

Smart billing for a smarter market: our proposals

Consultation

Publication date: 6 August 2015

Response deadline: 2 October 2015

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Overview:

Smart billing was identified as a key focus area for Ofgem's Consumer Empowerment and Protection project. We are now consulting on a number of measures that we think will help achieve the right consumer outcomes for smart billing.

Following extensive analysis, consumer research and stakeholder engagement we are focusing primarily on the related objectives of minimising backbills and minimising estimated bills. We propose to put in place a time limit on the duration of backbills generated from consumption on a smart meter. We propose to implement this backbill limit via suppliers' licence obligations, to ensure a minimum standard of protection for all consumers. We also want to encourage suppliers to publish their smart billing performance data, building on the existing publication of complaints data.

We welcome your views on all of our proposals. This consultation closes on 2 October 2015.

Context

Ofgem's Consumer Empowerment and Protection project is seeking to identify and, where necessary, to act on risks and opportunities for consumers in a smarter market. It reflects Ofgem's strategic output of high standards – ensuring that results and protection for consumers meet the high standards expected of an essential service – identified in our Forward Work Programme 2015-16.

In September 2014 we published our updated work programme for the project. Smart billing was identified as a priority workstream to be addressed during phase one of the project, which is focussed on "getting the basics right" before the mass roll-out of smart meters begins.

We are publishing this consultation on smart billing following extensive stakeholder engagement and consumer research on smart billing.

Associated documents

- Ofgem, March 2015, Consumer First Panel: Smart billing research. <https://www.ofgem.gov.uk/publications-and-updates/ofgem-consumer-first-panel-year-6-wave-3-smart-billing>
- Ofgem, December 2014, Smart billing workshop slides. <https://www.ofgem.gov.uk/publications-and-updates/slide-packs-our-consumer-empowerment-and-protection-project-smart-billing-and-smart-prepayment-workshops-held-10-and-11-november>
- Ofgem, September 2014, Consumer Empowerment and Protection: Updated Work Programme. <https://www.ofgem.gov.uk/publications-and-updates/consumer-empowerment-and-protection-smarter-markets-updated-work-programme>
- Ofgem, December 2013, Consumer Empowerment and Protection in Smarter Markets (consultation). <https://www.ofgem.gov.uk/publications-and-updates/consumer-empowerment-and-protection-smarter-markets>

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Executive Summary

Billing matters to consumers. It constitutes one of the most fundamental areas of interaction between them and their supplier. Historically, the highest level of consumer complaints relate to billing. Smart meters enable significantly improved billing performance, and we want suppliers' performance in this area to match the service that consumers expect, and deserve, from their investment in smart metering technology.

In scoping the Consumer Empowerment and Protection project, we identified billing as an area that suppliers need to get right from the early days of the smart meter roll-out. In this document we are consulting on a number of measures that we think will help achieve the right consumer outcomes for smart billing.

Our focus

Our analysis and consumer research has led us to focus primarily on the related objectives of minimising backbills and estimated bills. Backbills – catch-up bills for historical charges – can cause significant consumer detriment. Consumers consider the ability of smart meters to enable accurate rather than estimated bills, and hence to reduce the chance of “shock bills”, to be key benefits. Accurate bills are also important for consumer engagement in the energy market.

We consider that estimated bills and backbills will continue to be a risk with smart meters, particularly in the early stages of the roll-out. Issues with systems and processes can prevent suppliers from basing bills on smart meter readings. Stakeholders have told us that realising the full potential of smart meters to bring consumers more accurate billing could be an incremental, time-intensive process. Consumers' experiences could accordingly fall short of their expectations of smart metering technology.

Our proposals

Our first proposal is to introduce a measure that would give consumers a minimum standard of protection from backbills after they have a smart meter installed. We propose that this protection would take the form of a time limit on the duration of backbills for consumption that took place on a smart meter, to be implemented via suppliers' licence obligations. We would like to understand stakeholders' views on the merits or disadvantages of this approach.

There are several aspects to such a limit that would need to be considered, such as the appropriate duration. Our policy objective is to have no backbills; however, it has become clear that practical considerations make such an absolute restriction on backbilling unfeasible. Instead, we propose that a backbill limit would initially be six months, and that this would be reviewed in 2020 with the expectation of reducing it to three months. In this consultation, we explore our thinking on the duration of a limit, as well as wider scope considerations. We are also mindful of the potential

impacts of our proposal on suppliers, for example the need for certain systems changes, and we explore these impacts.

We consider that the backbill limit should apply to microbusinesses as well as to domestic consumers, but we welcome stakeholders' views, supported by evidence, as to whether and how it might be appropriate to have a different approach for these consumers.

Our second proposal complements the first. We want to encourage suppliers to publish their smart billing performance data, building on the existing publication of complaints data for domestic consumers. This would increase transparency in the market, enabling consumers to make decisions based on this key indicator of a supplier's performance. It would also further strengthen incentives on suppliers to optimise their billing performance. This would apply initially to domestic consumers, but we also want to explore how this could be approached for microbusinesses.

Next steps

This consultation will be open for eight weeks and will end on 2 October 2015. We ask readers to respond to this consultation via the contact details on the front page. We will publish a summary of responses and details of any further work this winter.

1. Introduction and background

Our smart billing objectives

Objectives

1.1. In 2013 we held early discussions with stakeholders about the risks and opportunities, relating to bills, that could arise with smart meters.¹ These informed our five high-level objectives for this workstream, which we consulted on. We published the final list of objectives, with a summary of stakeholders' responses, in September 2014.² The objectives are:

1. No reliance on estimated meter readings
2. No backbills where the customer is not at fault
3. Timely and accurate opening bills, final bills and rebates
4. Accurate bills supported by convenient and effective billing frequency and payment method arrangements
5. Appropriate Direct Debit calculations based on accurate consumption data.

1.2. In October 2014 we commissioned qualitative research with our Consumer First Panel.³ The research explored consumers' expectations and preferences around billing in a smart meter world. The research has helped shape the focus of our smart billing work and, in particular, our decision to primarily focus on objectives one and two, relating to estimates and backbills.

Consumer research: decision to focus on estimates and backbills

1.3. More accurate bills are considered by consumers to be one of the most important opportunities offered by smart meters in the context of billing.⁴ Consumers largely place such emphasis on accuracy because they understand that estimates can lead to problematic under- or over-payments. In the case of the former, the consequence of this can be a backbill.

1.4. Consumer expectations of smart meters for eliminating estimated bills are already high. Although many consumers on our panel accepted that "teething

¹ In this document, smart meter refers to all meters operating via or intended to operate via remote communications.

² Ofgem, Consumer Empowerment and Protection in Smarter Markets: Updated Work Programme, pp. 5, 25.

³ Ofgem, Consumer First Panel: Smart billing research.

⁴ Ofgem, Consumer First Panel: Smart billing research, p.22. See also: Smart Energy GB, Smart Energy Outlook March 2015, p.10.

<http://www.smartenergygb.org/sites/default/files/Smart%20Energy%20Outlook%20March%202015%20For%20ONLINE%20Publication.pdf>

problems” may occur immediately after they have a smart meter installed, their tolerance quickly decreases as time goes on.⁵ Quantitative research by Citizens Advice shows that the majority of consumers would be dissatisfied if they continued to receive estimated bills after having a smart meter installed.⁶ Consumer expectations are likely to be raised further as the smart meter roll-out progresses. For example, in line with their research around consumers’ expectations of smart meters,⁷ Smart Energy GB’s communications campaign places significant emphasis on the benefit of smart meters in bringing an end to estimated bills.⁸

1.5. We are also mindful of the Competition and Markets Authority’s (CMA’s) provisional findings which noted the role of traditional meters and estimated bills in contributing to a lack of consumer engagement in the market.⁹ We want to ensure that consumers with smart meters get the benefits of accurate bills as early as possible.

1.6. We consider the potential for detriment from backbills to be particularly significant. As raised by Consumer First panellists, even a relatively low value “shock-bill” can cause difficulties for a household’s or an individual’s finances, particularly for the more financially vulnerable.¹⁰ Age UK has pointed out that for the older population “[the] serious worry is inaccurate bills and an anxiety about unexpected costs”.¹¹

1.7. In practice, backbills can be of very high value, making them potentially detrimental for most, if not all consumers. The salience of this issue for consumers is supported by complaints data from Citizens Advice and Ofgem’s Consumer Affairs team, indicating that backbills are one of the top causes of billing complaints. This is true also for consumers on electric heating, whose bills tend to be higher. The focus of our policy proposals reflects this assessment of where we think the greatest potential detriment lies.

