

Helping consumers make informed choices – proposed changes to rules around tariff comparability and marketing – E.ON response

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 (i.e. calculated in the same way by any given supplier for all tariffs and for all customers over time)?

1. We agree in principle, but we do have some concerns.
2. An estimate of the cost of a tariff based on a customer's anticipated consumption is a key tool to help customers and potential customers choose between tariffs.
3. However, an *annual* cost figure may not always be the most appropriate: for example, a supplier might offer a six month fixed term tariff over the summer months only, in which case annual cost is irrelevant and could be misleading.
4. In our response, therefore, we have used 'relevant estimated cost' (**REC**) rather than 'estimated annual cost'.
5. Even though the REC may be for different durations, suppliers and price comparison websites (**PCWs**) will need to develop methodologies to enable customers to easily compare the costs of tariffs.
6. We agree that the REC should normally be calculated in the same way by a supplier. Each supplier could publish their methodology on their website.
7. However, a supplier may adopt a particular calculation of the REC only to discover at a later time that it restricts its ability to introduce innovative tariffs. It is therefore important that a supplier can amend its calculation methodology from time to time to cater for new tariff offerings.
8. There is a contradiction between Ofgem's policy intentions for suppliers and those for third party intermediaries (see the proposed revised wording of the Confidence Code as shown in Table 4 of Ofgem's consultation 'Confidence Code Review 2016' dated 3 August 2016). The policy intent for third party intermediaries who are signatories to the Confidence Code is not to include *any* additional discounts or costs in the REC and only those discounts relating to payment methods, dual fuel, paperless billing and membership fees. For suppliers, there are no such restrictions.
9. If PCWs do not take account of all additional features, it may lead to good value tariffs being missed by customers as they will show lower down comparison tables than they would do if all features were taken into account. This could result in limiting competition, through a reduction in innovative tariff structures and customer difficulty in being able to make a fully informed choice.

(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.

10. Suppliers should have the flexibility to provide RECs based on different assumptions or methodologies in order to cater for innovative tariffs.
11. In our response to Question 1a we have set out our thoughts on flexibility of methodologies for the calculation of the REC.
12. Suppliers should have the flexibility to use different assumptions providing they are reasonable. See our response to Question 2 for more details of this.
13. For example, where the objective of a particular tariff is to drive different behaviours (energy efficiency or usage at different times of day), it may be necessary to make assumptions about the resulting changes to a customer's consumption in order to give a reasonable assessment of the likely costs.
14. If a tariff requires a customer to exhibit a particular behaviour in order to benefit from savings (for example, £5 off for every meter read provided), a supplier should be able to offer multiple RECs to a customer during sales conversations to help them understand the effect of not behaving in the way expected.

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?

15. We support some elements of Ofgem's proposal but have serious concerns with the relevant characteristics that are set out in paragraph 2.13 of the consultation.
16. It is important that the REC is: personal to the customer; takes account of all the costs and benefits of a tariff; is presented clearly; is not misleading; and is based either on up-to-date relevant consumption information provided by the customer or a reasonable estimate - for example, where there is no data or where a behavioural change is anticipated.
17. It is important to remember that any forecast can only ever be an estimate: it will be based on a number of assumptions and is subject to a customer continuing to behave in the way they have done in the past. It would therefore be more appropriate to oblige suppliers to provide a 'reasonable estimate' which is justifiable.
18. We agree that suppliers should, where appropriate, use historic consumption data as the basis for the calculation of the REC. Where that is not available or it is not appropriate, we have serious concerns over the proposal to introduce new

prescription, i.e. a list of characteristics to use in order to estimate a customer's REC. Not only would this result in long and onerous telephone conversations, we believe it would add little to the accuracy of the estimate. In addition, it may discourage customers, particularly those who are vulnerable, from switching if they believe the conversation is going to be both difficult and lengthy. The REC should be seen as a tool to help compare between tariffs rather than as an accurate forecast of their costs over the life of a tariff. Asking additional questions might change the consumption figure slightly but if customers' responses are guesses (e.g the type of construction of the property or the amount of insulation), the results are just as likely to be less 'accurate' as more. In any case, such changes are unlikely to be sufficiently significant to alter a customer's choice of tariff.

