

Domestic Supplier-Customer Comms Rulebook Reform

Energy UK Response – 21 June 2018

Introduction

Energy UK is the trade association for the GB energy industry with a membership of over 100 suppliers, generators, and stakeholders with a business interest in the production and supply of electricity and gas for domestic and business consumers. Our membership covers over 90% of both UK power generation and the energy supply market for UK homes. We represent the diverse nature of the UK's energy industry – from established FTSE 100 companies right through to new, growing suppliers and generators, which now make up over half of our membership.

Our members turn renewable energy sources as well as nuclear, gas and coal into electricity for over 27 million homes and every business in Britain. Over 730,000 people in every corner of the country rely on the sector for their jobs, with many of our members providing long-term employment as well as quality apprenticeships and training for those starting their careers. The energy industry invests £12bn annually, delivers £88bn in economic activity through its supply chain and interaction with other sectors, and pays £6bn in tax to HMT.

This is a high-level industry view in response to Ofgem's *Domestic Supplier-Customer Communications Rulebook Reforms Policy Consultation*; Energy UK's members may hold different views on particular issues raised by the consultation and we expect them to respond individually. We would be happy to discuss any of the points made in further detail with Ofgem or any other interested party if this is considered to be beneficial.

Executive Summary

Energy UK fully supports the move away from prescriptive licence conditions to a more principles-based approach that could allow unprecedented innovation in customer communications, improving customer outcomes and facilitating greater engagement. We welcome Ofgem's proposals in this consultation, and are pleased to see many of the recommendations being taking forward by Ofgem that were made in Energy UK's review of domestic supplier-customer communications.¹

However, while we support Ofgem's proposals, Energy UK believes that the reforms could have gone further in removing prescription to fully realise the consumer benefits of innovations in communications and ensure that the licence is truly technology-neutral, future-proof and more reflective of consumer preferences. Our review concluded that Ofgem's amended Standards of Conduct (SoC) and Informed Choices principles provided a broad framework that offered sufficient regulatory oversight in relation to the six key areas for customer communications that Energy UK identified. As a particular example, the review recommended that the supply licence should not stipulate specific forms of communication, such as a Bill or statement of account.

¹ [Rules of engagement: Putting customers at the heart of communications](#), Energy UK, September 2017

Energy UK believes that the proposals that Ofgem is putting forward in this consultation should not mark the end of its work to reform the customer communications rulebook, and we would welcome the opportunity to continue to work with Ofgem in delivering a more principles-based regulatory regime. In particular, the UK's imminent departure from the European Union (EU) could open up new opportunities to remove prescriptive conditions that are a result of EU directives, such as on energy efficiency or the frequency requirements for traditional credit customers for Bills.

Ofgem have not put forward a definitive timeline for the implementation of these reforms. Energy UK believes that the implementation should not be unduly delayed, and if Ofgem finds that the process is taking too long it should consider market-wide derogations to allow consumers to benefit from innovation in communications as soon as is possible.

Detailed Consultation Response

Q1 - Do you agree in general with our proposed reforms to the rules related to supplier-customer communications?

A. We believe that the current level of prescription is too high and restricts suppliers' in their ability to tailor messages to customers and to ensure that key messages are clearly understood. Industry changes and technological improvements mean that the nature of an effective communications solution is not static. The regulatory framework needs to be flexible and future-proof in order for suppliers to be able to continuously adapt in order to meet customers' changing preferences.

Energy UK is, therefore, fully supportive of the rulebook reforms being proposed by Ofgem in this consultation, and are pleased to see many of the recommendations that were made in Energy UK's customer communication review last year being taken forward.

Q2 - Do you think our proposals make appropriate use of principles and remove the right amount of prescription? Have we gone too far, or not far enough in removing prescription to enable suppliers to innovate?

A. Energy UK is generally supportive of the proposals being put forward by Ofgem. However, we do believe that there is scope to have been bolder in removing prescription and increasing the consumer benefits that could be brought about by innovation, in line with the recommendations made in Energy UK's review and summarised below. As such, Energy UK looks forward to opportunities in the coming years to deliver yet further simplifications to the customer communications rulebook.