⁵ Ofgem, Consumer First Panel: Smart billing research, p.25.

⁶ Citizens Advice, The Lost Decade, p.83. <https://www.citizensadvice.org.uk/about-us/policy/policy-research-topics/energy-policy-research-and-consultation-responses/energy-policy-research/the-lost-decade/>

⁷ Smart Energy GB, Smart Energy Outlook March 2015, p.10. <http://www.smartenergygb.org/sites/default/files/Smart%20Energy%20Outlook%20March%202015%20For%20ONLINE%20Publication.pdf>

⁸ See: <http://www.smartenergygb.org/what-are-smart-meters/benefits/end-estimated-bills>

⁹ CMA, Energy market investigation: Notice of Provisional Findings Report, July 2015, p.5. https://assets.digital.cabinet-office.gov.uk/media/559aacbee5274a1559000017/EMI_Notice_of_PFs.pdf

¹⁰ In performing our duties we are obliged to take into account a number of specific vulnerability factors, including consumers on low incomes. The Consumer Empowerment and Protection project is one of a number of work areas for which we identified the potential to improve outcomes for vulnerable consumers. Ofgem, 2013, Consumer Vulnerability Strategy (p.31). <https://www.ofgem.gov.uk/ofgem-publications/75550/consumer-vulnerability-strategy.pdf>

¹¹ Quoted in Smart Energy GB’s response to Institute of Directors’ report on smart meters. <http://www.smartenergygb.org/IODResponse>

1.8. Estimates and backbills are conceptually linked and as a result our policy proposals for them interact: we cover them together in Chapter 2. In Chapter 3 we focus in more detail on our proposal for backbilling and explore how it might work in practice.

1.9. In Chapter 4 we explain our approach to our remaining three objectives relating to change of supplier, billing frequency and Direct Debits. We are not proposing any additional action on these as part of our smart billing work. We consider that recent and ongoing work, plus the natural incentives on suppliers in a competitive market, are sufficient to achieve these objectives. This decision is in part informed by the findings of our consumer research, which revealed that consumers are largely happy with their current billing arrangements.¹²

Relevance of our objectives to microbusinesses

1.10. In our September publication we indicated that we would consider the relevance of our smart billing work to microbusinesses.¹³ At a conceptual level, we consider that all of our smart billing objectives are relevant to microbusiness consumers.

1.11. Ofgem has had a longstanding focus on the backbilling of microbusinesses in the world of traditional meters. Billing, including backbilling and accuracy, was identified as a key concern for microbusinesses in the Retail Market Review (RMR). We have monitored backbilling of microbusinesses since 2012¹⁴ and have identified consumer detriment relating to the value and duration of backbills.

1.12. Our most recent analysis revealed that the majority of backbills went back by less than three years from the issue date and were less than £2,000 in value. The data indicated that suppliers were moving towards their one-year backbilling commitment. However, a number of consumers had been issued with backbills worth over £20,000 or exceeding five years.¹⁵ At the time, we communicated that we were expecting to see a further improvement in line with suppliers' voluntary commitments. We therefore issued a new information request in February 2015 to monitor suppliers' progress. To link that work – primarily focused on the current world of traditional meters – to this forward-looking work on smart meters, the request included a question on the type of meter (ie smart or traditional) for each backbilling case. We intend to publish a report summarising the key findings from this information request before the end of the year.

¹² Ofgem, Consumer First Panel: Smart billing research, p.18.

¹³ Ofgem, CEP: Updated Work Programme, p.21.

¹⁴ Ofgem, Non-domestic customer back-billing - Update on Ofgem's position cover letter. <https://www.ofgem.gov.uk/sites/default/files/docs/2012/10/nondombackbillingpositionoct12.pdf>

¹⁵ See: https://www.ofgem.gov.uk/sites/default/files/docs/2013/12/micro-business_back-billing_supplier_data_covering_april_2012_march_2013.pdf

1.13. We are also mindful of the CMA’s provisional finding, referenced above, that estimated bills can have a negative effect on consumer engagement: this finding applies to microbusinesses as well as to domestic consumers.¹⁶

1.14. In the relevant sections of this document, we consider whether and how our specific proposals should apply to microbusinesses.

The current billing landscape

Current governance around billing sits across a range of instruments. There are a number of voluntary initiatives, with different governance mechanisms and memberships, while the Standard Licence Conditions (SLCs) contain several obligations relevant to billing. The following table summarises the various current provisions and their coverage. With the exception of the “smart billing commitments”, which apply only to consumers with smart meters, all other provisions apply equally to smart and traditional meters.

Table 1 – summary of current billing provisions

Voluntary industry arrangements	Market segment	Signatories
Energy UK Billing Code	Domestic	Five larger suppliers
Energy UK “smart billing commitments”	Domestic	The six largest suppliers and a number of smaller suppliers. ¹⁷ (To be confirmed upon publication of these commitments.)
Energy UK & ICOSS Voluntary Standards: Backbilling for microbusinesses	Microbusiness	The six largest suppliers and six independent suppliers.
One-year Backbilling commitments	Microbusiness	The six largest suppliers and three independent suppliers.

¹⁶ CMA, Energy market investigation: Notice of Provisional Findings, July 2015, p.5.

https://assets.digital.cabinet-office.gov.uk/media/559aacbee5274a1559000017/EMI_Notice_of_PFs.pdf

¹⁷ All Energy UK members, although other suppliers will be free to adopt these commitments.

Licence obligations	Market segment	Coverage
SLC 21B : Annual meter readings	Domestic and microbusiness	All suppliers
SLC 27.17 and 27.18: Provision of final bills	Domestic	All suppliers
SLCs 7B and 25C: Standards of Conduct	Domestic and microbusiness	All suppliers

Voluntary industry arrangements

1.15. Energy UK¹⁸ operate the Code of Practice for Accurate Bills (the “Billing Code”).¹⁹ The Billing Code covers a number of commitment areas, such as “payments and refunds” and “backbilling”, which are supported by more detailed clauses. It applies to domestic consumers, including those with smart meters. The Billing Code limits backbills where the supplier is at fault to one year. Five of the largest suppliers are signatories, which entails an annual compliance audit. There has been limited public transparency in terms of governance mechanisms, performance results²⁰ and incentives to improve performance. However, this year Energy UK have begun publishing high-level, supplier-by-supplier results of the audit in the form of ratings.

1.16. Energy UK have recently also developed a number of “smart billing commitments” for domestic consumers. We understand that these are likely to be published later this year. These sit outside the Billing Code, but include several of its commitments, tailored to consumers with smart meters. We understand that these will limit backbills, where the supplier is at fault, to nine months. We understand that all Energy UK members – the largest suppliers and a number of smaller suppliers – will sign up to these commitments. There is no performance governance mechanism associated with these commitments. Energy UK have explained that this approach has been taken in order to provide greater flexibility during the early days of the smart meter roll-out.

1.17. ICoSS²¹ and Energy UK have developed a set of Voluntary Standards to govern backbilling of microbusiness consumers.²² These standards limit backbills (where the consumer has fulfilled certain conditions) to three years for electricity and

¹⁸ The trade association of the UK energy industry.

¹⁹ See: <http://www.energy-uk.org.uk/customers/energy-industry-codes/code-of-practice-for-accurate-bills.html>

²⁰ In 2009 only there was an annual report which provided aggregated audit results. See: <https://www.energy-uk.org.uk/publication.html?task=file.download&id=3068>

²¹ Industrial and Commercial Shippers and Suppliers group. An industry forum that brings together energy suppliers active exclusively in the non-domestic market.

²² For voluntary commitments and list of signatories, see: <http://www.energy-uk.org.uk/publication.html?task=file.download&id=5196>.

four years for gas and apply to all meter types. Unlike for the domestic Billing Code, suppliers' performance against the standards is not audited. Certain suppliers have subsequently also made further commitments for microbusiness consumers that exceed the Voluntary Standards, by limiting backbills to one year when the consumer has fulfilled certain conditions.

1.18. We note that the industry has not developed "smart billing commitments" for microbusiness consumers.

Licence obligations

1.19. In relation to issuing bills based on actual meter readings, SLC 21B requires suppliers, among other things, to take all reasonable steps to obtain annual meter readings, to offer at least six-monthly billing and to make use of customer meter readings where considered accurate.

