

Helping consumers make informed choices – proposed changes to rules around tariff comparability and marketing

Consultation

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Overview:

Ofgem is committed to relying more on principles in the way we regulate the retail energy market. This will encourage competition and innovation, place a greater onus on suppliers to deliver positive consumer outcomes and protect consumers effectively by helping to future-proof our regulation in a time of rapid change.

In this document – and the accompanying statutory consultation – we propose changes to remove a significant amount of prescription from the supply licences and to introduce new or amended principles in certain areas. Some of this change represents our efforts to implement the recommendation of the Competition and Markets Authority (CMA) to remove certain rules originating from our 2013 Retail Market Review (RMR) package and to introduce principles relating to tariff comparability.

First, we propose changes to sections of the licence affected by the removal of certain RMR 'Simpler Tariff Choices' rules, focusing specifically on the 'Clearer Information' tools. Second, we propose new principles that focus on tariff comparability and sales & marketing activities. These principles will help ensure consumers are able to make informed choices. We welcome views on these proposals.

Context

In our 2014 Strategy, we emphasised the importance of suppliers' responsibility to treat consumers fairly and our belief in using general standards of conduct to achieve this. We also indicated that, over time, we intended to rely more on standards rather than detailed rules about what companies can and cannot do. In our 2016-17 Forward Work Programme, we reaffirmed our commitment to reducing our reliance on prescriptive rules and moving to a greater reliance on principles and outcomes.

In our Forward Work Programme, we also indicated we would continue to support the CMA's work on its energy market investigation, including carrying out any recommendations for Ofgem to implement remedies. We reemphasised this in our response to the CMA where we say we want to work with the industry and consumer bodies to act on the recommendations addressed to us quickly and effectively.

This consultation sets out proposed licence changes that result from our work on the future of retail market regulation and from the CMA's recommendations.

Associated documents

Ofgem publications

[Statutory Consultation on the removal of RMR Simpler Rules](#) (August 2016)

[Confidence Code review 2016 consultation](#) (August 2016)

[Remedy Implementation Strategy](#) (August 2016)

[Consumer engagement in the energy market since the Retail Market Review: 2016 survey findings](#) (August 2016)

[Retail energy markets in 2016](#) (August 2016)

[Future of retail market regulation - Update on the way forward](#) (June 2016)

[Stakeholder Workshop on CMA RMR and Whole of Market Remedies](#) (May 2016)

[Open letter, CMA provisional remedies: removal of certain RMR 'simpler choices' rules](#) (April 2016)

[Future of retail market regulation consultation](#) (December 2015)

[Standard conditions of gas supply licence](#) (Consolidated to 1 April 2016)

[Standard conditions of electricity supply licence](#) (Consolidated to 10 May 2016)

Competition and Markets Authority publications

[Energy Market Investigation - Final Report](#) (June 2016)

[Energy Market Investigation Appendix 9.7 - Retail Market Review](#) (June 2016)

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Executive Summary

Ofgem is committed to relying more on enforceable principles in the way we regulate the retail energy market, rather than detailed, prescriptive rules. We believe this approach will better protect consumers in a rapidly evolving market, promote innovation and competition and place responsibility firmly on suppliers to understand and deliver positive outcomes for consumers.

Moving to a greater reliance on principles represents a change in the way we regulate. In making this change, we will monitor closely developments in the market and, where we see poor consumer outcomes, we will continue to take swift compliance and enforcement action when needed.

We have previously identified the rules around sales and marketing as an area where we could usefully rely on principles rather than prescription in order to encourage responsible, good quality marketing activities. In addition, the CMA has recommended that we should use principles and not detailed rules (which have the potential to restrict innovation in tariff numbers and structures) when we regulate to ensure suppliers provide consumers with the information they need to engage in the market.

In parallel to this document, we are consulting on the removal of certain licence conditions originating from our Retail Market Review (RMR) package – the “Simpler Tariff Choices” rules – that place restrictions on tariff numbers and structures. We announced in April that we would deprioritise enforcement of these rules, in order to encourage suppliers to create innovative tariffs before we are able to make changes to the licence.

Helping consumers to make informed choices

This document consults on the principles we might use to ensure suppliers help to achieve the outcome that domestic consumers are able to make informed choices about their energy supply. We are considering a principle based directly on this outcome. We also propose a set of new ‘narrow’ principles to support its achievement. The proposed new principles in relation to tariff comparability are set out below:

- 1. The licensee must ensure that the terms and conditions of its Tariffs (including their structure) are clear and easily understandable.***
- 2. The licensee must ensure that its Tariffs are easily distinguishable from each other.***
- 3. The licensee must ensure that it puts in place information, services and/or tools to enable each Domestic Customer to easily compare and select which Tariff(s) within its offering is/are appropriate to their needs and preferences.***

We also think that it is important consumers can make informed decisions in response to marketing from suppliers or their representatives. This applies to all sales and marketing activities, not just those carried out face to face or over the telephone. We propose the following principles in relation to sales and marketing activities:

- 4. The licensee must conduct its Domestic Customer sales and marketing activities in a fair, honest, transparent, appropriate and professional manner and must ensure that its Representatives do the same.**
- 5. The licensee must not, and must ensure that its Representatives do not, mislead or otherwise use inappropriate tactics, including high pressure sales techniques, when selling or marketing to Domestic Customers.**
- 6. The licensee must only recommend, and must ensure that its Representatives only recommend, to a Domestic Customer products or services which are appropriate to that Domestic Customer's needs or preferences.**

Our intention is that these new 'narrow' principles will sit alongside the Standards of Conduct and the objective of "treating customers fairly", which we propose to keep as the core principle of our regulatory regime.

Consequential changes to Clearer Information tools

The envisaged removal of most of the RMR 'Simpler Tariff Choices' rules will have an impact on detailed rules already in place to help consumers compare tariffs. For example, the prescriptive calculations underpinning the 'Clearer Information' tools are based on simple tariff structures. While the CMA did not directly recommend removal of these rules, they recognised the need for consequential amendments.

The objective of our proposals is to ensure that suppliers are still able to deliver the consumer outcomes intended by these tools, once the relevant RMR rules have been removed. We propose changes that will give suppliers freedom to develop their own methodology for personal projections, providing flexibility to reflect more innovative tariff structures. We propose to keep the requirement to ensure personal projections are provided at certain stages of the consumer journey. We also propose to keep the Cheapest Tariff Message, incorporating the greater flexibility on personal projections, and to remove the Tariff Comparison Rate. These changes would be reflected through proposed amendments to the Tariff Information Label.

The CMA also recommended that we carry out a programme of trials to find out what prompts work in practice to encourage consumers to engage in the market. These may, for example, include a prompt based on the cheapest tariff available in the market. Our findings may lead to further changes to the Cheapest Tariff Message and other prompts. We are encouraging suppliers to engage early on trials in advance of licence changes.

Removing prescription from the marketing licence condition

In our December 2015 consultation on the future of retail market regulation, we proposed to remove the prescription in the marketing licence condition (SLC 25) and instead rely on the existing principles contained in that licence condition. Based on further analysis, and informed by consultation responses, we consider that the majority of issues which the existing rules in SLC 25 seek to address could be addressed better by principles, notably the revised sales and marketing principles proposed above.

Next steps

The move to a greater reliance on principles represents a significant shift for Ofgem and for the industry. We are giving significant thought to how we can best encourage suppliers to embed the principles. We will hold a Challenge Panel later this year to provide a forum for us to learn more about suppliers' approaches – particularly in relation to helping consumers make informed decisions – and to allow us to give feedback and to identify and publicise good practice. We will be monitoring developments in the market carefully to check for any poor practices that may emerge. This includes us working with Citizens Advice and the Energy Ombudsman to track developments and respond quickly to any issues that are identified.

As set out in our April open letter, our intention remains for these new arrangements to come into effect around the end of this year. We expect some of the RMR Simpler Tariff Choices rules will be removed from the licences in advance of the inclusion of new principles in early 2017. In the interim, we expect suppliers to have regard to the objective of consumers being able to understand new tariffs in order to make informed decisions.

We are keen to hear a diverse range of views through this consultation. Please send your responses to futureretailregulation@ofgem.gov.uk by 28 September 2016.

We intend to engage actively with stakeholders during the consultation period. In particular, we recognise that some groups may find some of the technical detail of this suite of documents difficult to engage with. To address this, we intend to convene events specifically for consumer bodies and charities who may have limited capacity to engage.

1. Introduction

- 1.1. The retail energy market is undergoing profound and rapid change. New technologies, business models and ways of running the energy system provide significant opportunities for innovation that benefit consumers.
- 1.2. Just ten years ago, there were less than 10 suppliers in the domestic market and Third Party Intermediaries (TPIs) such as Price Comparison Websites (PCWs) were in their infancy. Fast forward a decade and, in addition to the six large energy firms,¹ we have almost 40 small and medium-sized suppliers representing 13% and 14% of electricity and gas customers respectively.
- 1.3. We want to support these changes through a competitive marketplace that enables innovation and discovery, facilitates new entry, places a greater onus on suppliers to deliver what is right and fair for customers, and crucially, delivers positive outcomes for consumers. We consider that in order for our regulatory framework to achieve this, we must rely more on enforceable principles and less on prescriptive rules.
- 1.4. Last year, we began an extensive programme of research and stakeholder engagement on the future of retail market regulation. We published a consultation in December 2015 in which we sought stakeholder views, exploring how best to rely more on principles in the way we regulate. This included identifying Standard Licence Condition (SLC) 25, which relates to sales and marketing, as a potential fast-track case for reform.²
- 1.5. In June 2016 updated stakeholders on the way forward for the programme. Building on responses to our consultation, this document announced some key decisions and set out our programme milestones for the 2016/17 period.³

RMR rules

- 1.6. The Retail Market Review (RMR) was launched in 2010 to address barriers to effective consumer engagement in the retail market.⁴ Concerns included the complexity of tariff options, the poor quality of information provided to consumers and low levels of trust in energy suppliers.
- 1.7. As a result, we introduced a set of new rules, targeting three key policy areas: 'Simpler Tariff Choices', 'Clearer Information' and 'Fairer Treatment'. The latter was underpinned by new enforceable principles – the Standards of Conduct (SoC). The aim was to help consumers secure a better deal – and in so doing, increase the competitive pressure on energy suppliers to deliver good customer service at efficient cost.

¹ The six large energy firms are Centrica, EDF Energy, E.ON, RWE, SSE and Scottish Power.

² Ofgem, [The future of retail market regulation](#), 18 December 2015

³ Ofgem, [The future of retail market regulation – Update on the way forward](#), 2 June 2016

⁴ Ofgem, [Retail Market Review](#)

CMA investigation

- 1.8. Following the RMR, we worked with the Office of Fair Trading (OFT) and the Competition and Markets Authority (CMA) to produce an assessment of competition in the retail energy market. This led to the publication of a State of the Market Assessment in 2014,⁵ which showed that competition wasn't working well for all consumers. It identified concerns including weak customer response, continued evidence of incumbency advantage, barriers to entry and expansion, and profitability. We subsequently referred the relevant markets to the CMA in June 2014 for a review.⁶
- 1.9. In carrying out its duties, the CMA was required to decide whether "any feature or combination of features of each relevant market prevents, restricts, or distorts competition in connection with the supply or acquisition of any goods or services in the United Kingdom".⁷ If any such features were found, this would constitute an adverse effect on competition (AEC). Where the CMA finds an AEC, it has a duty to decide whether it should take action or whether it should recommend that others (including Ofgem) take action to remedy, mitigate or prevent the AEC or any resulting detrimental effects on customers.
- 1.10. The CMA recently concluded its two-year investigation into the GB gas and electricity markets. Its final report, published this June, identifies 10 AECs and proposes over 30 remedies, including 26 recommendations to Ofgem.⁸
- 1.11. One of these recommendations is that Ofgem removes the majority of the RMR Simpler Tariff Choices rules and instead introduce a principle on tariff comparability. We discuss the CMA's recommendation in detail, along with our proposals for implementation, in a statutory consultation published alongside this document.
- 1.12. The proposed changes to the RMR rules provide us with an opportunity to take a fresh look at the rules governing how suppliers interact with their customers. We consider that the best way to ensure that the removal of elements of the Simpler Tariff Choices rules does not reduce customers' ability to make informed choices about their tariffs is by relying more on principles, rather than prescription. This view was echoed by the CMA in its final report.
- 1.13. In May 2016, we held workshops where we presented our initial thinking on how to implement the CMA's provisional recommendation to remove some of the Simpler Tariff Choices rules. In particular, we focused on:
 - The consequential changes that we are proposing to make; and
 - The tariff comparability principles we are proposing to introduce.

⁵ Ofgem, OFT and CMA, [State of the market assessment](#), 27 March 2014

⁶ Ofgem, [Decision to make a market investigation reference in respect of the supply and acquisition of energy in Great Britain](#), 26 June 2014

⁷ Section 134(2) of the Enterprise Act 2002

⁸ CMA, [Energy Market Investigation, Final report](#), 24 June 2016, p. 870

Structure of this document

- 1.14. Chapter 2 of this document focuses on the consequential changes we are proposing to make to the RMR Clearer Information tools. RMR was designed as an interconnected, self-reinforcing package and the removal of numerous Simpler Tariff Choices rules will affect the Clearer Information tools. Specifically, we set out the consequential impacts on the Personal Projection, the Cheapest Tariff Message, the Tariff Comparison Rate and the Tariff Information Label.
- 1.15. Chapter 3 presents the new principles we are proposing to introduce to help ensure that customers are able to make informed choices about their energy supply. It also explains our intention to transform SLC 25 from a licence condition that is largely prescriptive and focused on face-to-face and telephone sales (as is currently the case) to one that is more principles-based and covers all sales and marketing activities.
- 1.16. Chapter 4 sets out our proposed approach to monitoring how companies are complying with the proposed new principles.
- 1.17. Appendix 3 sets out our assessment of the expected impacts of the proposed changes to the RMR rules and to SLC 25.

Related publications

- 1.18. This consultation forms part of a wider initial package of documents that we are publishing collectively today as we move to implement some of the CMA's recommendations. The other documents are:
 - Our overall CMA Implementation Strategy;
 - A statutory consultation setting out our proposals to implement the CMA's recommendation that Ofgem removes the majority of the Simpler Tariff Choices rules introduced as part of Ofgem's 2013 RMR. It outlines and explains our proposed changes to the standard conditions of the electricity and gas supply licences⁹ and is of particular relevance to this policy consultation; and
 - A further policy consultation setting out our proposals in relation to the CMA's recommendation that we make changes to the Confidence Code – the voluntary code of practice for domestic energy PCWs which Ofgem runs.¹⁰

⁹ Ofgem, Standard supply [licence conditions](#)

¹⁰ Ofgem, Consultation on changes to the Confidence Code, August 2016

2. Changes to the RMR rules

Chapter Summary

This chapter provides an overview of how the current rules governing the domestic retail market evolved. It then sets out how the Competition and Markets Authority's recommendation to remove some of the RMR Simpler Tariff Choices rules affects the RMR Clearer Information tools. Specifically, we think changes are needed to the Personal Projection, Cheapest Tariff Message, Tariff Comparison Rate and Tariff Information Label.

Our Proposition

Personal Projection (PP)

Retain the requirement on suppliers to include an estimate of annual costs on customer communications where previously required but give them greater freedom to develop their own methodologies for estimation by amending the definition of "Estimated Annual Costs" (EAC) to remove the prescribed formula.

Cheapest Tariff Message (CTM)

Retain the CTM but, as for the PP proposition, amend the supply licence to remove the prescription behind the EAC calculation.