One of the key recommendations that Energy UK made in its customer communications review was for Ofgem to be bold in the removal of prescription. The review also recommended that there was no need for further broad principles as the amended SoC and Informed Choices principles provided a broad framework which equipped Ofgem with regulatory oversight of the areas we identified as being fundamental to customer communications.

In particular, we recommended that the supply licence should not stipulate specific forms of communication such as a Bill or Statement of Account or specific frequency/timing, finding that an outcomes-focused approach would stimulate innovation among suppliers in order to meet the wide range of preferences across a diverse customer base.

Energy UK noted that there may be scope for some new narrow principles to provide clarity or ensure a common baseline of service in the following areas: know where to seek assistance in relation to their energy; know how to complain if something goes wrong; know what to do in an emergency; and, are aware of and understand contractual obligations, changes & events.

We do note that Ofgem is currently constrained in its ability to remove some prescription that has either been introduced by government or derived from EU requirements, such as the QR code or the frequency requirements for traditional credit customers for Bills. However, Energy UK believe it is important that once these proposals have been implemented that the drive for further simplification of customer communications rules is not abandoned. With the UK's imminent exiting of the EU, there may be scope to revisit some of the prescriptions derived from EU requirements and Energy UK would welcome the opportunity to work with Ofgem to facilitate this review.

Q3 - Do you think there are any areas of particular risk to Vulnerable Consumers that are not already addressed in this consultation and /or by the vulnerability principle in the Standards of Conduct?

A. Energy UK does not believe that there are any areas of particular risk to Vulnerable Consumers that have not already been addressed by Ofgem, or by the vulnerability principle in the Standards of Conduct.

Over the past few years, energy companies have proactively increased the support they provide to customers in vulnerable circumstances to ensure greater protection for those most in need. Energy UK has also recently launched a new, independently chaired Commission for Customers in Vulnerable Circumstances to explore how standards of care and support could be improved. The deadline for the Commission's call for evidence passed on 30th May and it will shortly begin a series of evidence sessions across the country to hear from a broad spectrum of stakeholders – from consumer groups, those representing the elderly and people with disabilities, experts on financial vulnerability and mental health charities among others.² The Commission will report by the end of 2018, and make recommendations for industry, Government, Ofgem and other stakeholders.

In addition to the work of the Commission, Energy UK will be separately developing a new 'Vulnerability Charter' to build on existing commitments and go further to support customers most in need.

Q4. Do you support our proposed changes to the rules regarding the (i)content, (ii)format, layout and wording, and (iii)frequency and timing of communications? If not, why not?

A. Energy UK supports the proposed changes.

Q5 - Do you agree with the key features of the new principles: (i)“Key Engagement Points”, (ii)“characteristics and preferences”, and (iii)our expectations of suppliers?

A. Energy UK supports the removal of prescriptive timing requirements and as such we are concerned with the vagueness of the usage of the term “throughout the year”. The phrasing could be read to be prescribing minimum timings for communications and implies that to be more than once a year. We would welcome clarity regarding Ofgem's rationale for including this wording, and we question the necessity of its inclusion. Energy UK is concerned that Ofgem may have minimum standards for communications in mind that are not being clearly articulated in the consultation, which we believe would undermine the benefits of moving towards a principles-based regulatory system.

Q6 - Do you support our package of proposals to change the current customer communications rules to “encourage and enable” engagement? Please explain your answer, in particular noting any consequences you envisage for consumer outcomes or suppliers' ability to innovate.

A. In relation to section 1a of the principle, the language should be amended to better reflect suppliers' ability to impact upon customer behaviour. As currently worded it seeks to require suppliers to show consumers “how” they may benefit financially from switching tariff/provider. Energy UK believes that suppliers are unable to show consumers “how” they may benefit, but could show them “that” they may benefit and recommend this is reflected in the drafting of the principle. This would be in line with the outcomes that Ofgem wants to see with consumer engagement.

Q7 - Do you agree with our definition of Key Engagement Points?