1.20. There are obligations relating to the provision of final bills in SLC 27.17 and 27.18. Suppliers are required to take all reasonable steps to issue a final bill within six weeks of losing a customer and any corrected bills must be issued as quickly as possible.

1.21. The Standards of Conduct (SLC 7B and 25C) apply to interactions between the supplier and the customer relating to billing. Areas covered by the Standards of Conduct would include, but are not limited to, the fairness of how a consumer is treated in paying back a backbill, and the cause of that backbill.

Impact assessment

1.22. Section 5A of the Utilities Act 2000 places a duty on the Authority to carry out Impact Assessments where the Authority is proposing to do anything for the purposes of, or in connection with, the carrying out of any function exercisable by it under or by virtue of Part 1 of the Gas Act 1986 or Part 1 of the Electricity Act 1989, and it appears to the Authority that the proposal is "important" within the meaning of section 5A.2 of the Utilities Act 2000.²³ We do not believe that our proposals meet this latter criterion. As such, we do not consider it necessary to conduct an Impact Assessment.

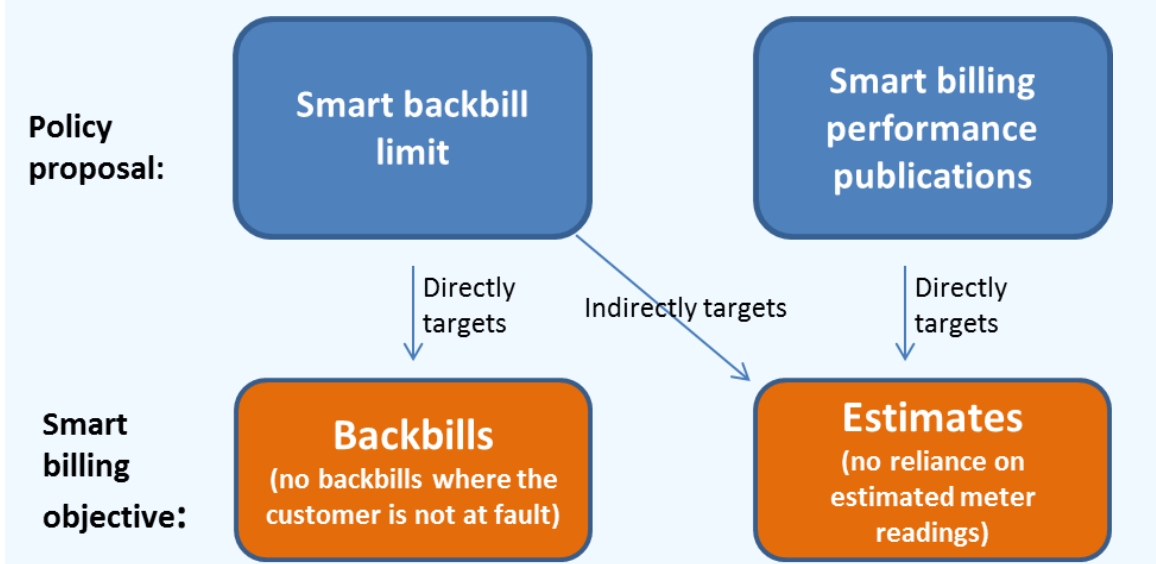
1.23. We set out in Chapter 3 the reasons why we do not consider that our proposal for backbilling would have a significant cost for suppliers. We consider that our proposal for the publication of billing performance data would also have limited costs for suppliers.

²³ See Ofgem, Impact Assessment Guidance. <https://www.ofgem.gov.uk/ofgem-publications/83550/impactassessmentguidance.pdf>

2. Proposed approach to our objectives on estimated bills and backbills

Chapter Summary

We first consider whether action is needed to ensure we achieve our objectives relating to estimated bills and backbills. We then explore ways to address backbilling and propose the concept of a backbill time limit. We go on to consider if any further measures are required for estimated bills and propose that suppliers publish relevant performance data. The interaction between our proposals and our objectives are shown in the diagram below.



Questions for this chapter

- Question 1:** Do you agree with our assessment of the risk of estimates and backbills in the smart future? Please provide any evidence you have to support your answer.
- Question 2:** Do you agree that a time limit on smart backbills is an appropriate response to this risk?
- Question 3:** Do you agree with our proposal to implement such a limit via licence obligations? If not, what alternative would you suggest?
- Question 4:** Do you have any comments on our proposal for suppliers to publish billing performance data for consumers with smart meters?
- Question 5:** Do you agree with our proposed treatment of microbusinesses? Please provide details of any reasons why not.

The risk of estimates and backbills in the smart future

2.1. Significantly improved billing performance is a key benefit of smart meters: they can provide suppliers with up-to-date meter readings that can be used to

produce accurate bills. Unlike with traditional meters, estimated bills and backbills should no longer be a “business-as-usual” part of billing. As stated in the introduction, consumers’ expectations are accordingly high. **We nonetheless consider that estimated bills and backbills will continue to be a risk in the smart meter future, particularly in the early stages of the smart meter roll-out.** There are three main reasons why.

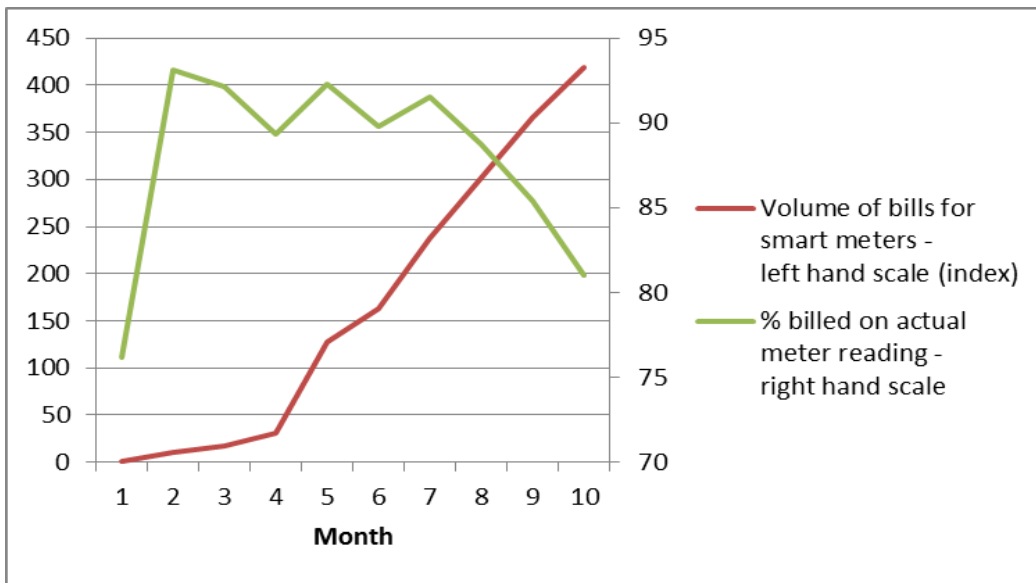
- A supplier may issue an estimated bill (hence risking a subsequent backbill) if they do not receive a remote reading from the smart meter. For example, this could occur because of an issue with the remote communications system.
- A supplier may successfully receive the necessary meter reading, yet still issue an estimated bill. Stakeholders have told us that a common cause of this is failed or delayed data hand-offs between the supplier’s internal systems.
- Estimated bills are not the only cause of backbills. For example, they can be caused by errors in manual meter readings or suppliers failing to bill as scheduled. Some of these issues will be fixed by smart but others, such as a failure of a supplier’s billing systems, will not.

2.2. We understand that the likelihood of such errors arising is heightened during periods of significant change to relevant systems. The roll-out of smart meters will entail such changes, as suppliers will need to adapt their systems to process billing for smart meters. Stakeholders have also told us that achieving billing accuracy on the new systems could be a lengthy and incremental process for suppliers. We expect suppliers to make this transition as efficiently and effectively as possible, but we recognise that there are technical challenges with such implementations.

2.3. Evidence from early experiences of smart meters supports the view that estimates and backbills are a continued risk with smart meters. Data obtained by Citizens Advice on the percentage of estimated bills issued by suppliers indicates that some consumers with smart meters continue to be billed at least partly on estimates and that performance can vary significantly between suppliers. For example, in 2013, customers of one supplier had a 14% chance of receiving at least one estimated bill. There is also emerging evidence of consumers with smart meters making complaints about being billed on estimates.