Tariff Comparison Rate (TCR)

Remove the requirement to provide a TCR

Tariff Information Label (TIL)

Retain the TIL as a central source of key information about a tariff and update it to reflect changes to the other Clearer Information tools.

Questions for this chapter

Question 1

- (a) Do you agree with the proposed requirement that any calculation by a supplier of the estimated annual cost figure should be internally consistent (ie calculated in the same way by any given supplier for all tariffs and for all customers over time)?
- (b) Are there any circumstances in which suppliers should have the flexibility to provide an estimated annual cost figure to customers based on different assumptions or methodologies? Please explain your answer.

Question 2

Do you support our proposal to require that, in the absence of a prescribed methodology, the estimated annual cost must be personalised, transparent, fair and as accurate as possible, based on reasonable assumptions and all available data?

Question 3

Do you support our suggestion that, at the end of a fixed-term contract, consumers could be rolled onto another fixed-term (rather than evergreen) tariff, if the consumer were able to exit this tariff with no penalty and at any time?

Question 4

Do you agree with our overall approach to managing the consequential impacts on the Clearer Information tools arising from the removal of the relevant Simpler Tariff Choices rules?

Question 5

Have we identified the right benefits and risks associated with our preferred approach to managing the impacts of removing the relevant Simpler Tariff Choices rules on each of the Clearer Information tools?

Question 6

Are there any potential unintended consequences associated with our proposed approach?

- 2.1. As set out in Chapter 1, the Competition and Markets Authority (CMA) identified a number of adverse effects on competition (AECs) and has made a series of recommendations to address these. One of the AECs identified by the CMA relates specifically to the Simpler Tariff Choices rules introduced by Ofgem in 2013. Amongst other things, these rules introduced restrictions around the number of tariffs each supplier was allowed to offer, the requirement to make tariffs available to all customers (new and existing), the methodologies by which these tariffs could be calculated and the kinds of discounts, bundles and reward point offers that suppliers could offer to attract consumers.
- 2.2. In its final report, the CMA found that some of the Simpler Tariff Choices rules have a negative impact on the ability of and incentives for suppliers to compete on the range of tariffs and discounts offered to domestic customers. The CMA also found that these rules, and in particular the four-tariff cap, could limit the scope for competition between price comparison websites (PCWs) to exert downward pressure on energy prices.¹¹
- 2.3. To address this AEC, the CMA has recommended that we:
 - Introduce a new Standard of Conduct (referred to hereafter as a 'principle') that would "*require suppliers to have regard in the design of their tariffs to the ease with which customers can compare 'value for money' with other tariffs they offer*".¹² We discuss this recommendation in Chapter 3;
 - Remove the majority of the Simpler Tariff Choices rules. We discuss this recommendation in detail, along with our proposals for implementation, in the statutory consultation published alongside this document.

Consequential impacts

- 2.4. The RMR reforms were designed as an interconnected, self-reinforcing package. The removal of the Simpler Tariff Choices rules will therefore affect the Clearer Information tools. For example, in the absence of the Simpler Tariff Choices rules, suppliers will be free to introduce different and potentially more sophisticated tariff offerings (eg multi-tier tariffs alongside new forms of bundles and reward point offers). The Clearer Information tools introduced to complement the Simpler Tariff Choices rules were not designed to work with this additional level of complexity.

¹¹ CMA, [Energy Market Investigation, Final report](#), June 2016, p. 42

¹² *Ibid*, p. 57



Helping consumers make informed choices

- 2.5. Below, we set out the consequential impacts on the Clearer Information tools that we envisage in the light of the removal of the Simpler Tariff Choices rules.
- 2.6. For each of these tools, we provide:
- A brief overview of the policy intent behind the tool and explanation of how it works;
 - Our assessment of the consequential impact;
 - Our proposition for managing this impact;
 - Our rationale and assessment of benefits;
 - Our assessment of the associated risks;
 - An explanation of what our proposition would mean in practice.

Personal Projection

What does it aim to do and how does it work?

- 2.7. The Personal Projection (PP) is a requirement on suppliers to provide customers with an estimate of the projected cost of any given tariff for the next year, based on the customer's actual or estimated annual consumption. Suppliers must use a standardised methodology set by Ofgem. This is defined in the supply licences as the 'Estimated Annual Cost' (EAC).
- 2.8. The PP must be presented in pounds per year and include all non-contingent discounts and bundles (ie those not dependent upon certain behaviours). It is designed to enable an accurate comparison of tariffs by providing a common means of projecting the estimated annual cost for any given consumer.
- 2.9. The PP is provided to consumers on all regular communications, including bills, annual statements, price increase notifications (PINs) and end of fixed term notices (EFTNs).¹³ The methodology is also used for a number of other purposes, such as calculating the savings estimates for the Cheapest Tariff Message (CTM) and identifying the Relevant Cheapest Evergreen Tariff (RCET) – the default tariff onto which customers are rolled at the end of a fixed-term contract if they do not make an active switching decision. These issues are discussed further below.

Consequential impacts

- 2.10. The removal of the Simpler Tariff Choices rules is likely to result in an increase in the number and variety of tariffs coming to market. Multi-tier tariffs (currently

¹³ Separate and distinct from the PP is the TIL Estimated Annual Costs figure provided in the TIL. This is based on average consumption and can be thought of as a kind of TCR that is projected out into the future. We propose to remove the TIL EAC.

banned under the Simpler Tariff Choices rules) and, in particular, new discount and bundle offers, would pose considerable challenges to the PP methodology as currently designed. This is because the methodology:

- cannot currently handle discounts or bundles not expressed on a consumption or time basis (eg a one-off payment);
- cannot accurately handle tariffs with a duration of less than a year;¹⁴
- does not explain how consumption should be estimated for periods under a year eg for multi-tier tariffs. Where actual consumption data is unavailable, estimates for consumption-sensitive tariffs are prone to considerable inaccuracy for consumers with atypical consumption profiles.

Proposition

- 2.11. We propose to **amend the definition of “Estimated Annual Costs”** in SLC 1, **deleting the prescribed formula**. Suppliers would still be required to include an estimate of annual costs on communications and notifications where previously required, but they will now have the **freedom to develop their own methodologies for estimation**.
- 2.12. This approach would require consequential amendments to decapitalise references to the defined term throughout the supply licences and would represent a significant departure from the status quo.
- 2.13. In order to make any calculation as meaningful and accurate as possible, we are considering whether to set out the following high-level requirements in the supply licences:
- Any such calculation must be internally consistent (ie calculated in the same way by a supplier for all its tariffs and for all its consumers). We consider this to be critical if consumers are able to compare tariffs within a supplier’s offerings;
 - The calculation must be personalised, transparent, fair and as accurate as possible, based on reasonable assumptions and all available data;
 - Where a supplier does not have actual historic consumption data, any estimate of annual costs should take into account relevant customer characteristics, such as the age and size of the premises, the number and type of electrical or gas appliances and the number of occupants.
- 2.14. In considering how to manage the consequential impacts described above, we also considered and discarded three alternative options:
- The first was to try to future-proof the methodology by updating it. However, even with significant revision, the PP’s accuracy and reliability may be increasingly compromised by some of the more innovative tariffs coming

¹⁴ The methodology assumes that the customer will be rolled onto the RCET for the remainder of the year.

to market – particularly where accurate, real-time consumption data is not available – and could inadvertently constrain innovation and competition;

- The second was to remove the requirement to provide a PP for more complex tariff structures. However, given the potential for innovation in tariffs, this option would mean that the percentage of tariffs covered by the PP could diminish over time, thereby compromising its usefulness and relevance as a comparison tool;
- The third was to drop the PP altogether. However, we are keen that consumers continue to receive an estimate of annual costs at key times, such as when their contracts are about to end. Evidence both from Consumer First panellists¹⁵ and from our 2016 consumer engagement survey¹⁶ suggests that the PP has been a useful tool for some consumers – a point echoed by consumer groups at our May 2016 stakeholder workshop¹⁷ ('the May workshop').

Rationale

2.15. We think it is important that consumers are provided with a robust estimate of how much any given tariff will cost them if they are to be able to engage in the market effectively. We want to ensure that any approach we adopt does not lead to consumers being provided with misleading or inaccurate information. As such, we consider that our proposed approach has the following benefits. It:

- Avoids the main risks associated with a prescriptive methodology, outlined above;
- Ensures that consumers continue to receive an estimate of their annual cost at key times (such as when their contracts are about to end);
- Enables both the CTM and the basis for identifying the RCET, the default tariff, to continue to function effectively; and
- Is consistent with our broader regulatory shift away from prescription towards principles.

2.16. We note that there was broad support for our preferred approach at the May workshop. A number of stakeholders noted the importance of consumers being able to compare tariffs on a consistent basis – both among an individual supplier's portfolio and across the market. We discuss this point further below.

¹⁵ Ipsos MORI, [Ofgem Consumer First Panel](#), December 2015

¹⁶ Ofgem: Consumer engagement in the energy market since the Retail Market Review: 2016 survey findings. August 2016

¹⁷ Ofgem, [Stakeholder Workshop on CMA RMR and Whole of Market Remedies - 25/05/2016](#), 27 May 2016

Risks

- 2.17. We acknowledge that there are risks associated with this approach. Most significantly, the removal of prescription around how any estimated annual cost figure is calculated may result in inconsistency between suppliers, as different suppliers may calculate the estimated annual cost in different ways.
- 2.18. However, we consider there to be an inherent trade-off between uniformity (best achieved through detailed rules) and innovation (best enabled by principles), and note that maintaining the status quo carries its own risks of consumers being provided with misleading information and suppliers being constrained in their ability to innovate.
- 2.19. The aim of our preferred, more principles-based approach is to mitigate the risk of suppliers taking unreasonably divergent approaches to calculating the estimate of annual costs. We also consider that principles are able to offer comprehensive consumer protection.

What would this approach mean in practice?

- 2.20. From the consumer's perspective an estimate of annual costs would still be provided on bills, annual statements, PINs and EFTNs. As such, consumers would still have the information necessary to understand the relative costs associated with a tariff and any price increase to that tariff.
- 2.21. However, there may no longer be cross-market consistency in how this estimate is calculated. We consider our role to be one of working to ensure that there is no undue inconsistency here. We also consider that TPIs would have a crucial role to play in filling any gap and helping consumers obtain personalised quotes, on a comparable basis, from a range of suppliers. This point was echoed by the CMA in its final report. PCWs have a strong commercial incentive to enable such cross-market comparisons, increase awareness around the potential benefits of switching and to reduce consumer search costs. Indeed, our 2016 consumer engagement survey found that 51% of consumers who switched supplier, changed tariff or compared tariff/supplier in the past 12 months did so using a PCW (up from 39% in 2014).
- 2.22. From a supplier's perspective, our proposed approach would provide greater flexibility in how estimated annual costs are calculated, This will allow more innovation and overcome the current limitations and some of the criticisms previously levelled at the PP by suppliers and TPIs. It would also place the onus on a supplier to develop a methodology that is not only in line with the criteria set out above, but also with the information provision requirements set out in the Standards of Conduct (SoC). This requires (amongst other things) that any information suppliers give consumers is complete, accurate, not misleading and written in plain and intelligible language.
- 2.23. Our proposal to remove or amend the defined term, "Estimated Annual Costs", also has supply licence ramifications beyond the Clearer Information tools. Most significantly, the EAC formula is used by suppliers to identify the RCET. Building on the approach set out above, our preferred option is to require suppliers to identify the RCET based on the supplier's calculation of estimated annual cost

(subject to the high-level requirements set out above). This will enable a degree of continuity and consistency with the ongoing requirements. It should also provide a degree of protection regarding the tariff that consumers are rolled onto.

- 2.24. We are also considering whether, at the end of a fixed-term contract, suppliers should be allowed to move a customer who has not made an active choice onto another fixed-term tariff rather than an evergreen tariff – so long as it was a cheaper option and the customer was able to exit this tariff with no penalty and at any time. We think that this could usefully give suppliers flexibility not to default customers onto SVTs (often their most expensive tariffs). In doing so, we would expect suppliers to consider carefully how they would communicate the change to their customers and avoid confusion (eg about similar tariffs with exit fees). We welcome your views on this, including the flexibility already provided within the existing rules.

Question 1

- (a) Do you agree with the proposed requirement that any calculation by a supplier of the estimated annual cost figure should be internally consistent (ie calculated in the same way by any given supplier for all tariffs and for all customers over time)?
- (b) Are there any circumstances in which suppliers should have the flexibility to provide an estimated annual cost figure to customers based on different assumptions or methodologies? Please explain your answer.

Question 2

Do you support our proposal to require that, in the absence of a prescribed methodology, the estimated annual cost must be personalised, transparent, fair and as accurate as possible, based on reasonable assumptions and all available data?

Question 3

Do you support our suggestion that, at the end of a fixed-term contract, consumers could be rolled onto another fixed-term (rather than evergreen) tariff, if the consumer were able to exit this tariff with no penalty and at any time?

Cheapest Tariff Message

What does it aim to do and how does it work?

- 2.25. The CTM is a personalised message provided by a supplier to its customers about what the cheapest available tariff is with that supplier, including an estimate of how much the customer would save if they moved to this tariff.
- 2.26. It is calculated using the EAC formula for the consumer's current tariff. As such, it is an estimate of spend for the next year based on current tariff and consumption profiles. For fixed-term tariffs with less than 12 months remaining, the calculation also includes the price of the cheapest evergreen tariff onto which the consumer will roll if they make no active switching decision.
- 2.27. The CTM presents the consumer with an estimate of the savings they could make by moving onto the relevant cheapest tariff ("narrow" savings) and alternative cheapest tariff ("wide" savings). As such, the CTM is designed to increase engagement by helping consumers identify a cheaper tariff and encouraging them to switch onto it.

Consequential impacts

- 2.28. As with the PP, the advent of new and increasingly innovative tariffs will undermine the prescriptive EAC methodology's future accuracy and reliability for consumers.

Proposition

- 2.29. **Our preferred approach is to retain the CTM on the basis of the new PP definition proposed above.** This would ensure that consumers continue to receive a CTM – proven to be effective as a prompt to engage for some consumers – whilst mitigating the challenges associated with a prescriptive methodology, outlined above.

Rationale

- 2.30. Relative to the other Clearer Information tools, there is evidence that the CTM has some traction with some consumers. For example, Consumer First panellists reported that acting upon it was seen as a good way of saving money without the perceived hassle of switching supplier. Our 2016 Consumer Engagement Survey showed that recall of the CTM was higher than for other Clearer tools, although it was only a minority who were encouraged to take action. Some suppliers have reported that many of their customers value the CTM. We are therefore keen to ensure that any consumer benefits derived from this tool are maintained.

Risks

- 2.31. One of the RMR Simpler Tariff Choices rules recommended for removal by the CMA is the so-called 'new and existing customer' rule, which prevented suppliers from offering 'acquisition tariffs', only available to new customers. We understand the CMA's rationale in recommending this. The intention is to increase competition and exert downward pressure on prices, thereby sharpening the incentive to switch and increasing engagement. Further, we agree with the CMA that the removal of this rule does carry the risk that some stickier customers are excluded from the best deals (unless they switch), but that on balance the long-term benefits of competition and innovation outweighed this.
- 2.32. However, in the context of the CTM, there is a risk that, following the removal of this rule, the CTM does not identify the tariff that is actually the 'cheapest' for any given consumer, potentially undermining the tools' effectiveness as a prompt to engage.
- 2.33. We want to avoid consumers – and particularly those in vulnerable situations – remaining on tariffs that do not reflect their interests (acknowledging that there may be considerable diversity around what any given consumers interests are). We note that in its final report, the CMA concludes that weak consumer response constitutes an AEC which, in turn, gives suppliers a position of unilateral market power concerning their inactive customer base which they are able to exploit through their pricing strategies or otherwise. In order to address this, the CMA

has recommended that Ofgem establish a programme¹⁸ to promote customer engagement and create a database of 'disengaged customers' on default tariffs. Rival suppliers will be allowed to prompt these customers to engage in the retail energy markets. We will be developing our proposals to implement these remedies later this year.