19. Indeed, there is a good case here to justify the use of Ofgem average consumptions, particularly if a supplier's tariff costs are not particularly consumption sensitive. The comparable costs of different tariffs would, in that case, remain the same over a wide range of consumptions.

Question 3

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

20. We welcome this suggestion; we believe it will result in customers ending up on better deals.
21. We agree that the customer could be moved to another fixed term tariff at the end date, providing:
 - there is no exit fee and the customer can switch tariff at any time;
 - the terms and conditions of the new fixed term are broadly similar to those for the original fixed term (duration, expected behaviours etc);
 - the new fixed term is cheaper than the Relevant Cheapest Evergreen Tariff (RCET), but not necessarily the supplier's cheapest fixed term tariff or cheaper than their current tariff.

At the point of agreeing a fixed term tariff, it is important that the customer understands what could happen at the end of the fixed term, i.e. they might be defaulted either to a further similar fixed term or to the RCET. The end of fixed term notice will provide the customer with the details of the default tariff.

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?

22. We agree with the removal of the Tariff Comparison Rate (**TCR**). This method of comparing tariffs has not captured the trust of the public and it has proved impossible to develop a suitable calculation for time of use tariffs. It is also probable that the TCR calculation will not work for many new, innovative tariffs.
23. We agree with retention of the Tariff Information Label (**TIL**). We believe it is extremely useful to customers to be able to view all the key information about tariffs in a consistent format.
24. We agree that some changes will be necessary to cater for new features that it is anticipated suppliers will offer. There should be more flexibility for suppliers to innovate and differentiate their tariffs from each other and from other suppliers.
25. We would also recommend, as part of this review, the removal of the 'Frequently asked questions' section of the TIL. The information contained within the TIL should relate purely to the tariff itself: any additional information is likely to distract customers from the purpose of the TIL.
26. We do believe, however, that the answers to questions in the 'Frequently asked questions' section are useful to customers. These answers could be shown on Zone F of the annual summary ('easy to understand explanation of key industry terminology' – SLC31AS4.16(b)). Ofgem could also allow similar information to be provided on end of fixed term notices and price increase notifications or remove prescription and allow suppliers to decide.
27. While we agree with the TIL where it is used for 'live' tariffs (i.e. tariffs which are currently available to customers), and also with its use on the end of fixed term notice to show the difference between a customer's current tariff and other tariffs, we do not agree with displaying all previous tariffs on suppliers' websites (SLC31B.4). The only tariffs of interest to customers are the tariff they are on and any other tariff currently available to them. We therefore recommend that Ofgem removes the requirements in SLC31B.4-6. We are not aware of any other industry where there is a requirement to publish all tariffs on a website.
28. If Ofgem decides to retain the provisions of SLC31B.4-6, the design of the new TIL must allow for no more than one TIL per tariff and only TILs for live tariffs should be shown. Currently there are multiple TILs for different preferences (payment method, dual fuel, online account management) which can be very confusing for customers; with the removal of the TCR it should only be necessary to show a single TIL. In respect of discounts incorporated within standing charges, these could be expressed as, say, 'a discount of £35 off your standing charge'.

29. While we agree that some customers find the Cheapest Tariff Message (**CTM**) useful, we feel there is some confusion in having both a cheapest similar tariff message and a cheapest alternative tariff message.
30. Customers generally have preferred payment methods and billing preferences, therefore we believe Ofgem should undertake research to establish which message customers find most useful. There are complexities in describing the difference between the two savings messages; the more detailed an explanation, the less inclined many customers are to read it. Long explanations take up more space and increase the length of communications, making them more daunting for customers who have reading or language difficulties.
31. There are likely to be increasing difficulties in explaining savings messages with the introduction of behavioural tariffs, as it will be important to caveat the fact that the savings are only likely to be achievable if the customer behaves in a particular way.
32. There should be greater flexibility as to what information can be provided within the CTM to enable suppliers to explain what behaviours might be required to achieve particular savings.
33. Removal of one of the messages should be relatively simple and quick for suppliers to achieve. Any further changes to the CTM may require suppliers to undertake system changes and conduct testing; adequate time should be allowed to facilitate this.

