding the market in this way. Regardless, we are very concerned about the lack of clarity surrounding out-of-contract rates – how do they relate to the risk of non-payment and suchlike when the business has only recently been under contract? It is suspected by many stakeholders that suppliers will only offer competitive tariffs when micro-businesses are on deemed rates, as the supplier looks to secure new business. Far from protecting them, current arrangements have the potential to exploit micro-businesses with highly punitive energy prices at the end of a contract, knowing that the business cannot escape the contract for twelve months. We do not believe that rollover rates are justifiable in terms of the cost of provision and risk in many cases.

Can you estimate the potential costs and benefits (in £) of our preferred options? Please consider the initial implementation and ongoing costs where possible.

This is a question for suppliers to answer in the main; representations we have received in this area paint an interesting picture. Some small suppliers claim, anecdotally, that banning rollovers would drive them out of business. This is worrying: what sort of "competition" is being artificially engendered if such suppliers cannot compete and retain customers except by exploiting inertia and more expensive rollover contracts?

Equally, larger suppliers have told us that the current situation with their voluntary lack of rollovers may be unsustainable given the above.

Are there any other impacts we have not identified?

The key impact will be the dynamic effects of not formally banning rollovers when several suppliers have voluntarily done so. Will they continue to do so when their competitors have not and it begins to impact their market share? Under the current voluntary arrangements "93 per cent of the market has banned rollovers". Following this logic, and assuming some (rational) suppliers renege on their voluntary plan, what percentage will be acceptable? Put another way, at what point would Ofgem seek to revisit this issue given the inherent instability of the current situation?

If Ofgem were to ban rollovers, a positive unintended consequence would be an increase in competitive pressures across the market. There will be fewer consumers stuck on roll-over contracts and (because of high rates) very willing to be supplied by a different supplier; this presents opportunities for, especially, smaller suppliers. It will also force suppliers to offer competitive deals in order to encourage their customer to make a positive choice to stay with that supplier.

We consider that the rollover/out-of-contract debate would be better served for consumers by being less binary, that is less fixated on maintaining the current

arrangement versus a total ban. Ofgem should forensically consider the costs-to-serve behind all of these rates after the information request results come in so as to consider the merits of, say, an opt-in rollover procedure which might only last for one month rather than 12. Businesses might then be allowed to leave the rollover regardless as soon as they re-contract with their current supplier or a new one – in this way the rollover becomes a useful ‘trigger’ to action.

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