What would this approach mean in practice?

- 2.34. Under our preferred approach, consumers would continue to be provided with details of the savings they could make by changing tariffs under both the "wide" and "narrow" scenarios described above.
- 2.35. In the meantime, we will be monitoring supplier behaviour closely and expect all calculations to be internally consistent, personalised, transparent, fair, and as accurate as possible, based on reasonable assumptions and all available data.

Tariff Comparison Rate

What does it aim to do and how does it work?

- 2.36. The TCR enables consumers to make at-a-glance comparisons of different tariffs. By establishing a common means of summarising the relative non-contingent (unavoidable) costs of each variant of a supplier's core tariffs, the TCR provides consumers with a single price per kWh rate, calculated in a standardised manner for each region. As such, it aims to promote engagement by reducing complexity.
- 2.37. Suppliers are required to calculate a comparison for each variant of their core tariffs (eg for each payment method and with/without dual fuel/online discounts) based on the average consumption of a medium user. Suppliers must use a standardised methodology set by Ofgem and include the TCR in all regular communications with consumers.

Consequential impacts

- 2.38. Given that the TCR is always based on the consumption of a *medium* user, the more consumption-sensitive tariffs that we expect to see introduced following the removal of some of the Simpler Tariff Choices rules pose a particularly significant and ever-increasing challenge to the reliability of the TCR.

Proposition

- 2.39. **Our preferred approach is to remove the TCR** and all references to it from the supply licences.

¹⁸ This programme will, amongst other things, seek to understand the effectiveness of different materials and routes used by rival suppliers or other bodies at engaging consumers, including through randomised control trials, where appropriate.

Rationale

- 2.40. First, it would overcome the methodological challenges outlined above. We note that in a world of unrestricted tariff structures, the assumption of medium-user consumption at the heart of the TCR has the potential to be increasingly misleading – a view that was reiterated at our May workshop.
- 2.41. Second, evidence suggests that, of all the Clearer Information tools, the TCR has been the least useful to consumers. Evidence from last year’s Consumer First Panel suggested that spontaneous awareness of the TCR across all of the segmented groups was extremely low. Further, the majority of panellists thought the TCR would be of limited value to them as they did not consider their energy use to be ‘typical’. Again, this message was echoed by attendees at our May workshop.

Risks

- 2.42. In the light of the above, we consider the risks of our proposed approach to be minimal. We note that the removal of the TCR would mean consumers have one less tool for comparing tariffs ‘at a glance’, but consider PCWs to have a key role in providing this service.

What would this approach mean in practice?

- 2.43. Under our preferred approach, suppliers would no longer be required to provide the TCR on customer communications (including the TIL).

Tariff Information Label

What does it aim to do and how does it work?

- 2.44. The TIL sets out the key information about a tariff – to be included in certain customer communications (eg bills) and on supplier websites. This currently includes: name of supplier; tariff name and type; payment method; unit rate and standing charge; tariff duration; exit fees; assumed annual consumption, average estimated annual cost and TCR.
- 2.45. By enabling consumers to access all the key information about their tariff in one place, it is designed to promote understanding and make comparison (and switching decisions) easier.

Consequential impacts

- 2.46. The TIL currently includes information that we are proposing to remove, such as the TCR, the TIL EAC and the average consumption figures.

Proposition

- 2.47. **We propose to retain the TIL as a central source of key information about a tariff and to update it to reflect changes to the other Clearer Information tools.**
- 2.48. We also propose to revise the structure of the TIL, adding new categories so as to accommodate tariffs that are not composed of a single unit rate and standing charge and tariffs that offer new features, such as bundles, reward points and discounts. Finally, we propose to enable adjustments to be made to the TIL template to address any blank spaces.

Rationale

- 2.49. Our aim is for suppliers to continue to provide consumers with a single location for the information they most need in order to understand, compare and switch their energy tariff. Our consumer research suggests that some consumers consider the TIL to be a useful tool, providing all the information needed about a tariff in one place. Again, this was echoed at our stakeholder workshop in May.

Risks

- 2.50. A risk is that consumers will no longer have an average estimated annual cost on the TIL, which they may have previously used. To maintain an estimated annual cost would require, for example, continuing with the TCR approach or for suppliers to use their own methodology.

What would this approach mean in practice?

- 2.51. Under our preferred approach, consumers would continue to receive a TIL whenever the Principal Terms of a tariff are provided in full and when they are sent an EFTN. Given the fairly limited changes we are proposing to make, we consider that the TIL would remain clearly recognisable.

Question 4

Do you agree with our overall approach to managing the consequential impacts on the Clearer Information tools arising from the removal of the relevant Simpler Tariff Choices rules?

Question 5

Have we identified the right benefits and risks associated with our preferred approach to managing the impacts of removing the relevant Simpler Tariff Choices rules on each of the Clearer Information tools?

Question 6

Are there any potential unintended consequences associated with our proposed approach?

Further consequential impacts

2.52. As a result of the above proposed changes to the Clearer Information tools, we envisage further consequential amendments to the licence conditions. This includes:

- Removal of licence conditions/paragraphs which relate to the TCR;
- Amendments to licence conditions to amend/remove references to the defined term EAC (predominantly in relation to the PP and CTM);
- Amendments to the TIL and templates.

2.53. We outline the impact of these proposed changes to the Clearer information tools on the supply licences in full in Appendix 2.

2.54. We are also intending more generally to 'tidy up' the supply licences by removing rules which may be obsolete. Accordingly, we are seeking your views on whether the following transitional rules still serve a purpose:

- SLC 22CA (transitional provisions for standard condition 22C covering end of fixed term notices and rollovers);
- SLC 22CB (transitional provisions for certain existing Fixed Term Supply Contracts).

2.55. We are intending to issue an information request to determine whether these conditions are still necessary because they apply to current tariffs, or whether there is potential for their removal.

2.56. Finally, it is important to note that, while we are proposing to remove or amend significant amounts of the RMR rules – around 60 pages of the supply licence in total – we are not proposing to remove all of the RMR Simpler Tariff Choices rules. This is because we consider there be to a role for prescription in certain instances and that some of the tariff rules will continue to serve a valuable purpose.

3. Informed Tariff Choices: Principles

Chapter Summary

This chapter introduces the six 'narrow' principles which we propose to introduce to help ensure that consumers are still able to make informed tariff choices, if the removal of the RMR Simpler rules identified in the accompanying statutory consultation and the amendment of the RMR Clearer tools set out in the previous chapter are implemented. Our intention is that these narrow principles will sit alongside the SoC and the objective of "treating customers fairly", which we propose to keep as the core principle of our regulatory regime.

Questions for this chapter

Question 7

Do you agree that our proposed policy objective is the correct one? Please explain your answer.

Question 8

Do you consider that the proposed principles are a sensible way of achieving our policy objective? Please explain your answer.

Question 9

Are there any benefits, risks or potential unintended consequences associated with the proposed principles which we have omitted? If so, what are they and how could they be mitigated?

Question 10

Are these principles likely to result in differential impacts across different types of suppliers (eg large vs. small or medium suppliers)? Please explain your answer.

Question 11

Do you think that we should introduce a principle about informed tariff choices?

Question 12

Do you agree that we should expand the scope of SLC 25 to apply to all sales and marketing activities? Please explain your answer.

Question 13

Do you support our proposal to extend the requirement to keep records for two years to include telephone sales and marketing? If not, please explain why, including the scope of any potential increase in costs.

Question 14

Do you agree with our rationale for not applying the requirement to keep records to include online sales? What would be the implications of extending the requirement to online sales (eg impact on PCWs, increased costs)?

Question 15

Do you agree with our proposal to remove the prescription from SLC 25? Are there any other areas where you think prescription still needs to be retained to maintain consumer protection?

Questions for draft Impact Assessment (see also Appendix 3)

Question 16: Do you agree with the methodology we intend to employ in our impact assessment?

Question 17: Have we captured all expected key impacts? If not, what else should we include in our impact assessment?

Question 18: What costs do you expect to incur as result of the proposed changes (both to the RMR package and to SLC 25)? Please provide a description and a range, if possible.

Question 19: What benefits (including avoided costs) do you expect to realise as result of the proposed changes? Please provide a description and a range, if possible.

- 3.1. As set out in Chapter 1, the Retail Market Review (RMR) reforms sought to make the retail market simpler, clearer and fairer for consumers. Following the CMA's investigation, we are proposing to remove the majority of the 'Simpler Tariff Choices' component (see accompanying statutory consultation) and amend the 'Clearer Information' tools (see Chapter 2).
- 3.2. The 'Fairer Treatment' component of RMR remains and is embodied within the SoC, along with the objective of "treating customers fairly". We propose to retain the SoC as the core principles of our regulatory regime – something stakeholders have already told us they support.
- 3.3. Building on the SoC, we are now looking to other parts of the supply licence and considering where principles could be introduced in place of prescription. We are taking an iterative approach to changes and prioritising those where we believe the greatest gains can be made in terms of encouraging innovation, putting responsibility firmly on suppliers to think about what is right and fair for consumers, and providing more effective protection for consumers by future-proofing the licence.
- 3.4. In our December 2015 future of retail market regulation consultation we identified SLC 25 – the marketing licence condition – as a potential fast-track case for reform. This was because it contains a set of principles that suppliers must follow when conducting face-to-face and telephone sales and marketing activities, as well as five pages of prescriptive rules relating to face-to-face activities.

Policy objective

- 3.5. We believe that engaged, informed consumers are an essential component of well-functioning markets. We agree with the CMA that if consumers are (a) not aware of the options available to them; (b) unable to make informed choices about those options; or (c) having made a choice, are for any reason unable to act upon it – then this will dampen competitive pressures on energy suppliers to reduce prices and improve quality of service.
- 3.6. We welcome the opportunities presented by the advent of greater tariff innovation. We are keen to ensure that consumers are able to benefit from this innovation and that they are not deterred from engaging in the market because

they feel overwhelmed by complexity. This concern was strongly supported by the vast majority of stakeholders at the May workshop.

- 3.7. We recognise that the energy market, along with the tools and services available to help consumers navigate it, has evolved considerably since the RMR was undertaken. There are now many more tools available to help manage tariff complexity, comparability, understanding – and therefore aid decision-making. The number of consumers using such tools is also relatively high (around 51% of those who switched in the last 12 months did so through an online price comparison service¹⁹) and continues to rise.
- 3.8. Finally, when consumers do engage with the market, we want to ensure that the experience is a positive one that motivates them to continue engaging with the market in the future. Over time, this should increase competition.
- 3.9. As such, the key outcome we want to achieve through our regulation is that **consumers are able to make informed choices by understanding which of a supplier's tariffs offers the best value to them based on their characteristics and preferences.**
- 3.10. Below, we deconstruct this outcome and explain the thinking behind each of its key components.

'Informed choices'

- 3.11. We consider informed consumers to be an essential component of well-functioning markets. It is hard to imagine how a consumer (in any market) is able to engage effectively if they are unaware of the choices available to them or unable to access the relevant information necessary to assess their options. 'Informed choices' is therefore at the heart of the consumer outcome that we want to achieve.
- 3.12. This part of the outcome also relates to sales and marketing activities. We would not consider a customer to have made an informed choice if they were not provided with the right information about their tariffs during the sales process.
- 3.13. We recognise that suppliers will need sufficient regulatory certainty about what this means in practice. This is elaborated on further below.

'Best value'

- 3.14. There is a wealth of evidence which suggests that price is the most important characteristic to an energy consumer in choosing a tariff. The CMA's customer survey found that 81% of respondents identified factors relating to price as being

¹⁹ Ofgem, Consumer engagement in the energy market since the Retail Market Review: 2016 survey findings, August 2016

important to them.²⁰ This view was generally supported at our stakeholder May 2016 workshop.

'Characteristics'

- 3.15. As outlined in Chapter 2, the proposed removal of the Simpler Tariff Choices rules and the roll-out of smart meters are likely to usher in an era of innovative and potentially more complex tariff offerings. This includes multi-tier tariffs, which can be particularly consumption sensitive. Consumption profiles over the day will also become increasingly relevant for consumers if suppliers offer more time-of-use products with different rates at different times of the day. It is therefore important that personalised consumption information – considered to be part of a consumers' 'characteristics' – is factored into any recommendations about the relative merits of any given tariff, where this is possible and relevant.

'Preferences'

- 3.16. As per above, we note that price is generally the most important characteristic to the majority of energy consumers when choosing a tariff. However, we recognise that consumers have diverse needs and preferences and acknowledge that there are factors other than price which consumers value. These may include convenience (eg around payment options), customer service²¹ (eg billing accuracy and complaint handling) and value-added bundles (eg advice on energy efficiency). This point was made by a number of suppliers in response to the CMA's provisional findings report and again at our May 2016 workshop.

Question 7

Do you agree with our proposed policy objective around 'informed choices'? Please explain your answer.

Using principles to achieve our policy objective

- 3.17. As a first step towards achieving the 'informed choices' policy objective above, we are proposing to remove the prescriptive Simpler Tariff Choices rules outlined in the accompanying statutory consultation and make the changes to the Clearer Information tools outlined in Chapter 2.
- 3.18. We also propose to introduce six principles as part of a revised SLC 25. The first three of these focus largely on tariff comparability; the final three relate more generally to sales and marketing activities. The six principles that we seek your views on are as follows:
- 1. The licensee must ensure that the terms and conditions of its Tariffs (including their structure) are clear and easily understandable.**
 - 2. The licensee must ensure that its Tariffs are easily distinguishable from each other.**

²⁰ CMA, [Energy Market Investigation, Final report](#), June 2016, p346

²¹ 32% of respondents to the CMA's survey considered good service 'essential'.

- 3. The licensee must ensure that it puts in place information, services and/or tools to enable each Domestic Customer to easily compare and select which Tariff(s) within its offering is/are appropriate to their needs and preferences.**
 - 4. The licensee must conduct its Domestic Customer sales and marketing activities in a fair, honest, transparent, appropriate and professional manner and must ensure that its Representatives do the same.**
 - 5. The licensee must not, and must ensure that its Representatives do not, mislead or otherwise use inappropriate tactics, including high pressure sales techniques, when selling or marketing to Domestic Customers.**
 - 6. The licensee must only recommend, and must ensure that its Representatives only recommend, to a Domestic Customer products or services which are appropriate to that Domestic Customer's needs or preferences**
- 3.19. These licence changes are designed to deliver the 'informed choices' policy objective in a way that protects consumers effectively, supports innovation and places a greater onus on suppliers to put customers at the heart of their businesses.
- 3.20. We are considering whether we should add the policy objective itself into the licence as a principle. This would require suppliers to ensure that consumers are able to make informed tariff choices.
- 3.21. We think this could usefully provide a clear reminder that 'informed choices' is at the heart of what we want the market to enable. It may also encourage suppliers to monitor more actively whether their customers are able to make informed choices and to understand what action they should take to help different categories of customers in this regard. Moreover, it would also provide us with an avenue for addressing any issues that are not covered by the six principles outlined above (eg due to any new developments in the market). We welcome views on the need for, and appropriateness of, such an obligation.

Question 8

Do you consider that the proposed principles are a sensible way of achieving our policy objective? Please explain your answer.

Question 9

Are there any benefits, risks or potential unintended consequences associated with the proposed principles which we have omitted? If so, what are they and how could they be mitigated?

Question 10

Are these principles likely to result in differential impacts across different types of suppliers (eg large vs. small or medium suppliers)? Please explain your answer.