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?

34. See our responses to questions 1,2, 3, 4 and 6.

Question 6

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

35. We reiterate the concerns raised in our response to Question 1a) of our response. Allowing suppliers to include additional discounts and costs but requiring PCWs to exclude them would lead to confusion and distrust by customers and must be avoided.
36. Ofgem has proposed removing most of SLC22B (and moving the remainder), including all reference to bundles and reward points discounts. For the time being, we accept that definitions relating to these two items need to remain in the licence due to the calculation in the definition of Estimated Annual Costs. We anticipate that definitions relating to these items will be removed as part of Ofgem's statutory

consultation which is intended to follow on from this policy consultation. For example, use of the word 'bundle' has certain connotations and therefore causes confusion: it implies their continued existence, even though it is Ofgem's stated aim to remove such restrictions.

37. Ofgem has provided, in Appendix 2 to this consultation, a list of proposed consequential changes to licence conditions resulting from changes to Clearer Information tools. We do not believe this goes far enough: much of the advantage gained by removing certain prescriptive elements in the licence is made less effective by means of conditions still remaining and, with the introduction of principles based regulation, much of it will be unnecessary. We have proposed our own list of suggested changes to SLC1, which is provided in Appendix 1 of this response. It would also be necessary to remove reference to these definitions in other licence conditions. We would welcome the opportunity to discuss these in detail with you.

Question 7

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

38. The proposed policy objective is broadly the correct one.
39. We agree with the use of 'best value' as opposed to, for example, 'cheapest'. Some customers value certain elements above overall cost (for example, they may value receiving the hardware and app to control their heating now and paying a little more over the life of their contract). We also agree with the inclusion of 'preferences' for similar reasons. The structure of the policy objective will, we believe, encourage innovation.
40. However, there may be circumstances where a customer has preferences that are counter to their characteristics. For example, a characteristic may be that a customer's consumption pattern is such that they would benefit from a particular tariff that offers a standing charge and single unit rate but, despite advice, insist they would prefer a two-tier tariff. Another example might be that our customer is known to be elderly and on a low income; nevertheless, if that customer insists that their son or daughter has recommended they choose a complex tariff such as one that is indexed, as long as our advisor points out the risks (prices may rise or fall), that customer has a right to select that tariff. We therefore propose that the policy objective is '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/or* preferences.'
41. This policy objective could be added to the Standards of Conduct, SLC25C (**SoC**) and this would negate the need for many of the six narrow principles proposed by Ofgem.

Question 8

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

42. While we agree that the principles support the policy objective, we feel that, to a large extent, the SoC already adequately cover the requirements of the narrow principles.
43. We discuss each of the principles in more detail below.

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

44. In SLC25C.4(b)(i) and (ii) (SoC), there is a requirement that:

"The Standards of Conduct are that:

(a) ...

(b) the licensee and any Representative provide information (whether in Writing or orally) to each Domestic Customer which:

(i) is complete, accurate and not misleading (in terms of the information provided or omitted);

(ii) is communicated (and, if provided in Writing, drafted) in plain and intelligible language;"