A. Energy UK welcomes both the intent and broad definition of Key Engagement Points and agree that it is reasonable. As noted previously, Energy UK believe that it will be important for Ofgem to avoid providing guidance or any other possibly prescriptive requirements to ensure innovation takes place.

Q8 - Do you support our package of proposals to change the current customer communications rules to ensure consumers are aware of, and can obtain, “assistance and advice”? Please explain your answer, in particular noting any consequences you envisage for consumer outcomes or suppliers' ability to innovate.

² [Call for Evidence](#), *The Commission for Customers in Vulnerable Circumstances*

A. Energy UK supports this package of proposals. However, the wording of the consumer outcomes could be amended to better reflect suppliers' abilities to impact upon consumer behaviour/knowledge:

- Suppliers are not able to ensure that consumer "understand", rather that they are provided with easily understandable information.
- Suppliers cannot ensure that consumers "know who to contact", but can ensure that consumers are provided with easy to find or understand information on who to contact.

Q9 - Do you support our proposed changes to the customer communications rules relating to "Bills and billing information"? Please explain your answer, in particular noting any consequences you envisage for consumer outcomes or suppliers' ability to innovate.

A. Energy UK generally supports the changes being put forward by Ofgem on Bills and billing information. However, as noted in our reply to question 2, we believe that there is scope to implement more ambitious reforms around this area in the future and welcome the opportunity to work with Ofgem on developing these proposals.

In paragraph 5.18 of the consultation, it states that Ofgem will require bills to be "provided" rather than "made available" as is currently required. We would welcome clarity from Ofgem on the specific concern they are seeking to address with this additional requirement, and the evidence based used in justifying its inclusion.

We are concerned that the additional requirement to proactively "provide" a Bill risks undermining the aim to be technology neutral and future proof, limiting innovation and potentially overriding customer preference. For example, if the consumer has actively chosen an app/web based service and does not want to directly receive Bills, would a push notification informing the consumer of a new Bill in the app suffice? In addition, some suppliers currently send a notification (via email, text or other means) to the customer to inform them that the Bill is ready to be viewed and Energy UK does not see a need for this to be ended. In particular, this process could be used to help protect against data protection breaches. Without an adequate rationale and evidence base for the additional requirement we believe it would be preferential to keep the same wording, i.e. "made available".

Q10 - Do you agree with the distinction between billing information and Bills?

A. Energy UK agrees with the distinction between billing information and Bills. However, we are concerned that prescribing the communications method regarding requests for payment of monies could inhibit future innovations in payment request and service provision. The requirement for a written Bill also places higher burdens on suppliers that could limit innovation to the detriment of consumers. As previously highlighted, Energy UK believes that billing remains an area that could benefit from further simplification.

Q11 - Do you agree our principle reflects the different needs and circumstances of different customer groups, including prepayment customers?

A. Energy UK believes that the principle broadly reflects the different needs and circumstances of different customer groups, including prepayment customers.

Q12 - Do you support our proposed changes to the customer communication rules relating to "contract changes"? Please explain your answer, in particular noting any consequences you envisage for consumer outcomes or suppliers' ability to innovate.

A. Energy UK generally agrees with the proposed changes. However, we are concerned that as it is currently worded the principle could be read to require a specific communication for a price change that is not disadvantageous to the consumer. Energy UK does not believe that a price change that is *not disadvantageous* needs a specific communication to be required by the licence, and would welcome Ofgem providing the evidence base that justifies the need for such an additional requirement.

In addition, while some prescriptive timelines are proposed to be remove, there are others that have not been addressed. These include those in SLC 23.2 and 24. If this is not due to an oversight, we

would welcome clarity as to why these have not been amended or removed in line with other timeline prescription.

Q13 – Do you agree with our proposal to no longer require suppliers to provide annual statements?

A. Energy UK welcomes and agrees with the proposal to no longer require suppliers to provide annual statements.

Q14 – Do you agree that the intended outcomes of the Annual Statement are reflected in our proposed new principles?

A. Energy UK agrees that the intended outcomes are reflected in the proposed new principles.

If you would like to discuss the above or any other related matters, please contact me directly on 020 7747 2931 or at steve.kirkwood@energy-uk.org.uk.