2.4. Additionally, there is some evidence that the risk of billing on estimates can increase as a supplier scales up its smart meter volumes. Figure 1 below shows how this occurred at a supplier for which we have seen such data.

Figure 1: Volume of smart meter bills versus number of bills issued based on actual meter reading. Based on 2013 data from one supplier.



Our proposal for a smart backbill limit

Targeting backbills directly

2.5. Many backbills are caused by previously underestimated bills, and therefore one potential approach would be to tackle them by focussing on reducing the risk of estimates. We note that some other jurisdictions have put in place regulations for minimising the use of estimates, for example by capping the number of estimates permitted in a 12 month period (see Appendix 2).

2.6. However, as noted in the previous section, there are several causes of backbills other than estimates. An approach that only focussed on estimates would therefore fail to provide consumers with consistent protection from all types of backbills. We are also mindful of the potential unintended consequences of regulating estimated bills directly, which might necessitate further regulation on billing frequencies that we would want to avoid.²⁴ **We therefore propose to tackle backbills by addressing them directly.**

²⁴ For example, capping the use of estimates at a certain number each year could perversely incentivise suppliers to decrease their billing frequency.

A time limit on smart backbills

2.7. We consider that the best way to mitigate the risk of detriment from backbills is via **a limit on the time period for which suppliers can issue a backbill for consumption on smart meters**. A common limit across the market can provide clarity for suppliers and a consistent level of protection for all consumers.

2.8. We considered the option of limiting backbills beyond a particular value, as an alternative to, or in combination with, a time limit. Such an approach might limit backbills to an absolute value or a percentage of a consumer's average annual bill. We think that this approach would be significantly more complex to implement, for example in cases where the consumer's average consumption is unknown or disputed. We also think that it would provide a less clear message to consumers than a time limit. A time limit is the approach taken by industry to date through voluntary arrangements. We also note that the majority of international jurisdictions that we have examined protect consumers from backbills via a time limit (see Appendix 2).

2.9. By increasing incentives on suppliers to avoid backbills, a limit would also incentivise suppliers to minimise the use of estimates. We take this beneficial indirect effect into account when we turn to our additional proposal for estimates.

Approach to implementing a limit

2.10. We recognise the importance of choosing the right method of delivering our proposed policy, including consideration of a principles-based approach. Stakeholders' responses to our September consultation also noted that there are multiple ways of achieving our objectives across the Consumer Empowerment and Protection project. We have already sought stakeholders' detailed views on different delivery models to help inform our thinking (see Appendix 3 for more details).

2.11. **We are proposing to introduce a smart backbill limit via suppliers' licence obligations.** This would ensure that protection covers all consumers, regardless of their choice of supplier. Universal coverage is an important consideration given the potential detriment that even a single backbill can entail for an individual consumer (see introduction).

2.12. An alternative approach is to rely on existing or future voluntary industry arrangements. One advantage of such arrangements is that it might be easier to subsequently modify them, compared with licence obligations.

2.13. However, this approach cannot ensure that all consumers will be protected. Indeed, we note that voluntary arrangements have historically rarely covered the whole market (for example, the Billing Code has just five signatory suppliers despite a growing number of suppliers in the market). Voluntary arrangements can also lack the governance mechanisms focussed on performance and compliance, as is the case for the "smart billing commitments".

2.14. Energy UK's current view is that their "smart billing commitments" would be moved into the more formal Billing Code in the future, likely to be when the majority of consumers have smart meters. Stakeholders at our workshop indicated that a backbill limit in licence obligations might reduce suppliers' incentives to keep the Billing Code in place at this future point, since it would partially duplicate licence obligations. We welcome further views on suppliers' intentions in this regard and their implications.

2.15. Stakeholders will also be aware that we want to move towards greater reliance on principles to regulate the retail energy market. Even with an increased reliance on principles, there will continue to be an important role for prescriptive rules in certain areas. We consider prescription could remain appropriate where we want to have a very clear, specific and consistent minimum standard of consumer protection, such as in this instance of a time limit on backbills.

2.16. Specifically, stakeholders suggested that Ofgem could specify its expectations in relation to backbilling through guidance on the Standards of Conduct licence obligations. As part of our transition towards an increasing reliance on principles we will develop our thinking about how best to support suppliers in understanding their obligations under the Standards of Conduct, although the onus is ultimately on suppliers to understand and respond to the needs of their customers.

2.17. Another potential approach, and one discussed by stakeholders at our workshop, is for Ofgem to require by licence all suppliers to be signatories to a code of practice that delivers specified outcomes in relation to backbilling. This would be similar to the approach taken to the Smart Metering Installation Code of Practice (SMICOP). Our initial view is that developing a new code could be overly burdensome given the relatively simple objective that we want to achieve.

2.18. At our workshop, the SMICOP and the Smart Energy Code (SEC) were both suggested as potential repositories of regulations for a smart backbill limit. However, we consider that the Supply Licence, which already includes provisions relating to billing, is a better fit.

Table 2 – summary of analysis of options for delivery

	Advantages	Disadvantages
Licence obligations	<ul style="list-style-type: none"> Consistent standard of protection with whole market coverage. 	<ul style="list-style-type: none"> Complexity of introducing licence modifications.
Guidance on Standards of Conduct	<ul style="list-style-type: none"> Uses existing regulation. 	<ul style="list-style-type: none"> Would pre-empt outcome of our work on principles-based approach and use of guidance.
Voluntary arrangements	<ul style="list-style-type: none"> Flexibility for modifications. 	<ul style="list-style-type: none"> Cannot ensure coverage of whole market. Standards of protection and governance may vary across multiple arrangements.
Compulsory membership of a code of practice	<ul style="list-style-type: none"> Consistent standard of protection for all consumers. 	<ul style="list-style-type: none"> Resource-intensive setup process and more complex governance arrangements. Adds to range of regulated codes.
Obligations in existing industry codes (eg Smart Energy Code)	<ul style="list-style-type: none"> Existing whole market mechanism. 	<ul style="list-style-type: none"> Supply licence a better fit.

Our additional proposal: publication of smart billing performance data

2.19. Accurate bills *per se* also matter to consumers. We expect that the proposed backbill limit would incentivise suppliers to reduce the number of estimated bills, and therefore reduce the likelihood of backbills. However, a backbill limit would not automatically eliminate all estimates, nor necessarily minimise the use of estimates to the same extent across all suppliers.

2.20. In addition to a backbill limit, **we therefore want to encourage suppliers to publish their smart billing performance data.** This approach would create transparency on this key performance measure and hence empower consumers to

make decisions based on information that is important to them. It is in line with our broader desire to use transparency, where possible, as a tool to build consumer trust in the market.²⁵ It would build on the current voluntary publication by many suppliers of their complaints data.

2.21. Some stakeholders at our workshop indicated that such publications, when taken alongside that of other indicators such as complaints, could also be useful for third party intermediaries and consumer advocates when assessing and comparing suppliers.

2.22. This approach would also reinforce the incentives provided by a backbill limit for suppliers to reduce estimated bills. If enough consumers made switching decisions based on such information, it would generate a dynamic in which suppliers compete on their performance against this metric.

2.23. We think that this proposal is proportionate to the residual risk of estimated billing, considering the incentives created by a backbill limit. As previously indicated, we do not think it would be appropriate to introduce rules relating to the use of estimates. This performance measure is also likely to be most relevant in the early years of the smart meter roll-out, since we expect performance on this metric to improve over time, although there may always be poorer performing outliers. We also note that over time the additional data made available by smart meters should enable suppliers to make estimates more accurate.

2.24. We envisage this proposal being taken forward in the context of our broader desire for suppliers to put more data on key performance indicators into the public domain. We have already held initial discussions with Energy UK members about moving in this direction. Subject to this consultation, we would intend to work with relevant parties to develop details of how it would work in practice. One potential approach is for such publications to cover the proportion of a supplier's bills, issued to customers with smart meters, that are based on actual meter readings.

Our proposed approach to microbusinesses

2.25. As stated in the introduction, we think that our objectives relating to estimates and backbills are relevant to microbusiness consumers. Here we consider if our proposals for achieving them should also apply to microbusinesses.

²⁵ Ofgem, Forward Work Programme 2015-16, p.26. <https://www.ofgem.gov.uk/publications-and-updates/forward-work-programme-2015-16-0>

For the proposed smart backbill limit

2.26. **We propose that the limit should apply to microbusinesses.** However, we continue to be open to stakeholders' views, supported by evidence, as to whether and how it might be appropriate to adopt a different approach for these consumers.