45. The only difference between the provisions of Principle 1 and the requirements of the SoC as stated above is the use of 'understandable' rather than 'plain and intelligible'. This could easily be resolved by amending the wording in the SoC.
46. However, whether something is clear and easily understandable is a subjective standard. A customer might complain that they do not understand a particular tariff: the supplier would therefore have failed to 'ensure' clarity, even though, by the standards of the 'common man', such complaint might be unreasonable. Ofgem should undertake customer research to ensure that its own interpretation of such phrases aligns with that of the general public and not just a small number of individuals.
47. We believe the current test used by Ofgem: 'all reasonable steps', is more than adequate: it requires a supplier to evidence that it has carefully considered whether tariff terms and conditions are clear and easily understandable. The supplier might achieve this by various means but as long as it can show its actions were reasonable and that it did not omit any important considerations, it will be deemed as having taken all reasonable steps.
48. Should Ofgem decide to include the policy objective as a standard licence condition there would be no need for Principle 1; the policy objectives requires that 'Consumers are able to make informed choices by understanding which of a

supplier's tariffs offer the best value ...' If terms and conditions were not clear and easily understandable, customers would not be able to make informed choices.

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

49. We understand Ofgem's concerns about the need to ensure tariffs are sufficiently different to enable customers to make a choice between them, and the need to avoid 'gaming' behaviour by some suppliers.
50. As stated for Principle 1, we have concerns about the standard 'must ensure that'. We are also concerned that 'easily distinguishable' is a subjective term. Ofgem should undertake customer research to ensure that its own interpretation of such phrases aligns with that of the general public.
51. We recommend that Ofgem does not include this principle but instead uses its policy objective.

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.

52. While we broadly agree with this principle, it is important to note that it would be for a customer to choose whether or not they wanted to make use of information, services or tools provided by a supplier.
53. Once again, we have major concerns about the use of 'must ensure that'. A complaint from a single customer should not be evidence that the supplier has not put in place the relevant provisions. As above for Principles 1 and 2, we believe the current test used by Ofgem: 'all reasonable steps', is more than adequate.
54. The wording 'needs and preferences' should be 'needs or preferences', as it is in Principle 6.

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.

55. SLC25C.4(a) states that:
*"The Standards of Conduct are that:
(a) The licensee and any Representative behave and carry out any actions in a Fair, honest, transparent, appropriate and professional manner;"*
56. We believe the wording of the SoC is already sufficient to cover the requirements of Principle 4, and therefore this principle is not necessary.

57. As with other principles, we are concerned about the use of the standard 'must ensure that': that is particularly the case where it applies to Representatives.
58. There are at least two different types of Representative:
- those organisations directly employed by a supplier as subcontractor. The supplier should be able to control activities carried out by these Representatives by means of contractual requirements and controls such as reporting, monitoring and auditing. These Representatives should easily be able to separate activities carried out for the supplier from activities carried out for other organisations and therefore commercial and competition concerns are minimal.
 - those who undertake sales on behalf of suppliers, i.e. PCWs. In some cases a supplier will contract with a PCW and pay commission for sales obtained on their behalf. In these circumstances, at the point where a customer chooses a particular tariff it is clear that the PCW is acting as the supplier's Representative. There may be more difficulty for PCWs to separate activities carried out for that supplier from activities carried out for other suppliers than for a subcontractor, and there may be some commercial and competition concerns. This is likely to make it more difficult for suppliers to control activities carried out on their behalf.
59. A licensee can have clear contract clauses, undertake regular monitoring and auditing and take remedial action but would still not be in a position to *ensure* a Representative acts in a particular way. This is particularly the case for PCWs. Therefore a supplier cannot 'ensure' a Representative acts in a particular way, only 'take all reasonable steps'.
60. PCWs are separate commercial organisations providing customers with a service, whereas subcontractors are employed by a supplier to perform specific activities. This difference needs to be recognised by Ofgem.
61. Our preference would be for all PCWs to be licensed; this would enable a regulator to monitor their activities directly and take enforcement action directly on PCWs where necessary. A second option would be for PCWs to be required to sign up to the Confidence Code, which could then be strengthened to allow Ofgem to monitor PCWs directly.
62. Licensing of PCWs would reduce the cost of compliance as it would only need to be done once, whereas currently it is done by each supplier individually. Not only is this inefficient, it also increases costs for suppliers and therefore prices for customers. It also causes problems for PCWs who potentially have to deal with different interpretations of regulations by different suppliers.

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.