Question 11

Do you think that we should introduce a principle about informed tariff choices?

- 3.22. In the following two sections, we describe the process we went through to develop the three comparability principles and the three principles relating to sales and marketing activities more broadly.
- 3.23. There are strong links between tariff information and the information that customers receive during sales and marketing activities. We are taking into account these linkages to ensure we have developed a holistic package of principles relating to comparability of tariffs and the activities undertaken to market them to customers.

Tariff comparability principles

- 3.24. In its final report, the CMA recommended that Ofgem introduce an additional SoC (or principle) that would "*require suppliers to have regard in the design of their tariffs to the ease with which customers can compare 'value for money' with other tariffs they offer*". The CMA's stated aim with this remedy is to improve customer engagement and strengthen the provisions of the SoC to mitigate any unintended consequences associated with removing the Simpler Tariff Choices rules.²² We welcome this recommendation and note its alignment, both with our broader shift towards principles and with our proposed policy objective.
- 3.25. The tariff comparability principles that we propose below have taken the CMA's recommended wording into account. However, rather than focusing specifically on the 'design' of tariffs and the ease with which consumers can compare 'value for money', we have sought a slightly broader outcome of *consumers being able to make informed tariff choices*. The reasons for this are set out below.

Principle 1: The licensee must ensure that the terms and conditions of its Tariffs (including their structure) are clear and easily understandable.

- 3.26. We consider it essential that the terms and conditions of a tariff are clear and easily understandable if consumers are to be able to make informed tariff choices.

'Must ensure that'

- 3.27. We have deliberately proposed the wording 'must ensure that' rather than 'must take all reasonable steps' because we consider it to be an appropriate obligation – and one which is in a supplier's gift to meet – to ensure information on their tariffs is clear and easily understandable. Suppliers may feel it necessary to undertake consumer research in order to satisfy themselves of how well consumers are likely to understand this information.

'Terms and conditions of its Tariffs (including their structure)'

- 3.28. 'Terms' would include things like length of contract, which we consider to be a fundamental component of a tariff that all consumers should be aware of. The inclusion of 'conditions' is designed to mitigate the risk of consumers being unwittingly drawn by, for example, offers of cashback that were in reality

²² CMA, [Energy Market Investigation, Final report](#), June 2016, p. 863

extremely difficult to obtain due to conditions which are not clearly communicated.

- 3.29. Meanwhile, the reference to 'structure' seeks to emphasise that we would expect terms and conditions about more complicated tariff structures (eg multi-tier tariffs), which can have a significant impact on the overall cost of a tariff, to be clear and understandable. Similarly, consumers will need to understand the structure of innovative time-of-use products.
- 3.30. Another option would have been to require that customers are provided with 'sufficient information' about a tariff. However, we consider that this would be too low a bar, as it could arguably be met by simply publishing information on a website where many customers may never see it.

'Clear and easily understandable'

- 3.31. In its final report, the CMA concluded that customers face actual or perceived barriers to accessing and assessing information, arising from:
- The complex information provided in bills and the structure of tariffs, which combine to inhibit value-for-money assessments of available options (particularly for those with low levels of education or income, the elderly or those without internet), and;
 - A lack of confidence in, and access to, PCWs by certain categories of customers.
- 3.32. The 'clear' requirement here is designed to ensure clarity and transparency ie the terms and conditions of a tariff should be unambiguous, plain, intelligible and communicated prominently.
- 3.33. We have purposefully chosen 'understandable' as opposed to 'understood' because we are keen that the requirement should capture all of a supplier's tariffs – not just the one that a customer has ended up choosing. Consider, for example, a scenario where a consumer has ended up *not* choosing a tariff specifically because they could not understand it. We are proposing to add the prefix 'easily' because we want customers to be able to make informed tariff choices without having to undertake difficult calculations.
- 3.34. Our thinking is that this 'easily understandable' requirement would be an objective standard. We would welcome your views on whether further clarification would be need on this.

Principle 2: The licensee must ensure that its Tariffs are easily distinguishable from each other.

'Easily distinguishable'

- 3.35. We want to encourage suppliers to bring forward new, innovative tariffs and note the potential benefits that the advent of new products could bring. Nevertheless,

we consider that there is a balance to be struck here between encouraging innovation on the one hand, and avoiding gaming behaviour through the offering of deliberately similar – and thereby confusing – tariffs on the other.

- 3.36. There is evidence that one of the causes of confusion pre-RMR was suppliers flooding the market with almost identical tariffs which consumers found virtually impossible to distinguish between. We are keen to ensure this does not happen in the absence of the 'four tariff rule' (which we propose to remove in line with the CMA's recommendation – see the accompanying statutory consultation).
- 3.37. Our proposed requirement for a suppliers' tariffs to be 'easily distinguishable' would be in addition to the prescriptive rule (which we propose to keep) that prohibits licensees from using more than one name per tariff in each region (SLC 22B.2(c)). Our thinking here is that tariffs should be easily distinguishable by more than just name if consumers are to be able to appreciate the differences between them. For example, other than a different name, what distinguishable benefits does Tariff 21 offer a consumer that Tariffs 1-20 do not?

Principle 3: The licensee must ensure that it puts in place information, services and/or tools to enable each Domestic Customer to easily compare and select which Tariff(s) within its offering is/are appropriate to their needs and preferences.

'Information, services or tools'

- 3.38. As mentioned above, we are mindful of the differences between different marketing channels and are keen to ensure there is flexibility around how and when comparison is actively enabled. For example, the requirement to provide 'information, services or tools' would apply differently to a situation whereby a customer has called a supplier asking for help or advice, relative to one where a customer is using a PCW to compare tariffs. The key point here is that the supplier should provide the appropriate level of information, services or tools to enable them to make an informed choice.

'Each Domestic Customer'

- 3.39. We want to place the onus firmly on suppliers to think about their customers and, recognising the differences between different groups of customers, do what they can to support each customer to select a tariff that suits their needs and preferences.
- 3.40. We recognise that there are limits to the level of support that a supplier can reasonably be expected to provide. However, the point here is that suppliers should be facilitating comparability across their tariffs for the categories of customers that they serve, or are looking to serve.
- 3.41. We expect suppliers to consider the specific consumer circumstances when deciding how to achieve the desired outcome. For example, if an engaged customer, who has just moved house and already knows what tariff suits them, calls the supplier, it might not be appropriate in this instance for the supplier to read out a script that includes all the tariffs that they offer.

'Easily compare and select'

3.42. We strongly agree with the CMA that consumers should be able to compare products – particularly in a world where these are more numerous and sophisticated – and select one that is suited to their needs. We consider that suppliers have a responsibility to ensure that this is not an onerous task and have therefore included 'easily' in this principle.

'Appropriate to their needs and preferences'

3.43. We recognise that there may be factors in addition to what a consumer 'needs' that they may legitimately 'want' (eg a particular feature of a bundle, such as an electronic gadget). We are therefore proposing to include a reference to 'preferences' in this principle.

Sales and marketing principles

3.44. In our December 2015 consultation on the future of retail market regulation, we identified SLC 25 as being a good fast track licence condition because:

- There is scope for suppliers to innovate in how they undertake sales and marketing activities in order to help consumers make well informed decisions;
- It already contains a set of principles (the Objective) that suppliers must follow when conducting face-to-face and telephone sales and marketing activities, as well as five pages of prescriptive rules relating to face-to-face sales and marketing.

3.45. We proposed to remove the prescription relating to face-to-face sales and marketing and rely on the existing principles to protect consumers. This would be consistent with our current approach to telesales where we have previously relied on the principles to protect consumers from poor supplier behaviour. We also considered that, if SLC 25 was not prescriptive in how suppliers conduct face-to-face sales and marketing, it would place the onus on them for thinking about how they can best treat customers fairly, rather than just focusing on ticking boxes to achieve compliance. In addition, less prescription should enable innovations to emerge that better achieve our policy objectives.

3.46. The SoC considers requirements around the information provided to customers and the way suppliers and their Representatives behave towards consumers. Nevertheless, we propose to go further than the SoC with regards to sales and marketing. This is because we do not consider that obligations regarding sales and marketing should be subject to the 'all reasonable steps' test. This is consistent with the current sales and marketing Objective.

3.47. We propose to remove the current Objective and replace it with new principles in order to better achieve our policy objective. The proposed comparability principles will help consumers to access the information needed in order to make informed choices about their tariffs. In addition, to support informed choices in response to

sales and marketing activities by suppliers, we propose principles 4, 5 and 6 below.

- 3.48. One of the reasons we are moving to an increased reliance on principles is to future proof the licence in a rapidly changing market. In line with this, we propose to expand the scope of SLC 25 to apply to all forms of sales and marketing, rather than limiting it to face-to-face and telephone sales. This means that the proposed sales and marketing principles would also apply to activities carried out online and other channels that may emerge. This would also bring the scope of SLC 25 in line with that covered by the SoC.

Question 12

Do you agree that we should expand the scope of SLC 25 to apply to all sales and marketing activities? Please explain your answer.

- 3.49. When developing the proposed principles, we undertook a line-by-line review of the current licence condition against the criteria²³ set out in our December 2015 consultation. We also took into account responses²⁴ to our consultation and other feedback from stakeholders. Consideration has also been given to the original policy intent of the sales and marketing licence condition and the changes that have occurred over time (eg as a result of the Energy Supply Probe).
- 3.50. A number of consultation responses suggested that just amending SLC 25, especially if we retain the requirement for the principles to apply to representatives, would not realise the desired benefits. They consider that we also need to make changes to the arrangements for third party intermediaries (TPIs), in particular, reducing the risk to suppliers by making TPIs more accountable for how they interact with consumers. While we recognise that moving to principles may not, on its own, enable consumers to be more engaged with the market, we consider that it will remove some known barriers to innovation.

Principle 4: The licensee must conduct its Domestic Customer sales and marketing activities in a fair, honest, transparent, appropriate and professional manner and must ensure that its Representatives do the same.

- 3.51. This principle places similar obligations on suppliers and seeks to achieve the same outcomes as the current Objective with regards to how suppliers and their Representatives behave towards their customers. In addition, as discussed in paragraph 3.53, we consider that this principle also achieves the outcomes that the rules around staff selection and training were seeking to achieve.

Principle 5: The licensee must not, and must ensure that its Representatives do not, mislead or otherwise use inappropriate tactics, including high pressure sales techniques, when selling or marketing to Domestic Customers.

²³ The criteria are that it a) sets a minimum standard below which a supplier's outputs should not fall b) prohibits a specific detrimental practice or c) ensures standardisation across the market.

²⁴ We received 27 responses to our consultation from suppliers, consumer groups and other interested industry parties.

- 3.52. When developing this principle, we sought to identify what it is that is specific about sales and marketing activities, rather than other contact between a supplier and their customers. Our view is that there are specific issues around misselling, misleading behaviour and pressure selling and this principle seeks to manage these.
- 3.53. This principle also helps achieve the similar outcomes to the current Objective, which includes requirements around ensuring information and products are not inappropriate and do not mislead customers.

Principle 6: The licensee must only recommend, and must ensure that its Representatives only recommend, to a Domestic Customer products or services which are appropriate to that Domestic Customer's needs or preferences.

- 3.54. Principle 3 requires suppliers to provide information, services and tools to enable customers to easily compare and select tariffs. This principle builds on that by requiring suppliers and their representatives to also ensure that, where they recommend a specific product or service (or a suite thereof) to a customer, they have satisfied themselves that they know enough about the customer to make the recommendation. This is particularly important where the customer has been asked a number of questions about themselves and/or their household. In such situations, it would not be unreasonable for the customer to expect that the product or service they are offered is appropriate for them and choose not to do any further investigation themselves.

Removing prescription from the marketing licence condition

- 3.55. The proposed principles are designed to ensure that customers can make informed tariff choices and are protected from poor behaviour by suppliers or their representatives. As a result, we are minded to remove the prescription in SLC 25, which seeks to ensure the same outcome. The exception to this, which we discuss in more detail later, is the requirement for suppliers to keep records of their sales. We discuss our rationale for why we propose to remove the different prescriptive elements below.

Management and training arrangements

- 3.56. We propose to remove the requirement on suppliers to establish appropriate management oversight of its sales and marketing activities. Our focus is on outcomes – such as whether customers have been treated fairly. It will be the responsibility of suppliers to decide how best to achieve good outcomes for consumers. This includes designing appropriate management arrangements.
- 3.57. For the same reason, we propose to remove the prescriptive requirements around staff selection and training. The outcome, which is that staff behave in a fair, appropriate and transparent manner towards consumers, is covered under the proposed narrow principles. Where poor consumer outcomes occur, if it becomes apparent that, for example, there was inadequate training, we may consider that to be an aggravating factor in an enforcement case.

Provision of estimates

- 3.58. Several responses to our December 2015 consultation suggested that we should retain the prescription (or include additional principles) around the provision of bill estimates and comparisons and consider additional protection for vulnerable consumers.
- 3.59. We recognise these concerns have arisen due to previous instances, such as the supplier behaviour that gave rise to six misselling cases between 2009 and 2014. One of the purposes of the increased reliance on principles is to avoid compliance being a tick box exercise. We believe that replacing the prescription in SLC 25 around the provision of bill estimates, including savings claims and comparisons, with the new principles would continue to ensure consumer protection while providing benefits, including:
- The new principles would allow for future developments such as a greater variety of tariff offerings, including smart tariffs and bundled products, while maintaining protection for consumers;
 - Suppliers would have more flexibility in determining the level of information that is appropriate for different types of customers.

Prepayment meter (PPM) customers

- 3.60. In addition, we propose to remove the specific requirement to always provide prepayment meter (PPM) customers with comparisons. We consider the new principles, in particular Principle 6, will ensure PPM customers continue to be protected. Principle 6 requires that, where suppliers and their Representatives recommend products or services, they must ensure that their recommendation is appropriate to that customer's needs and preferences.
- 3.61. We recognise that concerns around the tariff and consumption information available to PPM customers were a key driver of the current rules. We are interested in your views on whether we should include some rules to highlight the fact PPM customers might need more information.
- 3.62. Although not true of all PPM customers, we know a significant number of PPM customers are in vulnerable situations. We consider that the new principles will ensure such consumers continue to be well protected under our regulatory framework. In addition to the proposed principles there are other changes that we believe will be beneficial for this group of consumers and reduce the risk of misselling, including:
- We signalled in our June 2016 letter on the way forward for the future of retail regulation project our intention to investigate having a broad principle that gives prominence to the special regard suppliers should have for consumers in vulnerable situations;²⁵

²⁵ Ofgem, [The future of retail market regulation – Update on the way forward](#), June 2016

- One of the remedies the CMA has recently put forward as part of its investigation is a price cap for PPM customers who can be among the most vulnerable and least able to switch to the cheapest deals. We will continue to assist the CMA as it implements the price cap and ensure we are ready to take on our role of monitoring compliance with the cap from April 2017, as well as updating the level of the cap as required; and
- The rollout of smart meters will mean that prepayment customers will have a more accurate idea of their consumption and tariffs. In turn we would expect that this will empower them to become more engaged in the market.

Point-of-sale information

3.63. SLC 25 currently includes a list of information the supplier is obliged to provide to the customer when they enter into a contract. Decisions on enforcement cases have also been seen by some as adding prescriptive detail as to what information must be provided during a sales conversation. This includes explaining what happens next and reminding the customer to check that the product is appropriate for them. We propose to remove these clauses, as suppliers would face similar obligations under the proposed new principles and we want them to think about how best to achieve the outcomes in practice.

Post-sale contact

3.64. The current licence condition also requires suppliers to take all reasonable steps to make contact with a customer within 14 days of entering a contract to seek confirmation that, among other things, the customer understood they had entered into a contract and was content with the information provided and the way the marketing was conducted. The intention of this requirement was to try and ensure that the customer had not been coerced or otherwise misled into entering into a contract.