2.27. During our stakeholder engagement, including at our May workshop, we asked stakeholders about potential specific characteristics of microbusiness consumers that might justify developing different proposals for them. The following views have been put forward.

2.28. Stakeholders indicated that it can be more difficult for suppliers to gain access to some microbusiness premises for the purposes of reading, or diagnosing a fault with, the meter. We understand that this is linked to the different nature of a business activity as opposed to domestic consumption. We consider that this is covered in our proposed scope (see Chapter 3 and Appendix 4) – the limit would not apply if the consumer refuses access.

2.29. Stakeholders have indicated that the microbusiness market segment works with a far more fragmented supply chain of third parties, including, for example, consumers who contract directly with their own metering service providers. It was suggested that this could make it harder for suppliers to ensure that all parties in the supply chain meet their obligations. We are keen to understand this argument better, including more details about how this might be problematic for suppliers of microbusinesses in complying with a backbill limit. We note, however, that this has not prevented a number of suppliers committing to the same backbill limits for microbusiness and domestic customers under the current voluntary arrangements.

2.30. It was pointed out that a supplier's schedule for rolling out smart meters to its microbusiness customers might differ from their domestic customers. They also said that since a number of Advanced Meters have already been in use in microbusiness premises for some time, this would mean any policy proposal would apply to a potentially large volume of meters from day one. As discussed under "Implementation" in Chapter 3, we are mindful that suppliers will be required to implement certain changes and intend to provide appropriate lead time before the limit would take effect. Moreover, we believe that the fact that many Advanced Meters have been established as operational for some time should help facilitate good billing performance for these sites.

For the proposed publication of billing performance data

2.31. Subject to this consultation, we intend to work with industry to progress our proposal for the publication of billing performance data **initially for domestic consumers.**

2.32. We would, however, also like to explore how it could be approached in a timely manner for microbusinesses. We welcome views from suppliers and consumer groups on this.

3. Practical considerations for a smart backbill limit

Chapter Summary

In this chapter we set out a more detailed view of what we think a smart backbill limit would look like in practice. We cover: how long a limit should be, the scope of its application and implications for suppliers. We are keen to hear stakeholders' views on the proposals as a whole, as well as the specific questions enumerated below. Please note the important additional details to this chapter provided in Appendix 4.

Questions for this chapter

- Question 1:** Do you agree with our proposal for the duration of a smart backbill limit?
- Question 2:** Do you agree with our proposed implementation timescales?
- Question 3:** Do you agree with our proposed scope of a smart backbill limit? If you disagree with specifics, please provide details.
- Question 4:** If you are a supplier, do you agree with our assessment of the implications of the proposed backbill limit for your business?

3.1. In Chapter 2 we proposed that the concept of a backbill time limit is the best way to mitigate the risk of backbilling in the smart future. We also proposed that Ofgem is best placed to implement such a limit via suppliers' licence obligations. We are consulting on both of these proposals. In this chapter, we explore considerations for putting a backbill limit into practice.

The duration of a smart backbill limit

3.2. One of the key variables relevant to a backbill time limit is its duration. For the consumer, the longer the limit, the greater their exposure to potential detriment. For the supplier, the longer the limit, the more time it has to identify and resolve errors and exceptions before it is prevented from backbilling.

3.3. We think that a limit defined by a time period is preferable to a limit defined in terms of a number of billing cycles, for example specifying that suppliers can only backbill a consumer for no more than two of their regular billing cycles. A time limit has the advantage of ensuring that the fundamental level of protection from detriment from backbilling is consistent for all consumers, regardless of their billing frequency.²⁶

²⁶ If the limit is expressed in terms of billing cycles, the amount owed through a backbill by a

3.4. Nonetheless, we think that it is most logical to work with a time limit which *conforms to* multiples of the standard quarterly and monthly billing cycles. This is the simplest approach and minimises unintended consequences around off-cycle bills.

3.5. In line with our objective of no backbilling, we considered the option of a zero tolerance, absolute limit, whereby the supplier could not charge an individual consumer for any consumption prior to their current billing period. However, we think that this would, at this point, be unreasonably restrictive for suppliers. Moreover, our research also indicates that consumers are willing to accept some limited backbills.

3.6. At our stakeholder workshop, we discussed three months and six months as possible time periods for a backbill limit, both counted backwards from the point at which the backbill is issued. There are advantages and disadvantages associated with three months and six months, as summarised in Table 3.

consumer – for a period of energy consumed – would differ depending on their billing cycle. For example, the maximum amount owed would be less for consumers on a monthly billing cycle than for consumers on a quarterly billing cycle. While we recognise that the perception of billing cycles and payment frequencies is important, we do not feel that it is appropriate to have different levels of protection.

Table 3 - Advantages and disadvantages of three-month and six-month smart backbill limits.

	Advantages	Disadvantages
Three-month limit	<ul style="list-style-type: none"> • Maximises consumer protection from potential detriment. <ul style="list-style-type: none"> ➢ Consumers on monthly bills can be backbilled on-cycle for two previous billing periods; consumers on quarterly bills cannot be backbilled on cycle at all. 	<ul style="list-style-type: none"> • Gives suppliers less time to identify and fix issues. (Including limited opportunity for customers, especially those on quarterly bills, to self-identify issues.) • Equates to no on-cycle backbills for customers on quarterly bills: a single estimated bill would potentially lead to a backbill being caught by the limit. • Does not align to current standard frequency of Direct Debit reassessment (six months).
Six-month limit	<ul style="list-style-type: none"> • Gives suppliers more time to identify and fix issues. • Aligns to current standard Direct Debit reassessment frequency. 	<ul style="list-style-type: none"> • Consumers are exposed to potentially greater detriment. <ul style="list-style-type: none"> ➢ Consumers on monthly bills can be backbilled on cycle for five previous billing periods; consumers on quarterly bills can be backbilled on cycle for one previous billing period.

3.7. As noted in the introduction, we understand that Energy UK’s upcoming “smart billing commitments” will include a nine-month backbill limit. Our approach has been to start from our ambition of no backbills for maximum consumer protection but to balance this with options for longer limits to address practical issues that shorter limits might entail. We do not think that nine months are required to overcome such issues, nor would this strike the appropriate balance with consumer protection. This view has been informed by the discussion at our stakeholder workshop.

3.8. Having considered the relative merits of three months and six months, **we propose that a backbill limit would initially be six months.** We understand that suppliers’ systems may need time to settle during the smart meter roll-out, including immediately after the installation of a meter. We consider that six months is adequate time for suppliers to identify and fix most errors and exceptions during this period; as noted above, this view has been informed by our stakeholder workshop. Six months also provides a clear and meaningful starting level of protection for consumers with smart meters.

3.9. At the same time, we want to maintain the highest ambition for consumers as we move towards an enduring, smart-enabled market. **We therefore also propose that a six-month limit should have a review point in 2020 with the expectation of reducing it to three months.** This review would allow us to take account of suppliers' capabilities and experiences in an established smart market. Consideration of this evidence would be essential, but such a review would be approached with the expectation that by this point suppliers' systems and processes would be able to deliver a more ambitious level of performance.

3.10. In our recent workshop, we discussed the merits of attaching a "sunset clause" or a review point to the introduction of a backbill limit. In light of our desire to base future policy on evidence of suppliers' performance during the smart meter roll-out, and as we consider that greater ambition can and should be achieved, we think that a review is the most appropriate mechanism.

3.11. We think that these proposals strike the right balance between suppliers' capabilities and consumers' interests and expectations. We welcome stakeholders' views on any of the considerations for the duration of a backbill limit set out above.

Timing of implementation

3.12. Our ambition is for protections to be in place as soon as possible but we recognise that suppliers would need time to implement any changes and to prepare for a backbill limit. As such, we would expect arrangements to come into force six months after a final decision point. We welcome stakeholders' views on this expectation. Meanwhile, we note that Energy UK's "smart commitments" could be implemented at an earlier date.

Scope of a smart backbill limit

3.13. This section examines specific considerations around the scope of the proposed limit – this is explored in more detail in Appendix 4.

3.14. Backbill or backbilling generally refers to the part of a bill or upwards Direct Debit reassessment that is used to correct previous bills or (re)assessments, including billing for consumption for which a bill should have been issued but was not. We would intend to limit backbilling by requiring that suppliers may not issue bills for previously unbilled consumption that took place more than six months prior to the issuance, where the customer was not at fault.