63. Any attempt to mislead or use inappropriate tactics when selling or marketing to domestic customers must surely significantly favour the interests of the licensee and give rise to the likelihood of detriment to the Domestic Consumer.
64. Indeed, Ofgem has recently announced an investigation into allegations of the use of such tactics by a licensee and has stated it is looking at whether there is a breach of SLC25C.
65. We do not therefore believe there is any need for this principle.
66. If Ofgem decides to retain this principle, we would again be concerned about the use of 'must ensure that'. Providing a supplier has set out clear guidelines and ensured all employees are aware of them, the unsanctioned actions of a single employee or contractor should not necessarily require Ofgem to take enforcement action. Suppliers should take immediate steps to deal with any instances it is made aware of and only if it fails to do so would enforcement action be necessary. We believe 'all reasonable steps', is more than adequate.

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.

67. Suppliers may not choose to 'recommend' products or services; the licence requirement is to 'offer'. For the most part, suppliers only offer their tariffs to customers, allowing customers to make their own choice.
68. We do not understand the reference to 'products or services': suppliers offer tariffs, with or without additional products or services. The licence definition of Tariff is '*... the Charges for the Supply of [Gas/Electricity] combined with all other terms and conditions that apply, or are in any way linked, to a particular type of Domestic Supply Contract or particular type of Deemed Contract*'. References to 'products or services' throughout the licence should be amended to 'Tariffs'.
69. We have some concerns about the use of the word 'appropriate'. For example, it might be considered that a tariff that is linked to a particular index (and therefore there are risks of prices going up as well as down) might not be 'appropriate' for a customer on a low income. However, that customer may be highly intelligent and fully aware of the risks they are taking. It is for customers to determine what is appropriate for them, not suppliers.
70. SLC25C.4(b)(iii) states:
"The Standards of Conduct are that:
(a) ...

(b) the licensee and any representative provide information (whether in Writing or orally) to each Domestic Customer which:

(i)...

(ii)...

(iii) relates to products or services which are appropriate to the Domestic Customer to whom it is directed;"

71. We believe that minor changes to the SoC could adequately achieve the requirements of this objective:
- changing the reference to 'products or services' to 'tariffs'; and
 - changing 'the Domestic Customer to whom it is directed' to 'that Domestic Customer's needs or preferences'.
72. These changes would negate the need for Principle 6.
73. If Ofgem decides to retain Principle 6, the phrase 'products or services' should be changed to 'Tariffs'.
74. Further, as discussed with reference to other principles, the requirement 'must ensure that' should be changed to 'take all reasonable steps', particularly with reference to Representatives.

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?

75. We have discussed our concerns in relation to the proposed principles in detail in our response to Question 8.
76. There is a particular issue with regard to interpretation of the principles. In particular, we do not believe the higher standard of 'must ensure that' is practicable, particularly with respect to Representatives.
77. We are disappointed that Ofgem has ruled out any form of arbitration where a supplier's interpretation of prescriptive rules or principles differs from its own. Phrases such as 'easily distinguishable' are subjective; in the absence of a third party impartial opinion, Ofgem should undertake rigorous customer research to be sure its own interpretation of such phrases is the same as the majority of customers.

Question 10

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

78. As previously stated, we believe the principles are either already covered by SLC25C, or SLC25C could be adapted to cover them. We do not believe the changes we have proposed to SLC25C would result in differential impacts across different types of suppliers. Indeed, we believe they will level the playing field, ensuring that all suppliers, and customers of all suppliers, are treated equally.

Question 11

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

79. We do not believe there is any need for both the narrow principles and the policy objective: our preference is to include the policy objective in the SoC and make some minor amends to the SoC to cater for certain elements of the six narrow objectives, as discussed in our response to Question 8.

Question 12

Do you agree that we should expand the scope of SLC25 to apply to all sales and marketing activities? Please explain your answer.

