

The Retail Market Review – Implementation of Simpler Tariff Choices and Clearer Information

Decision

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Overview:

Following publication of our statutory consultation on 20 June 2013, this document notifies stakeholders of the Gas and Electricity Markets Authority's decision to proceed with licence modifications to give effect to Ofgem's Retail Market Review (RMR) proposals on Simpler Tariff Choices and Clearer Information. The new rules strip away unnecessary complexity in tariff choices and arm consumers with better, more relevant information on the available choices.

Following feedback from stakeholders we have clarified certain areas of our proposals to provide suppliers certainty on the effect of our rules on their businesses.

Licence holders, trade bodies representing licence holders and Consumer Futures will have 20 working days to decide (from the first working day after this document is published) if they want to appeal to the Competition Commission against the licence modifications. Barring any appeal the licence modifications will have effect from the relevant dates set out in this document.

Context

Ofgem’s principal objective is to protect the interests of both existing and future energy consumers. The RMR aims to make the market better at serving the interests of consumers and enable individuals to get a better deal from energy companies.

Following publication of our statutory consultation on the domestic RMR proposals relating to Simpler Tariff Choices and Clearer Information, this document constitutes our decision to make licence modifications to implement our policies.

Separately, we have already made our decisions to implement our domestic Standards of Conduct proposals and our full suite of proposals for businesses.

The RMR has links with our Consumer Vulnerability Strategy¹, Smarter Markets Strategy², our work on liquidity³ and our TPI programme.⁴ We are working to ensure our RMR proposals work in a complementary manner to these initiatives.

Associated documents

All documents are available at www.ofgem.gov.uk

- Domestic RMR policy intent and legal drafting workshop 10 May – Tariff minutes, 8 July 2013.⁵
- Domestic RMR Workshop 31 May – presentation, 1 July 2013.⁶
- Domestic RMR policy intent and legal drafting workshop 31 May – Minutes, 1 July 2013.⁷
- Domestic RMR legal workshops 13 May – Information Remedies summary, 1 July 2013.⁸

¹ For more information see the following link:

<http://www.ofgem.gov.uk/Sustainability/SocAction/Pages/SocAction.aspx>

² For more information see the following link:

<http://www.ofgem.gov.uk/Markets/sm/strategy/Pages/Strategy.aspx>

³ For more information see the following links:

<http://www.ofgem.gov.uk/Markets/WhlMkts/CompanEff/Pages/CompanEff.aspx> and

<http://www.ofgem.gov.uk/Markets/RetMkts/rmr/Pages/rmr.aspx>

⁴ For more information see the following link: <https://www.ofgem.gov.uk/publications-and-updates/third-party-intermediaries-exploration-issues-and-options>

⁵ For more information see the following link:

<https://www.ofgem.gov.uk/ofgem-publications/75197/rmr-policy-intent-and-legal-drafting-workshop-minutes-9th-may.pdf>

⁶ For more information see the following link:

<https://www.ofgem.gov.uk/ofgem-publications/75204/domestic-rmr-workshop-31-may-presentation.pdf>

⁷ For more information see the following link:

<https://www.ofgem.gov.uk/ofgem-publications/75203/domestic-rmr-policy-intent-and-legal-drafting-workshop-31-may-minutes.pdf>

⁸ For more information see the following link:

The Retail Market Review – Implementation of Simpler Tariff Choices and Clearer Information

- Implementation of the domestic Standards of Conduct – decision to make licence modifications, 28 June 2013, Reference: 107/13.
- The Retail Market Review – Statutory Consultation on RMR Domestic Proposals, 20 June 2013, Reference: 95a/13.
- The Retail Market Review – Statutory Consultation on RMR Domestic Proposals: Supplementary Appendix 1 - Notice of proposed modifications of the standard conditions of the electricity supply licence, 20 June 2013.
- The Retail Market Review – Statutory Consultation on RMR Domestic Proposals: Supplementary Appendix 2 - Notice of proposed modifications of the standard conditions of the gas supply licence, 20 June 2013.
- Proposed licence modification of SLC 1 and insertion of new SLC 25C, May 2013, Reference: 80/13.
- The Retail Market Review – Final domestic proposals, March 2013, Reference: 40/13.
- RMR policy intent and legal drafting workshop – Tariffs presentation, 9 May 2013.⁹
- RMR policy intent and legal drafting workshop: Information Remedies, 10 May 2013.¹⁰
- The Retail Market Review – Final Impact Assessment for domestic proposals, 27 March 2013, Reference: 41/13.
- The Retail Market Review – Envisaged legal drafting for the Retail Market Review domestic proposals, 27 March 2013, Reference: 42/13.
- The Retail Market Review – Updated domestic proposals, Reference: 135/12, 26 October 2012.
- Supplementary appendix to: The Retail Market Review – Updated domestic proposals, 26 October 2012, Reference: 135a/12.
- The Retail Market Review – Draft Impact Assessment for the updated domestic proposals, 26 October 2012, Reference: 135b/12.