3.65. We propose to remove this prescription because we believe this outcome will be achieved under our proposed principles. In particular, Principle 5 requires suppliers to ensure they, and their representatives, do not mislead customers. In addition, we consider that removing this prescription will have benefits for consumers, as it will enable suppliers to tailor the way they interact with their customers to better meet their needs.

3.66. Where a customer indicates they are not content to have entered into the contract and wants to end it, the current licence condition requires the supplier to ensure the contract is ended. We think this is also covered under the proposed principles and the SoC. It would be difficult for a supplier to argue they have treated their customer fairly if they do not terminate a contract within the statutory cooling-off period.

Record keeping

3.67. We propose to retain the requirement that, where the supplier or their representative has provided an estimate or comparison and a face-to-face sale has occurred, they must maintain a record of the information about the contract that they provided to the customer for a period of two years. Suppliers have

argued that the current prescription is unnecessary, as it is good business practice to maintain records. However, good business practice could be for a supplier to review their records and delete them after six months. The time lag before an issue comes to light could mean that those records would not be available as evidence to inform compliance and/or enforcement action by Ofgem. In addition, we do not consider that retaining the current prescription will have a negative impact on innovation.

- 3.68. We propose to extend the obligation to also cover telesales because we have seen recent instances around telesales where records were not available when we wanted to review them to check compliance with the requirements in SLC 25. Therefore, we propose that the obligation might be something like this:

The licensee must maintain, for a period of two years, a record of the information which it or its Representative provided to a Domestic Customer during the course of its sales and marketing activities conducted face-to-face or via telephone, which resulted in that Domestic Customer entering into a Domestic Supply Contract.

- 3.69. As noted earlier, some suppliers have argued that it is already good business practice to maintain records. However, we understand this may not necessarily mean suppliers believe they need to keep records of all telesales activities and the changes to the obligation could result in additional costs on them.
- 3.70. We propose that the new principles should relate to all sales and marketing activities. Although we considered whether to also propose that we extend the requirement to keep records for two years to all activities, we minded not to do so. Stakeholders have not expressed the same concerns about online sales, as they have about face-to-face and telephone sales. We are not convinced that the risk justifies the potential burden that would be imposed. Nevertheless, we are keen to understand what the obligation would imply, for example, for sales facilitated through a price comparison website.

Question 13

Do you support our proposal to extend the requirement to keep records for two years to include telephone sales and marketing? If not, please explain why, including the scope of any potential increase in costs.

Question 14

Do you agree with our rationale for not applying the requirement to keep records to include online sales? What would be the implications of extending the requirement to online sales (eg impact on PCWs, increased costs)?

Question 15

Do you agree with our proposal to remove the prescription from SLC 25? Are there any other areas where you think prescription still needs to be retained to maintain consumer protection?

Interactions with the Standards of Conduct

- 3.71. As stated above, we propose to retain the SoC and the 'treating customers fairly' objective as the core principles of our regulatory regime. Introduced in August 2013, the SoC require suppliers to be fair, honest, clear and professional in all their dealings with consumers. They must also ensure that any information they give to consumers is complete, accurate, not misleading and written in plain and intelligible language. Suppliers must also make it easy for consumers to contact them, act promptly and courteously to put things right when they have made a mistake. Underpinning these requirements is an objective to "treat customers fairly", with fairness defined by reference to certain thresholds.
- 3.72. We also want to ensure that the SoC remain fit-for-purpose in a regulatory regime that contains fewer prescriptive rules. As a result, we are considering potential amendments to the SoC, including formulation of the Standards themselves and the threshold tests within the licence condition. Later this summer, we will outline our current thinking on these changes in a working paper.
- 3.73. The principles proposed above may in certain cases interact with the SoC. However, we believe that they also offer a distinct and significant layer of consumer protection beyond that which the SoC can be relied upon to deliver. In particular, in relation to the tariffs a supplier offers, while the SoC would apply to the terms and conditions of a tariff and to the information that a supplier provided about that tariff, the SoC may not always go far enough in requiring suppliers to proactively help consumers make informed tariff choices. We are also minded to state our expectations around how we think suppliers should carry out their sales and marketing activities. As such, we consider the six 'narrow' principles outlined in this chapter to be a significant and distinct set of requirements which, taken together, will help ensure that consumers are able to make informed tariff choices.

Assessing the impact of the proposed changes

3.74. From our qualitative analysis, we consider that replacing SLC 25 with the proposed comparability and sales and marketing principles is likely to have benefits and costs. We are not able to quantify them at this stage, but based on responses to the December 2015 consultation – where we asked what costs and benefits suppliers expect from relying more on principles – we consider that the benefits will likely outweigh the costs:

- Consumers will benefit from more intelligible and tailored information provided by suppliers at the time of marketing and selling their offers, ultimately making them more likely to engage with the energy market and realise the benefits of being on the right tariff for them;
- Suppliers will have a greater responsibility to develop marketing tools that provide all necessary information, but will also have greater space for innovation and will be able to develop more competitive ways to engage with existing and potential customers.

3.75. We provide more detail of the expected impacts of our proposed changes in a draft impact assessment in Appendix 3. We ask specific consultation questions in the Appendix and these are included below.

Questions for draft Impact Assessment (see also Appendix 3)

Question 16: Do you agree with the methodology we intend to employ in our impact assessment?

Question 17: Have we captured all expected key impacts? If not, what else should we include in our impact assessment?

Question 18: What costs do you expect to incur as a result of the proposed changes (both to the RMR package and to SLC 25)? Please provide a description and a range, if possible.

Question 19: What benefits (including avoided costs) do you expect to realise as result of the proposed changes? Please provide a description and a range, if possible.

4. Monitoring the new principles

Chapter Summary

This chapter sets out how we propose to monitor suppliers' compliance with the new tariff comparability and sales and marketing principles. It also sets out the purpose of the Challenge Panel we propose to hold later this year and what we hope to achieve.

Question for this chapter

Question 20

Do you think there are any other indicators we can use to monitor the impact of changes to the RMR rules on consumers?

Question 21

Are there any other sources of information we could use to provide us with an early indication of potential issues with sales and marketing activities?

- 4.1. A key driver for our decision to move to a greater reliance on principles is because they will enable us to protect consumers more effectively in a rapidly evolving retail market. We will monitor the impact of moving to principles and, where we see poor consumer outcomes, we will take swift compliance and enforcement action when needed.
- 4.2. In our December 2015 consultation on the future of retail market regulation, we set out our initial thinking on how we should undertake monitoring and engagement in a more principles-based world. We think that there needs to be more effective communication between the regulator and the regulated, including holding more open conversations to help us understand suppliers' businesses and enable open discussion about what they are doing. We also intend to raise any concerns we may have, which should reduce the likelihood of things going wrong and consumer detriment being caused.
- 4.3. We recognise that moving to more open engagement between Ofgem and suppliers will be challenging, but consider it to be very important. Our proposals below for monitoring the sales and marketing principles have been influenced by responses to our consultation and the subsequent engagement we have had with stakeholders. We welcome any further views on how best to monitor compliance with the new principles around tariff comparability and sales and marketing activities.

Monitoring tariff comparability

- 4.4. In their provisional decision on remedies, the CMA recommended that we should replace some of the RMR Simpler Tariff Choices rules with a comparability principle. In response to this remedy, we published a letter²⁶ indicating that we would deprioritise enforcement of the specific rules identified by the CMA to ensure that consumers could benefit from the changes as soon as possible.

²⁶ Ofgem, [CMA provisional remedies: removal of certain RMR 'simpler choices' rules](#), 14 April 2016

- 4.5. In order to mitigate the risk of a reduction in protection during the intervening period we made it clear in our letter that we expected suppliers to ensure that any new tariffs that were potentially non-compliant with the existing rules were consistent with the CMA's proposed new principle around tariff comparability. We have also been clear that, where appropriate and proportionate, we will continue to enforce compliance with the remaining RMR rules, the SoC and any other relevant consumer protection legislation.
- 4.6. In order to ensure we are aware of any changes that suppliers make to their tariff offerings during this interim period, it is essential that we undertake effective monitoring. As such, we are reviewing new tariffs that have come onto the market on a weekly basis and have also been engaging with any supplier who has questions about potential new offerings, raising questions or concerns where needed.
- 4.7. We are also continuing our regular monitoring of supplier compliance with the RMR Simpler Tariff Choices rules that we are not proposing to change.

Question 20

Do you think there are any other indicators we can use to monitor the impact of changes to the RMR rules on customers?

Monitoring sales and marketing activities

- 4.8. We already capture supplier compliance with SLC 25 in our regular compliance monitoring. Our main sources of data are complaints or contacts relating to sales and marketing practices received by Citizens Advice and the Ombudsman Services: Energy. This is supported by data on customer service satisfaction that we receive from a number of sources.
- 4.9. We are aware that our current data sources may not fully reflect whether customers have experienced poor supplier behaviour when it comes to sales and marketing activities. This is because customers generally might not realise they have been missold to and so the complaints data might not give an accurate picture of any issues.
- 4.10. Stakeholders have made a number of suggestions as to additional ways we could monitor sales and marketing practices, including exploring whether local housing associations and local authority trading standards services are able to identify trends, such as a spate of misselling, in their localities. We are investigating these and other ways of obtaining insights into consumer experiences of sales and marketing practices.
- 4.11. We are also working with other regulators who have moved to principles-based regulation to identify good practice and effective methods they use to monitor compliance with principles.
- 4.12. In November this year we will be seeking views on our proposed risk based approach to monitoring how well suppliers achieve good consumer outcomes when we are relying more on principles. This operational framework will look at

how we monitor suppliers' performance and how we engage with them to ensure compliance.

Question 21

Are there any other sources of information we could use to provide us with an early indication of potential issues with sales and marketing activities?

Challenge Panel

4.13. In 2014 we held a Challenge Panel that focused on the SoC. We issued a Request for Information asking suppliers to provide a response, case study and presentation. The Big Six and several other suppliers were invited to attend the Challenge Panel where they were asked further questions about how they had embedded the SoC by an independent Panel. We received positive feedback from suppliers on the usefulness of the Challenge Panel. In addition, responses to our December 2015 consultation were generally supportive of our proposal to use Challenge Panels as a way of monitoring compliance with principles.

4.14. We will therefore hold another Challenge Panel around the new comparability and sales and marketing principles, which will examine how suppliers:

- Are embedding the SoC, as it relates to sales and marketing activities;
- Are considering approaching the development of innovative products and services that would be possible, if we implement the changes to the RMR Simpler Tariff Choices rules, Clearer Information tools and SLC 25 identified in Chapter 3; and
- Will ensure that customers are able to make informed choices when the changes take effect.

4.15. This will build on the learning from the previous Challenge Panel, particularly in relation to how suppliers adopt a consumer-centric approach that leads to positive consumer outcomes.

4.16. The upcoming Challenge Panel will deliver a number of benefits:

- It will require suppliers to focus on their approach and think carefully about whether it is helping them to secure the right outcomes for consumers;
- It will supplement our understanding of the impact of the SoC on suppliers' sales and marketing and information provision practices. This will feed into our thinking about how to ensure our transition to a greater reliance on principles is a success;
- It will give us an insight into how suppliers are considering ways to innovate in the development of new tariffs and sales and marketing activities, while ensuring they remain compliant with the new principles;



Helping consumers make informed choices

- It gives us an opportunity to continue building on the valuable lessons around effective supplier engagement that we took from the first Challenge Panel, as we transition towards implementing our new operational framework;
- The degree of rigour suppliers demonstrate in focusing on good consumer outcomes, including ensuring they are able to make informed decisions about their tariffs, will inform how risky we consider a particular supplier to be in this area. This will help inform our engagement approach with suppliers going forward. More risky suppliers will receive closer scrutiny than those who can demonstrate a focus on achieving good consumer outcomes;
- It creates another opportunity for dialogue with suppliers about how to transition successfully to a world where we are more reliant on principles.

4.17. Suppliers have also told us that they welcome this form of engagement, as it helps promote a culture of trust and openness. We recognise the challenges involved in developing a more mature and open relationship with suppliers. As a step towards building this new relationship, we hope that suppliers will engage constructively with the Challenge Panel process. We also propose to provide feedback from the panel, which we hope suppliers will find helpful in their transition towards embedding principles into their businesses.

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. We would especially welcome responses to the specific questions which we have set out at the beginning of each chapter and which are replicated below.
- 1.2 Responses should be received by **Wednesday 28 September 2016** and should be sent to:
- Clem Perry
Domestic Consumers Team
Ofgem
9 Millbank
London
SW1P 3GE
0207 901 7000
Futureretailregulation@ofgem.gov.uk
- 1.3 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.
- 1.4 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.

Next steps

- 1.5 Having considered the responses to this consultation, Ofgem intends to design our final proposals and set these out in our statutory consultation. Any questions on this document should, in the first instance, be directed to Clem Perry.

CHAPTER: Two

Question 1

- (a) Do you agree with the proposed requirement that any calculation by a supplier of the estimated annual cost figure should be internally consistent (ie calculated in the same way by any given supplier for all tariffs and for all customers over time)?
- (b) Are there any circumstances in which suppliers should have the flexibility to provide an estimated annual cost figure to customers based on different assumptions or methodologies? Please explain your answer.

Question 2

Do you support our proposal to require that, in the absence of a prescribed methodology, the estimated annual cost must be personalised, transparent, fair and as accurate as possible, based on reasonable assumptions and all available data?

Question 3

Do you support our suggestion that, at the end of a fixed-term contract, consumers could be rolled onto another fixed-term (rather than evergreen) tariff, if the consumer were able to exit this tariff with no penalty and at any time?

Question 4

Do you agree with our overall approach to managing the consequential impacts on the Clearer Information tools arising from the removal of the relevant Simpler Tariff Choices rules?

Question 5

Have we identified the right benefits and risks associated with our preferred approach to managing the impacts of removing the relevant Simpler Tariff Choices rules on each of the Clearer Information tools?

Question 6

Are there any potential unintended consequences associated with our proposed approach?

CHAPTER: Three

Question 7

Do you agree that our proposed policy objective is the correct one? Please explain your answer.

Question 8

Do you consider that the proposed principles are a sensible way of achieving our policy objective? Please explain your answer.

Question 9

Are there any benefits, risks or potential unintended consequences associated with the proposed principles which we have omitted? If so, what are they and how could they be mitigated?

Question 10

Are these principles likely to result in differential impacts across different types of suppliers (eg large vs. small or medium suppliers)? Please explain your answer.

Question 11

Do you think that we should introduce a principle about informed tariff choices?

Question 12

Do you agree that we should expand the scope of SLC 25 to apply to all sales and marketing activities? Please explain your answer.

Question 13

Do you support our proposal to extend the requirement to keep records for two years to include telephone sales and marketing? If not, please explain why, including the scope of any potential increase in costs.

Question 14

Do you agree with our rationale for not applying the requirement to keep records to include online sales? What would be the implications of extending the requirement to online sales (eg impact on PCWs, increased costs)?

Question 15

Do you agree with our proposal to remove the prescription from SLC 25? Are there any other areas where you think prescription still needs to be retained to maintain consumer protection?

Questions on draft Impact Assessment (see also Appendix 3)

Question 16: Do you agree with the methodology we intend to employ in our impact assessment?

Question 17: Have we captured all expected key impacts? If not, what else should we include in our impact assessment?

Question 18: What costs do you expect to incur as result of the proposed changes (both to the RMR package and to SLC 25)? Please provide a description and a range, if possible.

Question 19: What benefits (including avoided costs) do you expect to realise as result of the proposed changes? Please provide a description and a range, if possible.