“Customer not at fault”

3.15. As stated in our updated work programme,²⁷ we consider our backbilling objective relevant to all situations “where the customer is not at fault”. We propose that the customer would be considered at fault where there is evidence that they have:

- Behaved unlawfully
- Failed to provide access to the meter
- Failed to provide necessary details to enable billing.

Meter types

3.16. We propose that the limit would apply to meter points that suppliers are operating or intending to operate via remote communications.

3.17. This proposed scope excludes sites that have smart meters but suppliers are actively choosing to operate as traditional meters. This might be the case for meters that suppliers inherit on churn and choose not to operate via remote communications. At our workshop, stakeholders raised the question of meters with intermittent remote communications. To be clear, we do not propose to exclude such sites from the scope of the limit. Workarounds exist if suppliers are temporarily unable to obtain meter readings remotely; for example, asking the customer to provide a reading, or visiting the site.

Smart consumption

3.18. **We propose that the backbill limit would apply to consumption that took place on the smart meter only**, and not to consumption on the traditional meter prior to the installation of the smart meter.

3.19. Stakeholders have told us that a number of historical issues, some of which will lead to backbills, are likely to be identified upon installation of smart meters. We are mindful of the risk that this could pose to the smart meter roll-out, in terms of consumer confidence. Industry parties need to be aware of this risk and consider how best to mitigate it, for example via their customer communications or by minimising estimated bills in advance of meter exchanges. We understand that several industry parties are already actively considering this.

²⁷ Ofgem, Consumer Empowerment and Protection in Smarter Markets: Updated Work Programme, p.5.

Fixed Direct Debits

3.20. We recognise the conceptual and practical differences between billing of standard credit and fixed Direct Debit consumers. Although they may pay off a backbill in a different way, we consider that consumers on fixed Direct Debits can nonetheless be at risk of detriment from backbills. **We therefore propose that the limit would apply to consumers on fixed Direct Debits.**

3.21. We are mindful of potential unintended consequences that the proposed limit could have on this payment method. Stakeholders have told us that fixed Direct Debit payments are generally reassessed every six months. We understand that a six-month limit would enable this to continue unchanged. We are keen to hear stakeholders' views on the effect of the proposed limit on fixed Direct Debits.

Implications for suppliers of a smart backbill limit

3.22. This section sets out our thinking on the impacts of our proposal on suppliers, based on discussions with stakeholders. We would like to understand from suppliers if our initial assessment is correct.

3.23. We do not consider that a smart backbill limit would lead suppliers to incur significant costs. The smart meter technology that will enable greater billing performance is already being put in place. A limit would not entail a fundamental change to suppliers' core processes, which we understand can be a key driver of implementation costs. This is because suppliers' billing systems should already be geared towards achieving maximum billing accuracy, with processes in place to deal with errors and exceptions.

3.24. A backbill limit would change the parameters of suppliers' existing exceptions management processes for avoiding billing issues, and dealing with backbills if they arise. Suppliers will be unable to charge a particular customer only if such processes fail to prevent backbills that fall outside of the limit.

Upfront costs

3.25. We understand that most, if not all, suppliers already have processes in place for managing backbills, including applying constraints on issuing backbills beyond a certain length. For example, signatories to the Billing Code publicly commit that any backbills over a year in duration meet certain criteria. As a result, we do not anticipate that our proposals would require suppliers to develop fundamentally new exceptions management processes.

3.26. The proposed backbill limit would require a supplier's billing system to distinguish between smart and non-smart customer sites in order to apply the rule only to smart sites. We understand that some suppliers' billing systems do not currently identify if a customer has a smart meter or not. In such cases, there may be minor implementation costs of providing systems with this functionality. However, we note that suppliers who intend to sign up to Energy UK's "smart billing

commitments” will in any case be required to make this distinction for the purposes of billing. As such we think that there would be no incremental cost for these suppliers, with minimal costs to others.

Ongoing costs

3.27. Where a supplier’s system detects issues with a site, for example if there have been multiple estimated bills, there are costs associated with exceptions management. There are various steps that a supplier can take. It may request that the customer provides a manual meter reading. In other cases it may wish to visit sites for which it cannot obtain a remote reading, in order either to diagnose and fix communications issues or to obtain a manual reading. However, we anticipate – as indicated by stakeholders at our workshop – that suppliers are likely to visit such sites in any case, regardless of a backbill limit, within six months. The incremental cost of our proposed six-month limit would therefore be minimal.

3.28. Where systems and processes, including exceptions management, fail to the point of the backbill limit, the supplier would incur the cost of not issuing a backbill to a particular customer. For a given supplier this cost would depend on whether such backbills were rare exceptions or part of a more systemic issue. In Chapter 2, we have already asked for views on the risk of backbills arising in the smart future: responses to that question will inform our thinking here too. However, it should be noted that the policy itself would be an added incentive to ensure systems and processes are in place to avoid issues occurring and handle them within the time limit if they do occur.

4. Proposed approach to our objectives on change of supplier, billing frequency and Direct Debits

Chapter Summary

We are not proposing to take any action on these objectives as part of our smart billing work. We consider that they are either covered by recent or ongoing work elsewhere, or we do not think that intervention by Ofgem is required to achieve them.

Questions for this chapter

Question 1: Do you have any comments on our proposed approach to these objectives (on change of supplier, billing frequency and Direct Debits)?

Change of supplier – Timely and accurate opening bills, final bills and rebates

4.1. Our proposals for estimates and backbills will further help maximise the accuracy of opening and closing bills, just as they will for consumers' regular bills. The licence obligation (SLC27) on suppliers to take all reasonable steps to issue the final bill within six weeks will continue to protect consumers with smart meters from very late final bills.

4.2. Smart meters provide the functionality for suppliers to issue final bills more quickly. This will help reduce the chance of final bills coinciding with opening bills, which in previous research consumers flagged as a worry with the change of supplier process.²⁸ We recently approved a modification to the balancing and settlement code (BSC) – modification P302²⁹ – to improve the efficiency of the meter reading process upon change of supplier in electricity. For gas, we look to industry to ensure that the proposals being developed will deliver a more efficient process that benefits the consumer.

4.3. There is a significant amount of recent and ongoing work to ensure that consumers with credit balances, for example where their bills have been over-

²⁸ Ofgem, 2013, Consumer First Panel research. <https://www.ofgem.gov.uk/publications-and-updates/ofgem-consumer-first-panel-research-inform-ofgem%E2%80%99s-review-change-supplier-process>

²⁹ See: <https://www.ofgem.gov.uk/publications-and-updates/balancing-and-settlement-code-bsc-p302-improving-change-supplier-meter-read-process-smart-meters>

estimated, have this money returned to them in a timely manner when they leave a supplier.³⁰

Communications on opening and closing bills for smart meters

4.4. There is ongoing industry work on the potential to standardise how suppliers use smart meter registers, with a view to avoiding consumer confusion. We will continue to follow the progress of the industry workgroup.

Billing frequency – Accurate bills supported by convenient and effective billing frequency and payment method arrangements

4.5. Early stakeholder engagement indicated that we should explore the potential for smart meters to improve billing frequency and payment methods. We identified an information gap, since there was limited available research on consumers' expectations in this regard. We therefore designed our smart billing research to include this issue.

4.6. The research found that consumers are largely happy with their current billing frequencies and payment methods. For example, there was no appetite among the consumer panellists for billing frequencies shorter than one month (or 28 days).³¹ Also, fixed Direct Debits were perceived to offer budgeting advantages over more variable billing.³² We consider that suppliers have sufficient incentives to innovate in this area, if they identify consumer demand for it.

Direct Debits – Appropriate Direct Debit calculations based on accurate consumption data

4.7. Since we first consulted on our objectives, there has been a significant amount of work, led by government, to ensure that Direct Debits are set at appropriate levels and that credit balances are refunded where appropriate.³³ We expect that the additional data provided by smart meters will enhance the ability of suppliers to set Direct Debit payments accurately. Our proposal for a backbill limit – which would apply to Direct Debits – would further strengthen incentives on suppliers to do so.

³⁰ For example, see: <https://www.ofgem.gov.uk/publications-and-updates/big-six-act-ofgems-challenge-repay-money-held-closed-accounts>

³¹ Ofgem, Consumer First Panel: Smart billing research, p.18.

³² Ofgem, Consumer First Panel: Smart billing research, pp.21-22.