<https://www.ofgem.gov.uk/ofgem-publications/75201/domestic-rmr-legal-workshops-13-may-information-remedies-summary.pdf>

⁹ For more information see the following link:

<http://www.ofgem.gov.uk/Markets/RetMkts/rmr/Documents1/RMR%20policy%20intent%20and%20legal%20drafting%20workshop%20Tariffs%20presentation.pdf>

¹⁰ For more information see the following link:

<http://www.ofgem.gov.uk/Markets/RetMkts/rmr/Documents1/130510%20Workshop%20-%20Info%20presentation.pdf>

Contents

Executive Summary	5
1. Introduction	7
Background	7
Our proposals	7
Our process	8
This document	9
Next Steps	10
2. Simpler tariff choices	11
Introduction	11
Simpler tariff choices proposals	11
Our proposals	11
Consideration of consultation responses and decision	12
Limiting tariff numbers	12
Standard tariff structures and additional consumer protections	13
Fixed term tariffs	15
Mutual variations	18
Discounts, bundles and reward points	20
3. Clearer information	27
Introduction	27
Clearer information proposals	27
Our Proposals	27
Consideration of consultation responses and decision	29
New communications tools	29
Routine Communications	35
4. Implementation	40
Introduction	40
Implementation	40
Derogations	42
Monitoring and evaluation	43
Appendices	44
Appendix 1 – Implementation timescales	45
Appendix 2 – Application of some proposals to non-domestic suppliers	47
Appendix 3 – Other associated documents	48
Appendix 4 – Glossary	51

Executive Summary

This document sets out Ofgem's decision to proceed with modifications to the electricity and gas supply Standard Licence Conditions to implement the remaining aspects of our Retail Market Review (RMR) proposals for domestic consumers to create a simpler, clearer and fairer energy market. We have already published our decision on the domestic Standards of Conduct, which will take effect on and from 26 August 2013.

In preparing these new rules we have consulted extensively with stakeholders, and analysed both the market and how consumers engage in it. Following our statutory consultation in June 2013¹¹, we have clarified a number of areas at stakeholders' request and made some limited amendments to areas of the licence text to better reflect the policy we have consulted on.

While some suppliers have continued to raise concerns about the challenging timescales for implementation our view remains that it is important consumers' interests are better protected as soon as possible. We still propose that the key rules that address the number and complexity of tariffs will be in place by the end of 2013 and most others by the end of March 2014.¹²

Some suppliers have taken proactive steps to bring their tariffs and communications into line ahead of these new rules coming into place. We welcome these steps and encourage other suppliers to do likewise.

Key changes since the June statutory consultation

There is broad support for the aims of the RMR in terms of rebuilding consumer trust and engagement in the market. However, we have received a number of responses to our June statutory consultation requesting clarification in particular areas. We provide these clarifications in this document and set out areas where we have improved the legal drafting to give better effect to the intent of our policy proposals.

A key concern raised by respondents to our June statutory consultation was around the process for making contractual changes, particularly in the case of debt, given our ban on unilateral variations to fixed term contracts. Having considered these responses, we have made some amendments to the licence drafting and clarified in this document how the process would work under our licence rules.

In this document we also clarify the approach we are adopting to deal with the payment of dividends and profit distribution arrangements. We have made minor changes to the licence drafting to cover this.

We have also clarified how the rules would apply to tied bundles where some of the elements of the bundle cannot be presented in £ per annum or pence per kWh.

¹¹ Please see: <https://www.ofgem.gov.uk/publications-and-updates/retail-market-review-statutory-consultation-rmr-domestic-proposals>

¹² Certain exemptions to our rules for White Labels will be in effect until 31 December 2014.