80. As the phrase 'sales and marketing' does not use initial capital letters, we assume it is not to be interpreted as it is in the licence, but in its pure dictionary meaning.
81. We do not believe it is necessary to expand the scope of SLC25 to apply to all sales and marketing activities at this stage.
82. Online sales are led by customers and used mainly by those who are engaged in the energy markets. There is less likelihood that such customers will be misled.
83. SLC25C.4 already requires licensees to provide information to customers that is complete, accurate and not misleading and is communicated in plain and intelligible language. It further requires that information should relate to products or services [tariffs] which are appropriate to the customer and is otherwise fair both in terms of content and how it is presented (with more important information being given appropriate prominence).
84. We recommend that Ofgem delays its decision to expand the scope of SLC25 until new/revised principles have bedded in to allow time to determine whether there are potential issues in other sales channels.

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 increases in costs.

85. We do not support this proposal.
86. The costs of introducing and managing this requirement would be significant and would need to be socialised across our domestic portfolio.
87. Such a requirement is also likely to have a disproportionate financial burden on smaller suppliers. Not only would this restrict their activities in the market, it could also act as a barrier to entry.
88. It is the responsibility of suppliers to decide how best to achieve good outcomes for customers. This may or may not involve keeping records for two years.
89. There is already a burden on suppliers to defend their position should it be deemed necessary for Ofgem to investigate a supplier's behaviour. Suppliers should be able to determine their own means of providing such defence; prescribing that records of all sales and marketing be retained for two years goes against the tenet of principles based regulation.

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 (e.g. impacts on PCWs, increased costs)?

90. We refer you to our response to Question 13.
91. Any requirement for PCWs to retain records of sales could currently only be captured through contracts suppliers have with them. It would take time to negotiate changes to existing requirements, and PCWs would want to align requirements for all suppliers to avoid additional costs.
92. Such a requirement on PCWs is likely to increase their costs, which they would pass on in their commission charges. Those increases would have to be socialised to all of a supplier's domestic portfolio.

Question 15

Do you agree with our proposal to remove the prescription from SLC25? Are there any other areas where you think prescription still needs to be retained to maintain consumer protection?

93. We support the removal of prescription from SLC25. We believe that the requirements are, to a large extent, already covered under SoC, and remaining

requirements could be included within the SoC as discussed in our response to Question 8.

Question 16

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

94. We do not feel there is adequate information to respond to this question fully. We would like Ofgem to provide more information about its methodology as it develops and consult further at a later stage.
95. The methodology should not apply to principles relating to sales and marketing as these are there only to replace the prescriptive rules in SLC25: the measure in respect of these principles should be whether principles are at least as effective as the previous prescriptive rules. However, as we have already stated in our response we do not believe there is any need for these principles as they can easily be covered under SoC.
96. In respect of the tariff comparability principles, we agree with the first two objectives stated in 1.2 of Appendix 3 of the consultation. The third objective should be reworded to state 'Ensuring suppliers continue to put consumer interests at the heart of their businesses.'
97. In question 2, paragraph 1.5 of Appendix 3 of the consultation, it is not clear which issues Ofgem means in the phrase 'address the issues we identified'. Will these be identified as part of question 1? If so, question 1 should be changed to "Determine any issue with the level of consumer engagement in the energy market and its consequent effects."
98. We have some concerns about the baseline Ofgem will use. Ofgem announced on 6 January 2016 that there were approximately one million more switches in Jan-June 2016 than in Jan-Jun 2015. It is not clear at present whether this is a blip due to particularly low prices or an indication of greater engagement in the energy market. Depending on which it is, any measurement of changes resulting from the RMR changes or introduction of new principles could be skewed.
99. We would encourage a methodology that neutralises external factors (political or media activities, wholesale price spikes or troughs, non-energy price changes etc). The methodology should focus on the effect purely of the licence condition changes.