CHAPTER: Four

Question 20

Do you think there are any other indicators we can use to monitor the impact of changes to the RMR rules on customers?

Question 21

Are there any other sources of information we could use to provide us with an early indication of potential issues with sales and marketing activities?

Appendix 2 – Impact of consequential amendments on licence conditions

Proposed consequential changes to licence conditions resulting from changes to Clearer Information tools

1.1 Below, we outline the effects of making our proposed changes to the RMR Clearer Information tools on the supply licence conditions. This is broken down by consequential amendments or removals resulting from changes to:

- Personal Projection (PP);
- Cheapest Tariff Message (CTM);
- PP and Tariff Comparison Rate (TCR);
- TCR;
- Tariff Information Label (TIL); and
- Templates.

PP

SLC	Recommendation	Reasoning	Nature of obligation
SLC 1 (Estimated Annual Costs)	Remove	We propose to amend this definition, as it contains the prescriptive formula for the PP, which we are proposing to remove. We propose to set out our expectations around how suppliers should calculate internally consistent estimated annual costs.	Definitions for standard conditions
SLC1 (Definition of Relevant Cheapest Evergreen Tariff)	Amend	We propose to amend this definition as it contains the Estimated Annual Costs definition. If the EAC definition is deleted, we propose to decapitalise Estimated Annual Costs.	Definitions for standard conditions
SLC 22C.3(c)(vii)	Amend	We propose to amend these provisions as they contain the Estimated Annual Costs definition. If the EAC definition is deleted in its	Fixed Term Supply Contracts: Renewal of Fixed Term Supply Contracts - obligation to supply EAC for RCET

SLC 22C.3(e)	Amend	entirety, we propose to decapitalise Estimated Annual Costs.	Fixed Term Supply Contracts: Renewal of Fixed Term Supply Contracts - obligation to provide TIL
SLC 22C.3(f)	Amend		Fixed Term Supply Contracts: Renewal of Fixed Term Supply Contracts - obligation to provide EAC
SLC 22D.5(c)(xii)	Amend	We propose to amend these provisions as they contain the Estimated Annual Costs definition. If the EAC definition is deleted in its entirety, we propose to decapitalise Estimated Annual Costs.	Dead Tariffs: Requirements to change the Ts&Cs that apply to a Dead Tariff and give Notice to Domestic Customers - obligation to provide EAC
SLC 22D.5(c)(xvi)	Amend		Dead Tariffs: Requirements to change the Ts&Cs that apply to a Dead Tariff and give Notice to Domestic Customers - obligation to explain EAC
SLC 22D.9(e)(iv)	Amend		Dead Tariffs: Notification requirements where Domestic Customers are to become subject to the Relevant Cheapest Evergreen Tariff - obligation to provide EAC and difference in EAC showing increase in cost from moving tariff
SLC 22D.9(e)(vi)	Amend		Dead Tariffs: Notification requirements where Domestic Customers are to become subject to the Relevant Cheapest Evergreen Tariff - obligation to provide explanation of EAC a
SLC 23.4(g)	Amend	We propose to amend these provisions as they contain the Estimated Annual Costs definition. If the EAC definition is deleted in its entirety, we propose to decapitalise Estimated Annual Costs.	Notification of Domestic Supply Contract terms: Notification of increase in Charges for the Supply of Electricity and other unilateral variations - obligation to provide change in EAC after price increase
SLC 23.4(t)	Amend		Notification of Domestic Supply Contract terms: Notification of increase in Charges for the Supply of Electricity and other unilateral variations -

			obligation to provide explanation of EAC	
SLC 23.4(u)(i)	Amend		Notification of Domestic Supply Contract terms: Notification of increase in Charges for the Supply of Electricity and other unilateral variations - obligation to provide EAC	
Schedule 3 to standard condition 23	Amend		Estimated Annual Costs, single fuel	
Schedule 4 to standard condition 23	Amend		Estimated Annual Costs, dual fuel	
SLC 31A.2(d)	Amend	We propose to amend these provisions as they contain the Estimated Annual Costs definition. If the EAC definition is deleted in its entirety, we propose to decapitalise Estimated Annual Costs.	Bills, statements of account and Annual Statements; Section A Bills and statements of account - obligation to provide EAC	
Paragraphs S1.4 - 1.5 of Schedule 1 to SLC 31A	Amend		Bills, statements of account and Annual Statements: Section A Bills and statements of account - obligation to provide explanation of EAC	
SLC 31A.9(c)	Amend		Bills, statements of account and Annual Statements: Section B Annual Statements - obligation to provide EAC	
SLC 31A.9(g)	Amend		Bills, statements of account and Annual Statements: Section B Annual Statements - obligation to provide explanation of EAC	
Schedule 4 to standard condition 31A Part 2 S4.11(c)	Amend		We propose to amend these provisions as they contain the Estimated Annual Costs definition. If the EAC definition is deleted in its entirety, we propose to decapitalise Estimated Annual Costs.	Annual statement template - obligation to provide EAC

Paragraphs S4.11(e) - (f) of Part 2 of Schedule 4 to SLC31A	Amend	We propose to amend these provisions as they contain the Estimated Annual Costs definition. If the EAC definition is deleted in its entirety, we propose to decapitalise Estimated Annual Costs.	Annual statement template - obligation to provide explanation EAC
Paragraph S4.15(o) of Part 2 of Schedule 4 to SLC 31A	Amend		Annual statement template - obligation to provide EAC
Paragraphs S4.15(q)(ii)-(iii) of Part 2 of Schedule 4 to SLC 31A	Amend	We propose to remove these paragraphs, which require suppliers to provide information from 31E.11 and explain what is included in the Estimated Annual Costs. As we propose to remove the prescriptive calculation of Estimated Annual Costs and SLC 31E.11, this is no longer required.	Annual statement template - obligation to provide explanation EAC
Paragraph S1.7A(b)(i) of Schedule 1 to SLC 31B	Amend	We propose to amend this provision as it contains the Estimated Annual Costs definition. If the EAC definition is deleted in its entirety, we propose to decapitalise Estimated Annual Costs.	Template of the TIL - obligation to comply with condition 31E (Provision of TIL and EAC at the same time as the Principal Terms)
SLC 31D.20-23	Amend	We propose to amend these provisions as they contain the Estimated Annual Costs definition. If the EAC definition is deleted in its entirety, we propose to decapitalise Estimated Annual Costs.	Condition 31D. White Label Tariffs
SLC 31E.7	Remove	We propose to amend this provision as it contains the Estimated Annual Costs definition. If the EAC definition is deleted in its entirety, we propose to decapitalise Estimated Annual Costs.	Overarching requirement to refer to Estimated Annual Costs as "Personal Projection"
SLC 31E.8(b)	Amend	We propose to amend these provisions as they contain the Estimated Annual Costs definition. If the EAC definition is deleted in its entirety, we propose to	Overarching requirement to provide TIL and EAC at the same time as Principal Terms
SLC 31E.9	Amend		Overarching requirement to provide information

		decapitalise Estimated Annual Costs.	about things included in EAC
SLC 31E.11	Amend		Overarching requirement to provide information regarding future increases in charges
SLC 37.7(b) - 37.7(c)	Amend	We propose to amend these provisions as they contain the Estimated Annual Costs definition. If the EAC definition is deleted in its entirety, we propose to decapitalise Estimated Annual Costs.	Green Deal information requirements: Green Deal Annual Statements - obligation to provide EAC
SLC 37.14 (Interpretation of "Gas / Electricity Estimated Annual Costs")	Amend		Green Deal information requirements: Interpretation of terms

CTM

SLC	Recommendation	Reasoning	Nature of obligation
SLC 1 (Definition of Alternative Cheapest Tariff)	Amend	We propose to amend these definitions as they contain the Estimated Annual Costs definition. If the EAC definition is deleted in its entirety, we propose to decapitalise Estimated Annual Costs.	Definitions for standard conditions
SLC1 (Definition of Estimated Annual Savings)	Amend		Definitions for standard conditions
SLC1 (Definition of Relevant Cheapest Tariff)	Amend		Definitions for standard conditions

PP and TCR

SLC	Recommendation	Reasoning	Nature of obligation
SLC 22E.5(b) (electricity only)	Amend	We propose to remove the text "Tariff Comparison Rate and" and if the Estimated Annual Costs definition is deleted in its entirety, we propose to decapitalise Estimates Annual costs, as we propose to remove the TCR and the prescriptive calculation for Estimated Annual Costs.	Unmetered Supply Arrangements - obligation to provide TCR and EAC

TCR

SLC	Recommendation	Reasoning	Nature of obligation
SLC 1 (Definition of Tariff Comparison Rate)	Remove	We propose to remove this definition, as we propose to remove the TCR.	Definitions for standard conditions
SLC 22A.3(c)	Amend	We propose to remove the text "without prejudice to the Tariff Comparison Rate", as we propose to remove the TCR.	Unit Rate and Standing Charge requirements
SLC 22C.16 Definition of "SLC 22C Exempt Information", sub-paragraph (c)	Remove	We propose to remove part of this definition as it references the Tariff Comparison Rate, which we propose to remove.	Definitions for condition 22C. Fixed Term Supply Contracts
SLC 22D.5(c) (xi)	Remove	We propose to remove this provision as it requires suppliers to provide the TCR. As we propose to remove the TCR, this provision is no longer required.	Dead Tariffs: Requirements to change the Ts&Cs that apply to a Dead Tariff and give Notice to Domestic Customers - obligation to provide TCR
SLC 22D.9(j)	Remove	We propose to remove this provision as it requires suppliers to provide the TCR. As we propose to remove the TCR, this provision is no longer required.	Dead Tariffs: Notification requirements where Domestic Customers are to become subject to the Relevant Cheapest Evergreen Tariff - obligation to provide TCR
SLC 22D.22 "SLC 22D Exempt Information" sub-paragraph (b)	Remove	We propose to remove part of this definition as it references the Tariff Comparison Rate, which we propose to remove.	Definitions for condition 22D. Dead Tariffs
SLC 22F.3(b) (electricity only)	Remove	We propose to remove these provisions as they provide an exception to comply with 31D. As we propose to remove the TCR and SLC 31D, this exception is no longer required.	Bespoke Heating System Arrangements - obligation to provide TCR
SLC 22F.3(c) (electricity only)	Remove		Bespoke Heating System Arrangements - obligation to provide TCR
SLC 22F.12 - 22F.13 (electricity only)	Remove	We propose to remove these provisions as they provide powers for the Authority issue directions on the TCR in relation to	Bespoke Heating System Arrangements: Power to direct the use of TCR in respect of Bespoke Heating System Arrangements

SLC 22F.14 "TCR Matters" (electricity only)	Remove	bespoke heating systems. As we propose to remove the TCR, this power is no longer required.	Definitions for condition 22F. Bespoke Heating System Arrangements
SLC 23.4(v)	Remove	We propose to remove this provision which requires the TCR to be included in a price increase notice. As we propose to remove the TCR, this requirement can be removed.	Notification of Domestic Supply Contract terms: Notification of increase in Charges for the Supply of Electricity and other unilateral variations - obligation to provide TCR
SLC 23.13 "SLC 23 Exempt Information", sub-paragraph (b)	Remove	We propose to remove part of this definition as it refers to a licence condition which we propose to remove.	Definitions for condition 23. Notification of Domestic Supply Contract terms
SLC 31A.1	Amend	We propose to amend the text from "Schedules 1-3" to "Schedules 1-2", as we are proposing to remove the TCR and Schedule 3 to SLC 31A.	Bills, statements of account and Annual Statements: Section A Bills and statements of account - obligation to provide TCR
SLC 31A.2(f)	Remove	We propose this provision which requires the TCR to be included on bills and statements of account, as we propose to remove the TCR.	Bills, statements of account and Annual Statements: Section A Bills and statements of account - obligation to provide TCR
SLC 31A.6	Amend	We propose to amend the text from "Schedules 1 to 3" to "Schedules 1 to 2" to reflect that we are proposing to remove the TCR and Schedule 3 to SLC 31A.	Bills, statements of account and Annual Statements: Section A Bills and statements of account - obligation to provide TCR
Schedule 3 to standard condition 31A	Remove	We propose to this schedule which sets out how the TCR needs to be presented on bills and statements of account. As we propose to remove the TCR, this schedule is no longer required.	Bills, statements of account and Annual Statements: Section A Bills and statements of account - features of the TCR
SLC 31A.9(w)	Remove	We propose to remove this provision which requires the TCR to be included on Annual Statement as we propose to remove the TCR.	Bills, statements of account and Annual Statements: Section B Annual Statements - obligation to provide TCR
SLC 31A.17 "SLC 31A Exempt Information", sub-	Remove	We propose to remove part of this definition as it refers to a licence condition which we propose to remove.	Bills, statements of account and Annual Statements: Section B Annual Statements: Guidance - provision of TCR

paragraph (b)			
SLC 31A.17 "Zones"	Amend	We propose to amend the definition of zones on the Annual Statement to reflect that we propose to remove Schedule 3 to SLC 31A, as we propose to remove the TCR.	Bills, statements of account and Annual Statements: Section B Annual Statements: Guidance - population of zones in template
Paragraph S4.15(p) of Part 2 of Schedule 4 to SLC 31A	Remove	We propose to remove this provision which requires the TCR to be displayed on the Annual Statement as we propose to remove the TCR.	Annual statement template - obligation to provide TCR
SLC 31C	Remove	We propose to remove this condition which covers the TCR, as we propose to remove the TCR.	Condition 31C. Tariff Comparison Rate

TIL

SLC 31B.2	Remove	We propose to remove this provision as it refers to a SLC 31C which we propose to remove.	Tariff information label - obligation to provide TCR
SLC 31B.8 - 31B.10	Remove	We propose to remove these provisions, as we are proposing to remove the TCR so this is no longer required.	Tariff information label - obligation to provide TIL EAC
SLC 31B.13 Definitions of: "SLC 31B Relevant Staggered Charging Matters"; "SLC 31B Relevant Time of Use Matters; and "TIL Estimated Annual Costs"	Remove	We propose to remove these definitions, as we are proposing to remove the TCR, so these are no longer relevant.	Definitions for condition 31B: Tariff information label - definitions based on TCR
Paragraph S1.17 of Schedule 1 to SLC 31B	Remove	We propose to remove this provision as it references a licence condition (31C) which we propose to remove.	Template of the TIL - obligation to provide TCR

Paragraphs S1.18 - 1.21 of Schedule 1 to SLC 31B	Remove	We propose to remove the text referencing the EAC and the TCR, as we propose to remove the TIL PP and the TCR.	Template of the TIL - obligation to provide TCR and EAC
Paragraph S1.24 of Schedule 1 to SLC 31B	Remove	We propose to remove this provision which requires suppliers to explain what the TCR is on the TIL. This is no longer required, as we propose to remove the TCR.	Template of the TIL - obligation to provide explanation of the TCR

Templates

SLC	Recommendation	Reasoning	Nature of obligation
Paragraph S4.1 of Part 1 of Schedule 4 to SLC 31A	Amend	We propose to amend the templates to reflect that the TCR has been removed and changes to the PP, TIL and CTM.	Annual statement template
Paragraph S4.14 of Part 2 of Schedule 4 to SLC 31A	Amend		Annual statement template - obligation to provide TCR, EAC, TIL
Paragraph S1.1 of Schedule 1 to SLC 31B	Amend	We propose to amend the text referencing the EAC and the TCR, as we propose to remove the TIL EAC and the TCR.	Template of the TIL - obligation to display TCR and EAC

Appendix 3 – Draft Impact Assessment

Chapter Summary

This Appendix sets out our assessment of the expected impacts of the proposed changes to the RMR Simpler Tariff Choices rules and Clearer Information tools ('the RMR package'), and to SLC 25.