³³ For example, see: <https://www.gov.uk/government/news/energy-companies-to-offer-direct-debit-refunds-to-british-households>

Appendices

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Appendix 1 - Consultation Response and Questions

1.1. Ofgem would like to hear the views of interested parties in relation to any of the issues set out in this document.

1.2. We would especially welcome responses to the specific questions which we have set out at the beginning of each chapter heading and which are replicated below.

1.3. Responses should be received by 2 October 2015 and should be sent to:

Bart Schoonbaert, Senior Manager
Consumers & Sustainability
Tel: 0203 263 2769
Email: bart.schoonbaert@ofgem.gov.uk

1.4. Unless marked confidential, all responses will be published by placing them in Ofgem's library and on its website www.ofgem.gov.uk. Respondents may request that their response is kept confidential. Ofgem shall respect this request, subject to any obligations to disclose information, for example, under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004.

1.5. Respondents who wish to have their responses remain confidential should clearly mark the document/s to that effect and include the reasons for confidentiality. It would be helpful if responses could be submitted both electronically and in writing. Respondents are asked to put any confidential material in the appendices to their responses.

1.6. We will publish a summary of responses and details of any further work this winter. Any questions on this document should, in the first instance, be directed to:

Bart Schoonbaert, Senior Manager
Consumers & Sustainability
Tel: 0203 263 2769
Email: bart.schoonbaert@ofgem.gov.uk

CHAPTER: Two

Question 1: Do you agree with our assessment of the risk of estimates and backbills in the smart future? Please provide any evidence you have to support your answer.

Question 2: Do you agree that a time limit on smart backbills is an appropriate response to this risk?

Question 3: Do you agree with our proposal to implement such a limit via licence obligations? If not, what alternative would you suggest?

Question 4: Do you have any comments on our proposal for suppliers to publish billing performance data for consumers with smart meters?

Question 5: Do you agree with our proposed treatment of microbusinesses? Please provide details of any reasons why not.

CHAPTER: Three

Question 1: Do you agree with our proposal for the duration of a smart backbill limit?

Question 2: Do you agree with our proposed implementation timescales?

Question 3: Do you agree with our proposed scope of a smart backbill limit? If you disagree with specifics, please provide details.

Question 4: If you are a supplier, do you agree with our assessment of the implications of the proposed backbill limit for your business?

CHAPTER: Four

Question 1: Do you have any comments on our proposed approach to these objectives (on change of supplier, billing frequency and Direct Debits)?

Appendix 2 – Approaches to smart billing in other jurisdictions

1.1. As part of our background research for the project and to help inform our thinking, we looked for evidence of the approaches taken to billing by regulators in the majority of other jurisdictions that have rolled-out smart meters, or are in the process of doing so.³⁴ This research involved analysis of documents in the public domain and bilateral contacts with some of the regulatory bodies.

1.2. Most jurisdictions that we looked at have rules in place that protect consumers from backbills by limiting the period for which undercharges can be recovered. Backbill limits range from three months (in California, for domestic customers³⁵) to two years (in Ontario³⁶), with the most common durations being six months and twelve months. As for most billing rules, these backbill limits tend to pre-date their smart meter roll-out, although we are aware of at least one jurisdiction that has considered shortening their backbill limit as a result of their smart meter roll-out.

1.3. In the majority of jurisdictions that have a backbill limit, the same limit applies to domestic and smaller non-domestic customers. Illinois is unusual in applying a one-year limit to domestic customers and a two-year limit to non-domestics.³⁷

1.4. It is standard for backbill limits to specify various exemptions. For example Victoria’s regulation exempts cases where the customer has committed unlawful acts or omissions.³⁸ Several jurisdictions also specify how backbills are to be paid off. For example, in Victoria suppliers must allow the customer to repay a backbill over the same duration as the backbill period.³⁹

1.5. A smaller, but still significant number of jurisdictions have rules intended to directly limit the number of estimated bills. Different jurisdictions have taken

³⁴ “Smart meter” or similar terms can have different meanings in different jurisdictions. However, the relevant characteristic here is remote meter readings, which is common functionality across jurisdictions. To note also that the precise understanding of and definition of a backbill can vary across jurisdictions.

³⁵ For example, see: Southern California Edison, Rule 17, p.3.

<https://www.sce.com/NR/sc3/tm2/pdf/Rule17.pdf>

³⁶ Ontario Retail Settlement Code, Section 7.7.7, p.46.

http://www.ontarioenergyboard.ca/oeb/Documents/Regulatory/Retail_Settlement_Code.pdf

³⁷ Illinois Administrative Code, Section 280.100.

<http://www.ilga.gov/commission/jcar/admincode/083/083002800F01000R.html>

³⁸ Victoria Energy Retail Code, Section 30, p.41.

[http://www.esc.vic.gov.au/getattachment/2a0c8726-1a0b-4671-ba4e-da14178f92fe/Energy-Retail-Code-\(version-11\).pdf](http://www.esc.vic.gov.au/getattachment/2a0c8726-1a0b-4671-ba4e-da14178f92fe/Energy-Retail-Code-(version-11).pdf)

³⁹ Victoria Energy Retail Code, Section 30, p.41.

different approaches to achieving this. In Victoria, for example, suppliers are obliged to base bills on actual meter readings if they have them.⁴⁰

1.6. Ontario has taken a different approach. Following their smart meter roll-out, they recently introduced a new set of requirements relating to estimated bills: customers with smart meters may be issued with no more than two estimated bills in a twelve month period.⁴¹ They additionally require (from 2016) that 98 percent of bills should be “accurate” (ie containing accurate information, such as tariff rates).⁴²

1.7. A smaller number of jurisdictions also have obligations relating to the minimum frequency of bills. For example, in Florida⁴³ and Illinois⁴⁴ customers must be billed monthly.

⁴⁰ Victoria Energy Retail Code, Section 20, p.31.

⁴¹ Ontario Distribution System Code, Section 2.10, p.52.

http://www.ontarioenergyboard.ca/oeb/Documents/Regulatory/Distribution_System_Code.pdf

⁴² Ontario Distribution System Code, Section 7.11, p.136.

⁴³ Florida Administrative Code, Section 25-6.100.

<https://www.flrules.org/gateway/RuleNo.asp?title=ELECTRIC%20SERVICE%20BY%20ELECTRIC%20PUBLIC%20UTILITIES&ID=25-6.100>

⁴⁴ Illinois Administrative Code, Section 280.50.

<http://www.ilga.gov/commission/jcar/admincode/083/083002800D00500R.html>

Appendix 3 – Stakeholder views on delivery models

1.1. Following our first workshop in December 2014, we asked stakeholders to submit their views on potential delivery models for achieving our smart billing objectives. This appendix summarises key elements of those responses. Views were mixed, with pros and cons identified for all delivery models and no clear preference. Note that this feedback was in the context of our high level objectives, not specific policy proposals.

Code of practice (voluntary arrangements)

1.2. Some stakeholders cited the flexibility for modifications offered by a code of practice. It was suggested that a voluntary approach should work since suppliers already have incentives to maximise billing performance.

1.3. Stakeholders identified potential downsides to this approach. They indicated that it is unlikely to cover the whole market, that there can be costs to the signatories of such a code and that it can lack transparency.

Code of practice underpinned by licence obligations

1.4. This potential delivery model would resemble the approach taken to the Smart Metering Installation Code of Practice (SMICOP) whereby suppliers are obliged to create, and adhere to a code. Stakeholders identified the benefit of ensuring full market coverage, as well as the incentives on suppliers to comply with such a code. However, some stakeholders indicated that such an approach would add to regulatory complexity, and the burden may be disproportionate to the intervention.

Licence obligations

1.5. With respect to licence obligations in general, stakeholders' views were mixed.

1.6. Stakeholders provided views on the use of prescriptive licence obligations. Some drew attention to the benefits of providing a "level playing field" for all suppliers and minimising the scope for subjective interpretations. Risks identified with this approach included the implications for current voluntary arrangements, potential difficulties with defining requirements and the lead time required to introduce new obligations.

1.7. Some stakeholders also cited the potential risk of any new prescriptive obligations increasing the complexity of the regulatory framework, particularly given the direction of travel towards a more principles-based approach, including the recent introduction of the Standards of Conduct.

1.8. Some stakeholders indicated that suppliers' existing obligations relating to the Standards of Conduct might be an appropriate mechanism for achieving our smart billing objectives, particularly highlighting the scope that they allow for innovation. Others suggested that they may not be appropriate for achieving certain outcomes if scope for different interpretations could be problematic.