Question 17

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

100. We believe there are some key impacts that Ofgem has missed.

101. The decrease in costs of complying with too many detailed rules should be balanced against the costs of complying with principles. Indeed, the cost of such compliance is likely to be greater, as every decision will require detailed review, analysis, customer research etc. Principles require significantly more careful consideration than prescriptive rules. We would therefore like Ofgem to add to Table 1 of Appendix 3 a one-off cost for suppliers relating to developing a new decision-making framework, as well as an ongoing cost impact for suppliers as follows: “Additional costs relating to the additional decision-making process that will be necessary to ensure compliance.” These costs are separate from and different to costs of legal advice.
102. In Table 2 there should be recognition that there are likely to be some one-off costs for suppliers for making changes to the TIL.
103. The impact of increased activities by PCWs should be measured. As Ofgem has noted, much of current switching activity involves PCWs and we believe this will continue to increase as they move into telesales and face-to-face activities. As their influence in energy markets increases, the tenuous influence suppliers already have over their activities when acting as a Representative will be eroded even further.
104. We also have concerns, as expressed earlier in Question 1a) of our response, about the different REC methodologies for suppliers and PCWs. We believe this will result in customer confusion and distrust. Ofgem need to be able to measure this impact and take action swiftly if our perceived outcome is realised.

Question 18

What costs do you expect to incur as a result of the proposed changes (both to the RMR package and to SLC25)? Please provide a description and a range, if possible.

105. We have undertaken some high level analysis on the one-off costs of making the changes proposed. To provide more accurate estimates will take more time, technical resource and information. The results are shown below.

Proposed change	Estimated costs	Comments
Removal of TCR/changes to TIL	<£500k	This includes website changes and changes to all customer communications, plus testing
Changes to personal projections	>£1.5m	This includes developing a methodology, system changes and testing
Changes to CTM	£750k - £1.5m	This includes potentially removing the cheapest similar tariff messaging

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Changes to default tariff at the end of a fixed term	>£1.5m	This would involve decommissioning of current end of fixed term process, integration of new end of fixed term process, testing, amendments to fulfilment and changes to support the suppression of exit fees
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106. There will also be ongoing costs of monitoring that our personal projection methodology remains fit for purpose and making any changes necessary. It is not possible to provide a cost for these; it will depend on what changes are needed.
107. With regards to changes to SLC25, it is not possible to provide an indication of these costs. They will be incurred on an ad hoc basis and are likely to include consulting our internal legal teams or external teams, as appropriate.
108. There would be a significant cost involved in retaining face-to-face and telesales records for two years: we have been unable, at this stage, to establish an estimate. Details of all communications sent to customers as part of the switching (supplier or tariff) process are already recorded in our systems and retained for as long as the customer record is retained.

Question 19

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

109. We believe there are benefits to customers from most of these changes and therefore we may see a small reduction in the number of enquiries/complaints. Any avoided costs will be minimal.
110. Costs are likely to be both upfront (additional training for employees, development of new processes, legal advice) and ongoing (monitoring, training updates and refreshes, legal advice).

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?

111. Ofgem should monitor the effect of allowing suppliers and PCWs to develop their own RECs, in line with our earlier comments.
112. Any monitoring Ofgem undertakes on complaints should not be based purely on numbers of complaints. Those suppliers who do not adequately signpost Citizens Advice or the Ombudsman: Energy are likely to see lower levels of complaints. A more rounded view should be provided by including additional factors, such as the time it takes to resolve complaints.



113. Ofgem has indicated it wishes to have more open engagement with suppliers. It is important that suppliers are able to confide in Ofgem and obtain good, timely advice and a steer in the right direction. A supplier needs to have confidence that it can take its issues to Ofgem with proposals for redress, and that Ofgem will support them without immediately taking enforcement action. Only where a supplier does not appear to be working towards optimum customer outcomes despite Ofgem's steer should an investigation be instigated.

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?

114. As detailed in our response to Question 8, we have major concerns about the use of 'must ensure that'. It is important that if Ofgem retains this level of requirement, suppliers are given some assurances as to how Ofgem intends to interpret it. Where a supplier holds an honest belief that they have 'ensured' something but Ofgem claims they have not, there should be the ability to go to arbitration.