Questions for this appendix (see also Chapter 3)

Question 16: Do you agree with the methodology we intend to employ in our impact assessment?

Question 17: Have we captured all expected key impacts? If not, what else should we include in our impact assessment?

Question 18: What costs do you expect to incur as a result of the proposed changes (both to the RMR package and to SLC 25)? Please provide a description and a range, if possible.

Question 19: What benefits (including avoided costs) do you expect to realise as result of the proposed changes? Please provide a description and a range, if possible.

1.1 This draft impact assessment discusses the potential impacts of the proposed changes to the licence conditions that relate to the RMR package of rules and to SLC 25. These relate to the domestic sector only. In doing so, we highlight the benefits, costs and potential unintended consequences of replacing prescription with principles. While the analysis is primarily qualitative in nature, we are keen to understand the monetary impact on suppliers of the proposed changes.

Methodology

1.2 The retail energy market is undergoing a period of far-reaching change, driven by new technologies, new business models and new ways of running the energy system. We need a regulatory framework that is flexible enough to enable this change. To this end, we have committed over time to rely more on principles, rather than prescriptive rules that set out how companies should run their businesses. We consider that this will better protect consumers' interests by:

- Providing effective protection for consumers
- Promoting innovation and competition in the retail market
- Ensuring suppliers are putting consumer interests at the heart of their businesses.

1.3 Responses to our December 2015 consultation - where we asked what costs and benefits suppliers expect from relying more on principles - suggest that the benefits will likely outweigh the costs.

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- 1.4 This impact assessment will consider how the proposed changes to the RMR package and to SLC 25 support the achievement of the benefits of a more principle-based regulatory framework, compared to a counterfactual scenario. We will assess the RMR package of reforms and changes to SLC 25 separately, but will then draw conclusions that take into consideration the interactions between these two sets of reforms.
- 1.5 We will assess the proposed changes through the lens of the above three objectives. In doing so, we aim to answer the following three questions:
1. What is current level of consumer engagement in the energy market and what are the effects of it?
 2. How will the proposed changes address the issues we identified and what impacts could they have?
 3. Can the same outcomes be achieved in some other way?
- 1.6 To answer the first question, we describe the current situation and how the areas we consider in this consultation (tariff comparability and sales and marketing activities) contribute to it. This is our baseline for the analysis and is set out in the next section. In describing the baseline, we are interested in three areas, which are set out in the tables:
- How consumers (including vulnerable consumers) engage in markets, how informed they are about their options, what activities they undertake and how satisfied they are with their services.
 - What the key features of retail markets are, both in terms of competition and innovation.
 - What activities Ofgem carries out to ensure effective regulatory oversight of the two areas included in this consultation (tariff comparability and sales and marketing).
- 1.7 To answer the second question, we aim to identify the potential impacts on the parties most affected by the proposed changes relative to the baseline – namely consumers, suppliers and Ofgem. We also consider whether the proposed changes could cause unintended consequences and whether other parties could be affected by the proposed changes. Ideally, we would like to quantify the impacts but can also use more qualitative measures if necessary.
- 1.8 To answer the third question we will consider a counterfactual scenario where no other changes are made but those recommended by the CMA in its final report. We will then consider whether the benefits that we expect from the proposed changes would still be realised under this scenario.

Question 16: Do you agree with the methodology we intend to employ in our impact assessment?

Baseline

- 1.9 The baseline for our assessment looks at three areas: consumer engagement and general satisfaction with the services that are being offered to them, competition and innovation in the retail markets and Ofgem's current activities to oversee the RMR package of rules and SLC 25. Our statistics are based on the RMR tracking survey²⁷, the CMA final report and our 2016 Retail Energy Markets report²⁸.

Consumer engagement

- 1.10 Engagement in the energy market can range from reading bills and contacting suppliers to switching tariff or supplier. Around two in five consumers (37%) have been 'active' (switching supplier, changing tariff with an existing supplier, or comparing tariffs) in the energy market over the past 12 months. More than one in five consumers however (21%) are very disengaged. They are predominantly on expensive standard variable tariffs (SVTs), less likely to engage with information and more likely to be in vulnerable situations.
- 1.11 The majority of consumers are aware of their switching options in the energy market, from switching supplier to changing tariff and changing their payment method. Domestic switching rates in 2015 rose to 12% for electricity and 13% for gas - an increase of one and two percentage points respectively on 2014.
- 1.12 Motivations and influences vary across consumers but for many price remains the key driver to switch. Consumers told us they need to save on average just under £300 per year to change their supplier or tariff. However, price is not the only factor which motivates consumers to switch. 12% of consumers who are 'active' in the market told us better customer service was the main factor when considering switching.
- 1.13 In terms of the number of tariffs, just under half of consumers (48%) believe there is the right amount of choice of tariffs in the energy market. Less engaged consumers are much more likely to say they don't know about the amount of choice than those who are engaged. They are also more likely to be unfamiliar with the range of tariffs available to them, highlighting a problem for these types of consumers in terms of finding the information about tariffs or being able to understand such information.
- 1.14 In terms of consumers' satisfaction with their own supplier, the majority of consumers are satisfied with the service they receive (77%). More than half of consumers trust their own supplier to treat them fairly or charge fair prices. However, consumers trust in their own supplier is far above that of consumers trust in suppliers generally.

Competition and innovation

- 1.15 The majority of consumers are still with one of the six large suppliers. According to the CMA, this - together with low consumer engagement - may have given

²⁷ Ofgem, Consumer engagement in the energy market since the Retail Market Review: 2016 survey findings

²⁸ Ofgem, [Retail Energy Markets in 2016](#), 27 July 2016

them unilateral market power so they price their SVTs above a level that can be justified by cost differences from their non-standard tariffs. The CMA concluded that competition is not working for domestic energy consumers as it should be.

- 1.16 As of March 2016, there were 43 domestic suppliers. Small or medium-sized energy suppliers' market share was 13%.
- 1.17 With respect to the type of tariffs offered, there are three groups of tariffs currently offered in the UK energy market: SVTs, fixed tariffs and non-standard tariffs. Most customers are still on an SVT – 66% of domestic gas and electricity customers in March 2016. These are the default tariffs offered by suppliers, in the sense that customers will be on a SVT if they have not actively chosen another tariff (eg where their previous contract has come to an end). Almost all other customers are on fixed tariffs. There are very few customers on non-standard tariffs.
- 1.18 In terms of price differentials among tariffs, the price difference between average SVTs and the cheapest tariffs available in the market is over £300.

Regulation

- 1.19 We do not have information on the cost for suppliers of complying with the relevant licences conditions as they exist now. We are considering any material activities we undertake to oversee this part of the regulatory framework as part of the baseline.
- 1.20 With respect to overseeing the RMR rules, an important aspect of this is the derogation process. Over the past three years, many suppliers have applied for derogations from RMR-related rules. This process comes with associated costs, both in terms of time and financial, which can be a disincentive to innovate.
- 1.21 Although we are not able to isolate the contribution of single licence conditions, engaging with suppliers, monitoring compliance with their licence conditions and addressing compliance issues are all core activities we carry out to oversee the licences and we conduct them for the RMR rules and SLC 25 as well.

Tariff comparability: Assessment of impacts of proposed changes

- 1.22 From our qualitative analysis and based on feedback from the May workshop, we consider that the proposed changes to the RMR simpler rules and clearer tools as set out in Chapters 2 and 3 are likely to have some benefits and costs. The key impact will be on consumers, with the aim being to support consumer engagement so they are able to reap the benefits of switching and increased competitive pressures in the market.
- 1.23 Among other benefits, suppliers will now have more scope to compete for market share through product and service differentiation. They will also be free to develop methodologies that more accurately capture and communicate the features of their offerings. This could also incentivise some existing or new suppliers to develop niche products for some types of consumers, including for example consumers in vulnerable situations.

- 1.24 While it is not possible to estimate the cost savings consumers could make by switching as result of the proposed changes, recent analysis conducted by the CMA shows that the current 'missed savings' - estimated in 2015 at around £2bn - could decrease quite quickly as soon as consumers start engaging more. Missed savings could potentially go down to £500m in 2020 if, as a result of better competition in the market, prices decrease by 2% a year. We think that the proposed changes will help to realise these benefits.
- 1.25 We expect suppliers to incur some costs when implementing the proposed changes, for example updating their IT system (more updates might be required where a supplier decides to develop innovative products), training staff, seeking legal advice on how to comply with the new rules and developing new methodologies. These are most likely to be upfront costs, while we expect no significant change to ongoing costs. There may be additional costs if Ofgem significantly changes the current approach to monitoring and engagement. Should this have material impacts, we will update the impact assessment accordingly.
- 1.26 In our assessment we have also identified some unintended consequences. Liberalising channels of engagement would require suppliers to focus more on consumers' needs and think carefully about how to avoid the risk of them providing misleading, confusing or unreliable information. In particular, a lack of standardised methodology for the information tools might reduce the ability of consumers to make informed choices, and consequently their willingness to engage with the market. However, principles together with more targeted monitoring and engagement and effective enforcement are key mitigations. We also expect to see a continuing increase in the use of PCWs, which provide for cross-market consistency and provide information to customers in a way that meets their needs.
- 1.27 We do not expect environmental impacts or impacts on health and safety as result of the proposed changes.

Can the outcomes be achieved in another way?

- 1.28 We considered whether the outcomes regarding the simpler rules and clearer information tools could be achieved in some other way. With respect to the simpler rules, one alternative would have been replacing prescription with different prescription rather than principles. We don't think this approach would achieve our objective of making suppliers responsible for putting consumer interests at the heart of their businesses, alongside providing space for innovation in the retail market. This would also not achieve our objective to make the licence more future-proof, as we would have to make further changes as the market evolves, potentially causing suppliers to incur more costs.
- 1.29 With respect to the clearer information tools, one alternative could be retaining all the tools, but amending the methodologies. However, we consider that would be sub-optimal because there would be a potential for these tools to be inaccurate and therefore misleading to consumers. Moreover, this approach may act as a barrier to future innovation which does not fit the prescribed methodology.
- 1.30 The 'do nothing' approach is not an option either, given the issues that currently surround the information tools and the fact that these rules will become obsolete and would potentially provide misleading information to consumers following the



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proposed 'Simpler' licence changes.²⁹ In the counterfactual scenario, new tariffs that come onto the market following the implementation of the CMA tariff rule remedies might not be compatible with the current methodologies.

²⁹ Ofgem, Statutory Consultation on the removal of the RMR Simpler Tariff Choices rules

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Table 1 - Possible impacts of 'simpler rules' changes (removal and replacement with new principles)

	Benefits (incl avoided costs)	Costs	Unintended consequences (incl risks)
Consumers	<p>Greater and better choices</p> <p>Improved consumers' engagement because of an increase in the number of innovative and more tailored tariffs</p> <p>Remedies will intensify competition between suppliers by amending elements of the regulatory framework to increase the incentives to engage disengaged customers</p> <p>Removal of the four-tariff rule improves scope for competition between PCWs for customers switching energy suppliers, to exert downward pressure prices</p>	<p>No costs associated with the proposed changes</p>	<p>Medium-term risks</p> <p>The new principles will require a certain degree of interpretation and suppliers may go through a process of 'trial and error' before settling on a firm interpretation. Some consumers may be impacted by this process</p> <p><u>How we mitigate this risk:</u> we will endeavour to engage with suppliers to ensure that effective protection measures are in place while all parties adapt to the new principle-based regime</p> <p>Increase in the complexity of information could lead to a reduction in ability of consumers to make more informed choices</p> <p><u>How we mitigate this risk:</u> Our proposed changes to the information tools and the new principles should enable suppliers to provide tailored and relevant information to customers, combined with the incentives of PCWs to provide consumer-friendly information and cross-market comparisons</p> <p>Increasingly complex products and constraints on consumers' time means they may choose to make decisions by limiting their search, leading to a softening of competition</p> <p><u>How we mitigate this risk:</u> PCWs have an incentive to facilitate switching, enabling consumers to find good deals</p>
Suppliers	<p>More scope for developing innovative offers to attract/retain consumers</p> <p>Decreased cost of seeking derogations and of complying with too many detailed rules</p>	<p>One-off</p> <p>IT costs of updating their systems</p> <p>Training costs to bring staff up-to-date with both the new regulatory requirements and any internal changes resulting from the new regime</p> <p>Legal costs, eg for seeking legal advice on</p>	<p>Short-term</p> <p>Initial uncertainty about the new principles could initially inhibit innovation as it may take some time for suppliers to adapt to the new regulatory framework</p> <p><u>How to mitigate this risk:</u> we have been engaging already with suppliers to ensure everyone understands our ambition for the</p>

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		<p>interpretation of the new licence requirements</p> <p>Ongoing</p> <p>Potentially and depending on individual supplier behaviour, additional costs to provide info to Ofgem for monitoring purposes besides what it is already conducted</p> <p>Potential additional costs of increased engagement with regulator</p> <p>Potential increased compliance costs for seeking legal advice on interpretation of/compliance with the licence</p>	new regulatory regime before putting it into place
Ofgem	<p>More effective regulation through a more targeted approach to monitoring and engagement</p> <p>More efficient regulation through increased ability to spot issues and act only on those that could put consumers at risk</p> <p>Decreased cost of assessing derogation requests</p>	<p>Ongoing</p> <p>Potential costs linked with new monitoring requirements that might need to be introduced to keep pace with market changes, but overall burden of monitoring activities should not increase.</p> <p>Additional costs of increased engagement with suppliers – but this would be proportionate to the risk their activities could pose on consumers</p>	
TPIs/PCWs	TPIs will be better able to compete with each other and with suppliers (eg through exclusive tariffs)	<p>Ongoing</p> <p>PCWs may face costs of updating databases as fast as new tariffs and deals appear</p> <p>Potential costs of adapting methodologies to account for the wider variety of tariffs</p>	

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Table 2 - Possible impacts of 'clearer tools' changes

	Benefits (incl avoided costs)	Costs	Unintended consequences (incl risks)
Consumers	<p>(PP) Benefits derived from PP not becoming inaccurate or misleading should different and innovative tariffs come into market</p> <p>(CTM) Benefits derived from the tool are maintained.</p> <p>(TIL) Consumers still able to access all the key information about their tariff, designed to make comparison and switching easier.</p> <p>Improved customer understanding, avoided confusion without undermining competition, and improved consumer engagement to reap the benefits of switching</p>	<p>No costs associated with the proposed changes</p>	<p>Medium-term risks</p> <p>A lack of standardised methodology for the information tools might reduce consumer understanding and engagement</p> <p><u>How we mitigate this risk</u>: PCWs will play a key role to ensure cross-market consistency. When appropriate and based on results of monitoring, we will issue guidance to suppliers on tools to avoid confusion among customers</p>
Suppliers	<p>(PP) Freedom and opportunity to innovate and deliver better information to consumers.</p> <p>(TCR) Savings resulting from no longer being required to provide the TCR on customer communications (including TIL)</p> <p>Decreased cost of seeking derogations</p>	<p>One-off</p> <p>Costs associated with developing own methodology for estimated annual costs, updating this across systems and customer communications, marketing, and co-ordination with PCWs</p> <p>Costs of training staff, legal advice, etc</p> <p>Ongoing</p> <p>Ongoing costs of keeping information tools methodologies up to date</p> <p>Onus of developing and maintaining methodologies that are internally consistent, transparent and accurate</p>	
Ofgem	<p>Decreased costs of assessing derogation requests</p>	<p>Ongoing</p> <p>Potential additional costs if monitoring activities increase, although we expect changing the scope of the activities rather than the scale</p>	
TPIs/PCWs	<p>More scope for using innovative ways to attract consumers and sell products</p>	<p>Ongoing</p> <p>Costs should be included in costs set out in table 1 above</p>	

Sales and marketing - Assessment of the impacts of proposed changes

- 1.31 From our qualitative analysis, we consider that revising the principles in SLC 25 and removing almost all of the prescription is likely to have some benefits and costs.
- 1.32 With respect to the benefits, we expect both consumers and suppliers to benefit from the proposed changes, both in terms of better engagement and experience for consumers, better protection for other types of sales and marketing and greater scope for innovation for suppliers. Looking at the costs, we expect them to be minor and largely upfront with no substantial ongoing costs. The exception to this would be if the requirement to keep records for two years is extended to include telesales. Upfront costs would include those incurred to update the IT system, train staff and seek legal advice. Ongoing costs would largely be monitoring costs, but suppliers already collect complaints data and pass it on to us for monitoring purposes. We do not expect major changes to our ongoing monitoring activities on sales and marketing in the short term.
- 1.33 We recognise that our proposal to increase scope of the requirement for suppliers (and their Representatives) to keep records of telesales for two years may increase costs for suppliers. We understand that it is standard practice to record telephone calls so consider that the increase in costs will largely be related to increasing the number of calls that are recorded, if they are currently on a sampling basis, and the storage for retaining records. We are interested to understand if suppliers agree with this and what they consider the scope of these costs could be.
- 1.34 We are considering how monitoring and engagement could change as result of moving to a more principles-based regulatory regime. Should we change our intended approach to monitoring, we will revisit our assessment.
- 1.35 In our assessment, we have also identified some potential unintended consequences. To mitigate this, we will monitor how suppliers embed the new principles and take enforcement actions should we consider that actions of suppliers are causing detriment to consumers. We will also hold a Challenge Panel focussed on sales and marketing. This would be an opportunity for us to gather evidence on how suppliers are incorporating the new principles in their activities. It will also inform our thinking on how to operationalise the new licence condition.
- 1.36 It is also likely that the transition to the new sales and marketing principles would lead to a period of time where parties will need to try and test the new regime. We recognise that some consumers could potentially be affected by this. We want to minimise this risk for consumers and, while recognising the onus on suppliers to get things right, will adopt an open and collaborative



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approach with suppliers to ensure adoption of the new principles happens smoothly.