Appendix 4 – Additional details on a smart backbill limit (Chapter 3)

1.1. This appendix explores in more detail how the elements of a backbill limit, set initially at six months as proposed in Chapter 3, could be put into practice.

High-level approach: a time limit on billing

1.2. Backbill or backbilling generally refers to the part of a bill or upwards Direct Debit reassessment that is used to correct previous bills or (re)assessments, including billing for consumption for which a bill should have been issued but was not. We would intend to limit backbilling by requiring that suppliers may not issue bills for previously unbilled consumption that took place more than six months prior to the issuance, where the customer was not at fault.

1.3. We consider that this is the best way to formulate such a rule: it would achieve our policy intentions while keeping the formulation as simple and unambiguous as possible. While such a limit would cover backbills in excess of six months, in theory it would prevent all other types of bills in excess of six months. However, we understand that in practice billing (and Direct Debit reassessment) cycles do not exceed six months. Moreover, we would intend for the limit not to apply to consumption that was previously unbilled because the supplier had granted the customer a payment holiday.

Application of rule to customers on fixed Direct Debits

1.4. Our intention is for the limit to apply to fixed Direct Debits at the point when these customers risk experiencing “bill-shock” due to a backbill. This is the point at which adjustments are made to their regular monthly payments.

1.5. Therefore, the application of the rule to customers on regular Direct Debits would mean that – in addition to the generic restriction on billing – the supplier may not set a customer’s payments in order to recover charges for previously uncharged consumption that took place more than six months prior to the calculation.

1.6. To be clear, the limit would be applied at the point of the supplier calculating and notifying the customer that changes to payments are due to take effect.

Application of rule to customers with meters in pre-payment mode

1.7. We consider that the rule would extend to customers with smart meters configured in prepayment mode. However, in practice we would not normally expect

this to affect these customers, since they are not normally billed in arrears. We would expect exceptions to this to be extremely rare.

1.8. One such rare scenario would be where a meter has been configured with the wrong tariff and the customer has consequently underpaid for their energy, and the supplier wished to recover the undercharge. Another scenario could be where a customer switches from credit to prepayment mode, and a backbill relating to the credit mode is subsequently applied to the prepayment meter.

“Customer not at fault”

1.9. Our intention is to exclude cases where the customer has been wilfully obstructive or failed to act in a reasonable manner. But they should not need to be actively involved in the billing process. For example, the customer is not at fault if they fail to notice or report that they are being billed on estimates. However, they are at fault if the supplier identifies a problem, makes reasonable requests for access to the meter, and they ignore or refuse them. Specifically, we think that there would be three exclusions for the limit.

1) Customer behaves unlawfully

1.10. Our intention here is to exclude cases where the customer can reasonably be considered at active fault. This would be entirely covered by situations where there is:

- Evidence that on the balance of probabilities Theft of Electricity or Theft of Gas (as defined under SLC12A) has occurred.
- Evidence that on the balance of probabilities the customer has contravened Schedule 7, paragraph 10 of the Electricity Act or Schedule 2B, paragraph 3 of the Gas Act (“meters to be kept in proper order”). This would capture situation where a customer is providing his own meter.

2) Customer prevents access to the meter

1.11. Our intention is to exclude cases where the customer prevents more than one reasonable attempt to gain access. To be clear, we are talking here about preventing physical access to the meter, not failing to respond to requests for customer meter readings (which does not of course prevent the supplier from making such requests). Evidence of contacts and attempted contacts should be in the supplier’s records.

3) Customer fails to provide necessary details for billing

1.12. This is intended to exclude situations where customers do not, for example, provide necessary information to the supplier regarding changes of tenancy or new supply points. There would be evidence of customer contacts (or indeed their absence) in the supplier’s records.

Relevant meter types

1.13. We intend to include in scope consumption that takes place on gas and electricity meter points that suppliers are operating or intending to operate such that they provide remote access to consumption data.

1.14. We are keen to keep the requirement clear and simple, for example using existing definitions where possible. **Consequently, we envisage that the limit would apply to all meters that suppliers were operating or intending to operate according to the definition of an Advanced Domestic Meter (see Glossary),⁴⁵ at domestic and microbusiness premises.**

1.15. The reason for reference to “intent” is to include in scope meters that may have intermittent communications.

1.16. A meter that is technically capable (in the presence of a communications link) of being operated as per the above **would be exempt exclusively in the case of Advanced Domestic Meters inherited on churn that the new supplier was choosing not to operate via remote access.** We would expect suppliers to have records to show that a meter was being operated in such a way if they considered it exempt from the limit.

1.17. We welcome views on this proposed scope of meter types, in particular the intention that only the churn scenario described above would exempt suppliers from the limit.

Relevant consumption

1.18. The condition would apply to the consumption that took place on a meter that met the above description under “relevant meter types” at the time of the consumption. The condition would apply to all such consumption, including that which took place prior to the condition coming into effect. For the avoidance of doubt, it would exclude all consumption that took place on a traditional meter.

⁴⁵ For the avoidance of doubt this definition includes SMETS meters and Advanced Meters.

Appendix 5 – Update on RMR for time-of-use tariffs work

1.1. The Consumer Empowerment and Protection project, of which smart billing forms a part, also includes “Retail Market Review (RMR) for time-of-use tariffs” as a Phase 1 work area. In our Updated Work Programme, we noted that we would look to initiate and scope this work in 2015 with a view to finalising our position by the end of the year.⁴⁶

1.2. The CMA as part of their Provisional Findings have suggested that elements of the RMR “simpler tariff” rules may act as a barrier to innovation, and to competition between third party intermediaries such as price comparison websites (PCWs). These rules were put in place on a transitional basis in order to reduce complexity and make it easier for consumers to compare suppliers. We are working with the CMA to identify where changes may be beneficial to encourage greater competition between PCWs. We will consider what further actions may be necessary as the CMA refines and finalises its package of remedies, and will consider any next steps for the “RMR for time-of-use” work area in this context.

⁴⁶ Ofgem, Consumer Empowerment and Protection in Smarter Markets: Updated Work Programme, pp.26-27.

Appendix 6 - Glossary

Advanced Domestic Meter

means an Electricity Meter that, either on its own or with an ancillary device:

- (a) provides measured electricity consumption data for multiple time periods and is able to provide such data for at least daily periods;
- (b) is able to provide the licensee with remote access to such data; and
- (c) is not an Electronic Consumption Data Display.

Advanced meter

means an Electricity Meter that, either on its own or with an ancillary device, and in compliance with the requirements of any relevant Industry Code:

- (a) provides measured electricity consumption data for multiple time periods, and is able to provide such data for at least half-hourly time periods; and
- (b) is able to provide the licensee with remote access to such data.

Ofgem

Ofgem is the Office of Gas and Electricity Markets, which supports the Gas and Electricity Markets Authority (GEMA), the body established by section 1 of the Utilities Act 2000 to regulate the gas and electricity markets in Great Britain. It does this by promoting competition, wherever appropriate, and regulating the monopoly companies that run the gas and electricity networks.

Retail Market Review

The Retail Market Review was an Ofgem project with the aims of making the retail energy market work better at serving the interests of consumers and enabling individual consumers to get a better deal from energy suppliers.

Smart meter

For the purposes of this document, smart meter refers to all meters operating via or intended to operate via remote communications.

Smart Energy Code

The Smart Energy Code (SEC) came into force on 23 September 2013, when the Data Communication Company's (DCC) licence was granted. The SEC is a multiparty contract which sets out the terms for the provision of the DCC's services and specifies other provisions to govern the end-to-end management of smart metering in gas and electricity.

SMETS

The technical specification for smart metering equipment set out by the Smart Metering Programme.

Third party intermediaries

Third Party Intermediaries (TPIs) include switching websites, energy brokers and energy efficiency advice providers who interact with energy consumers. TPIs can offer advice and products to assist with a range of functions including energy procurement, efficiency and management.

Appendix 7 - Feedback Questionnaire

1.1. Ofgem considers that consultation is at the heart of good policy development. We are keen to consider any comments or complaints about the manner in which this consultation has been conducted. In any case we would be keen to get your answers to the following questions:

1. Do you have any comments about the overall process, which was adopted for this consultation?
2. Do you have any comments about the overall tone and content of the report?
3. Was the report easy to read and understand, could it have been better written?
4. To what extent did the report's conclusions provide a balanced view?
5. To what extent did the report make reasoned recommendations for improvement?
6. Please add any further comments?

1.2. Please send your comments to:

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