- 1.37 We do not expect environmental impacts or impacts on health and safety as result of the proposed changes.

Can the outcomes be achieved in another way?

- 1.38 We considered whether the outcomes regarding sales and marketing set out in the previous sections could be achieved in some other way. One reason for changing the licence condition is that it covers only selected sales and marketing activities (face-to-face and telesales), while nowadays consumers are approached through many different channels. We therefore want a licence condition that could cover all current marketing activities and be future-proofed should other channels be used in the future. The proposed licence condition achieves both our aims.
- 1.39 Do nothing is not an option either, given the rapidly changing energy market and the potential scope for innovation in the products and services offered by suppliers. We want suppliers to focus more on the outcomes they are achieving for their customers, instead of following a box ticking approach to compliance, which is what prompted us to propose reform of regulation in this area.

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Table 3 - Possible impacts of SLC 25 changes

	Benefits (incl avoided costs)	Costs	Unintended consequences (incl risks)
Consumers	<p>Sales and marketing activities targeted to them, thus improved understanding of offers available</p> <p>Removing the prescription around face-to-face sales may enable suppliers to develop innovative ways to engage with disengaged consumers (eg those without the internet)</p> <p>Suppliers may also be more willing to contract with TPis to engage consumers</p> <p>More explicit protection against pressure selling</p>	<p>No costs associated with the proposed changes</p>	<p>Medium-term risks</p> <p>The new licence will require a certain degree of interpretation and suppliers may go through a process of 'trial and error' before settling on a firm interpretation. Some consumers may be affected by this process.</p> <p><u>How we mitigate this risk:</u> we will endeavour to engage with suppliers to ensure that effective protection measures are in place while all parties adapt to the new principle-based regime</p>
Suppliers	<p>More scope for using innovative ways to attract consumers and sell products</p> <p>Lower enforcement costs than would have been the case as a result of focusing more on compliance, so suppliers are able to self-monitor, spot issues and resolve them before they become issues against which we would take enforcement actions</p>	<p>One-off</p> <p>IT costs of updating the systems</p> <p>Training and legal costs</p> <p>Any additional costs arising as result of the scope of sales and marketing being extended to include online activities.</p> <p>Ongoing costs</p> <p>Additional costs from requirement to keep records for two years</p> <p>Potentially, additional costs to provide info for monitoring activities besides what it is already conducted</p> <p>Potential additional costs of increased engagement with regulator</p> <p>Potential increased compliance costs or seeking legal advice on interpretation of/compliance with the licence</p>	

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<p>Ofgem</p>	<p>More effective regulation through a more targeted approach to monitoring and engagement</p> <p>More efficient regulation through increased ability to spot issues and act only on those that could put consumers at risk</p>	<p>Ongoing</p> <p>Potential additional monitoring costs if we decide to increase our monitoring activities on sales and marketing - but overall burden of monitoring activities should not increase</p> <p>Additional costs of new approach to engagement with suppliers - but this would be proportionate to the risks their activities could pose on consumers</p>	
<p>TPIs/PCWs</p>	<p>Moving from a long list of rules to a focus on consumer outcomes may increase suppliers' willingness to contract with TPIs to undertake sales and marketing activities on their behalf</p>	<p>One-off</p> <p>Increased complexity in the tariffs offered may require more training and updates to IT systems to display and calculate them correctly.</p> <p>Ongoing</p> <p>As suppliers gain confidence and develop innovative products, TPIs may need to keep updating their IT systems/websites</p>	

Conclusions and next steps

1.40 In this draft impact assessment, we considered the potential effects of reforming the RMR package and SLC 25 and, in doing so, relying more on principles to regulate how suppliers can help ensure consumers can make informed decisions about their energy supply.

Question 17: Have we captured all expected key impacts? If not, what else should we include in our impact assessment?

Question 18: What costs do you expect to incur as result of the proposed changes (both to the RMR package and to SLC 25)? Please provide a description and a range, if possible.

Question 19: What benefits (including avoided costs) do you expect to realise as result of the proposed changes? Please provide a description and a range, if possible.

1.41 Based on feedback from stakeholders and our own analysis we concluded that, overall, the costs are likely to be relatively small. In addition, some costs will only be incurred if suppliers choose to make changes to their current arrangements (eg developing innovative products). The potential benefits are quite large and include:

- Consumers will be able to access a greater and better variety of offers that better respond to their needs or preferences. Also, they will receive information on the offers and options available in a way more tailored to their understanding of and engagement with the market.
- Suppliers (both existing and new entrants) will have more opportunities to compete on innovative tariffs and, at the same time, find new ways to engage with consumers.
- Third parties (eg price comparison websites) will have more opportunities to strike competitive contracts with suppliers and offer exclusive offers to consumers, and to engage consumers through different channels.

1.42 We will consider the responses to this consultation and update the IA accordingly. We expect to publish an updated IA later this year.

Appendix 4 - Glossary

A

Acquisition tariff

A tariff that is available to new domestic customers only.

Annual Statement (also known as "Annual Gas / Electricity Summary")

A written document that suppliers must provide to each customer, each year. The Annual Statement contains a range of key tariff information, including tariff name, consumption over the previous 12 months and estimate of annual cost for the next 12 months.

B

Bill

A written document that suppliers must provide to each customer detailing the amount that a customer would have to pay for gas or electricity over their billing period.

Bundle product discount

Any form of payment, saving, rebate benefit or reward that is in any way linked to a Domestic Energy Supply Product, and which involves the provision of any goods or services which do not relate to energy supply. One example is a supermarket voucher.

C

Cheapest Tariff Message (CTM)

The CTM is a personalised message provided by a supplier to its customers about what the cheapest available tariff is with that supplier, including an estimate of how much the customer would save if they moved to this tariff.

Competition and Markets Authority (CMA)

A non-ministerial government department responsible for promoting competition, and preventing and reducing anti-competitive activities within the United Kingdom.

Confidence Code

The Confidence Code is a Code of Practice that governs independent energy price comparison sites. It requires its members to follow key principles providing

reassurance to consumers about the independence, transparency, accuracy, and reliability of the service.

Core tariff

The charges for supply of electricity/gas combined with all other terms and conditions that apply, or are in any way linked, to a particular type of contract for the supply of gas/electricity to a domestic customer excluding certain matters such as dual fuel discounts, variations in charges relating to payment method, appropriate surcharges and optional additional services/products.

D

Dead tariff

A tariff in respect of an evergreen contract which is no longer capable of being entered into by all domestic customers.

Derogation

A regulatory arrangement that relieves a licensed supplier from its obligation to comply with a requirement in its supply licence, in specific circumstances and to a specified extent. For more details, please see our RMR derogation guidance (available [here](#)).

Discount

Any form of payment, saving, rebate benefit or reward that is in any way linked to a Domestic Energy Supply Product. One example is the dual fuel discount.

Domestic consumer

A consumer that uses energy for non-commercial purposes.

Dual fuel

A type of energy contract where a customer takes gas and electricity from the same supplier (or two affiliated suppliers).

E

End of Fixed Term Notification (EFTN)

A communication from a supplier to a consumer, indicating that the fixed term period of the consumer's energy supply contract is due to expire, and setting out the arrangements that the consumer will default to and the options available to the consumer to act in response to this notification.

Estimated Annual Cost (EAC)

The estimated cost of energy to a consumer over a 12 month period, based on a specified methodology and the best available information about that consumer's consumption.

Evergreen contract

A tariff which is for a period of an indefinite length and which does not contain a fixed term period.

F

Final Report

The CMA's final report, published on 24 June 2016, which sets out the conclusions of the CMA's energy market investigation.

Fixed-term tariff

A tariff with a fixed end date.

L

Large Suppliers

The name collectively given to the six companies that hold supply licences and supply most of the energy to domestic households in the GB market. They are: Centrica plc (three retail brands, British Gas, Scottish Gas and Nwy Prydain in England, Scotland and Wales respectively), E.ON UK, Scottish and Southern Energy (SSE), RWE npower, EDF Energy and Scottish Power.

M

May 2016 workshop

A workshop hosted by Ofgem, on the 27 May 2016, on the CMA's remedies relating to the removal of 'RMR simpler' and the Confidence Code Whole of Market Requirement. Details are available on our [website](#).

Medium user

A consumer who annually uses 3,100 kWh of electricity or 12,500 kWh of gas.

O

Ombudsman Services: Energy (the Ombudsman)

Ombudsman Services: Energy provides alternative dispute resolution services to energy suppliers and network operators. The Ombudsman's principal aim is to receive complaints made by complainants in accordance with the Ombudsman's terms of reference and to consider and, where appropriate, investigate such

complaints in order to encourage or facilitate the terms of their resolution, settlement or withdrawal.

Online discounts

A discount provided to a customer with online account management.

P

Payment method

A method by which a consumers pays for energy. Payment methods are classified into three main categories: direct debit, standard credit and prepayment.

Personal Projection (PP)

See Estimated Annual Cost.

Prepayment meter

A type of meter that requires consumers pay for credit to their account. Their meter deducts credit from the account based on the amount of energy used by the consumer and the rates that apply to the consumer's tariff.

Prescription

Prescriptive rules specify detailed obligations that suppliers must meet. They may detail steps suppliers should take to deliver consumer outcomes (input-based) or specific outcomes that they must deliver (output-based).

Price Comparison Website (PCW)

A website that provides its users with the ability to compare (and possibly switch) their energy supply contract. For the purpose of this document, we include apps within this definition.

Price Increase Notification (PIN)

If a supplier increases the price of a tariff or varies any term which could cause disadvantage to the consumer, then under Ofgem's licence obligations it must notify the consumer at least 30 days in advance of the date on which the price increase (or other variation) takes effect.

Principal terms

The most important terms of a supply contract, including the charges, duration, amount of any termination fees and any terms which may reasonably be considered to significantly affect the evaluation by the consumer of the contract under which they are supplied with energy.

Principles

Principles-based rules contain less detail than prescriptive rules. As such, they give suppliers more flexibility in how to comply with them. For the purposes of this document, “principles” is used as shorthand for both high-level input-based rules (eg required behaviours) and high-level outcome-based rules (eg consumer service outcomes).

Provisional Decision on Remedies

A document published by the CMA on 17 March 2016, which outlines the provisional findings of the its energy market investigation, and the provisional remedies that the it proposed to address adverse effects on competition found by their investigation.

R

Retail Market Review (RMR)

Ofgem launched the Retail Market Review in 2010. As a result of this, in 2013 we introduced a range of reforms aimed at making the retail market simpler, clearer and fairer for consumers.

RMR remedy

The CMA’s recommendation for Ofgem to remove certain standard licence conditions (SLCs) concerning the ‘Simpler Tariff Choices’ component of the RMR rules and to make any consequential SLC amendments. As part of our implementation of this remedy, we are also consulting on affected aspects of the ‘Clearer Information’ component of the RMR rules, including the Tariff Information Label and the Personal Projection

S

Smart meter

A meter that provides measured gas or electricity consumption data for multiple time periods, and is able to provide the relevant supplier with remote access to such data.

Standard Licence Conditions (SLCs)

The legally binding conditions that licensed gas and electricity suppliers must meet to supply to domestic and non-domestic customers, in accordance with the Gas Act (1986) and Electricity Act (1989).

Standards of Conduct (SoC)

A licence condition (SLC 25C) introduced as part of the RMR with the aim of improving supplier behaviour, consumer trust and engagement in the market. The SoC require suppliers to treat domestic and microbusiness consumers fairly.

Standing charge

In respect of the supply of gas/electricity to a customer's premises, a monetary amount that is continuously chargeable to a customer on a daily basis.

Switching

The process of changing gas or electricity supplier, or changing to a new tariff with the same supplier.

Supplier (licensed)

Any person authorised to supply gas or electricity by virtue of a Gas Supply Licence or Electricity Supply Licence.

T

Tariff

The charges for supply of electricity/gas combined with all other terms and conditions that apply, or are in any way linked, to a particular type of contract for the supply of electricity/gas to a domestic customer.

Tariff Comparison Rate (TCR)

A metric that allows consumers to compare the price of energy tariffs on a like-for-like basis.

Tariff Information Label (TIL)

A table of key facts that allows consumers to compare the price and non-price features of energy tariffs on a like-for-like basis.

Termination (exit) fees

Where part of their contract, these are the contractually agreed fees a customer must pay if they terminate their contract before the agreed contract end date.

Third Party Intermediary (TPI)

Third party intermediaries (TPIs) are organisations or individuals that give energy related advice, aimed at helping users to buy energy or manage their energy needs, and facilitate switches. TPIs include switching sites, energy brokers and any company that offers support with energy procurement.

Time-of-Use (ToU) tariff

A tariff where the charges vary by the time when the energy is consumed, for example through different unit rates for energy consumed during the day and during the night.

U

Unilateral variation

An amendment to the terms or conditions (including price) of a consumer's energy supply contract, which is provided for in the contract and is at the sole discretion of the supplier.

Unit rate

The monetary amount that is chargeable in respect of each unit of gas/electricity consumed.

W

White label tariff

A tariff that is offered by a licensed energy supplier but uses the brand name of a non-licensed entity (excluding a brand name of the corporate group to which the licensed supplier belongs). The price and terms of the tariff may replicate those of the licensed supplier or may be modified to suit the specific needs of the brand. The legal relationship between the customer and the licensed energy supplier remain unchanged irrespective of the brand utilised for sales and marketing purposes.

Appendix 5 - Feedback Questionnaire

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 that 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. Do you have any further comments?

Please send your comments to:

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