Several respondents raised issues around staff discounts. We have set out in the document ways that these could be offered within the RMR rules.

A number of respondents to the June statutory consultation requested further information on the process by which we would consider and grant derogations from aspects of our policy. We provide more information in this document on the process we are proposing to adopt. We would like to make it clear that we would consider the use of derogations in only very limited circumstances.

We have amended the timing of the introduction of the Tariff Comparison Rate (TCR) and the Tariff Information Label (TIL) so that they are implemented on 31 March 2014 as a package with the rest of our remedies to provide consumers with clearer information. By aligning dates for all the information remedies we hope to alleviate some of the cost pressures on suppliers and make it easier to communicate the changes to consumers.

Next steps

Licence holders, trade bodies representing licence holders and Consumer Futures now have 20 working days to decide whether they wish to appeal against the reforms to the Competition Commission. If an appeal is not lodged, the rest of the package can start to take effect from 23 October 2013.

We will continue to closely monitor the performance of the market, including the impact of our new rules. In so doing, we will review the impact of the RMR remedies no later than 2017 and before then we may examine specific issues as new information and evidence emerges. Some responses to our June statutory consultation requested that we consult with stakeholders on any indicators we may use to assess their impact. We are currently conducting further work to improve the effectiveness of our routine retail market monitoring activities, including determining what the appropriate approach should be to monitor and assess the impact of our new rules. We welcome stakeholders' interest in our monitoring activities, and we intend to work with stakeholders' to inform our approach.

1. Introduction

1.1. This document constitutes our decision on the Retail Market Review (RMR) domestic proposals to implement changes in the electricity and gas supply Standard Licence Conditions which give effect to our proposals on Simpler Tariff Choices and Clearer Information. This document concludes more than two years of detailed research, analysis and policy development designed to make the market simpler, clearer and fairer. Our proposals are designed to improve competitive pressure on suppliers' prices and quality of service to deliver better outcomes for energy consumers.

1.2. This chapter provides background to the consultation and outlines the purpose and structure of this document. We also explain the process we have followed and provide an indication of the implementation timetable for the project.

Background

1.3. On 20 June 2013 we published a statutory consultation (the 'June statutory consultation')¹³ setting out our proposals to modify the domestic supply licence conditions. The statutory consultation closed on 23 July 2013. It covered a range of policy proposals designed to make the retail market simpler, clearer and fairer.¹⁴ The June statutory consultation in conjunction with our March 2013 final domestic proposals document¹⁵ (the 'March consultation') sets out a comprehensive description of our proposed policies and the reasoning for our interventions, including the supporting evidence.

1.4. This document provides an overview of our proposals, explains how we have considered and accommodated statutory consultation responses and highlights areas of clarification and necessary improvements to the licence text.

Our proposals

1.5. In our June statutory consultation and our March consultation we outlined our proposals to create Simpler Tariff Choices for domestic consumers through:

- Limiting the number of tariff choices a consumer would face.
- Standardising tariff structures.
- Creating rules designed to simplify bundles, discounts and reward points.
- Proposals to facilitate collective switching.

¹³ Please see: <https://www.ofgem.gov.uk/publications-and-updates/retail-market-review-statutory-consultation-rmr-domestic-proposals>

¹⁴ In this document we use the term "market" as shorthand for referring to the energy sector. For the avoidance of doubt this term is not intended to describe or otherwise suggest the approach that may be taken by Ofgem for the purposes of market definition in competition law investigations.

¹⁵ Please see: <https://www.ofgem.gov.uk/publications-and-updates/retail-market-review-final-domestic-proposals>

- Providing consumers with transparency on white label suppliers.

1.6. We also proposed new rules to enhance protections for consumers on both evergreen and fixed term tariffs and those migrating tariffs.

1.7. Alongside this, we outlined proposals to make information clearer for domestic consumers by creating new standardised communication tools to help them navigate the market. These included a new metric called the Tariff Comparison Rate (TCR), Personal Projections, a Tariff Information Label (TIL) and regular prompts as to what the cheapest tariff is with your supplier. To assist consumers in making informed decisions, we also proposed requirements for specific personalised information on routine communications.¹⁶ To ensure this personalised information is communicated clearly, our rules proposed some degree of standardisation in the layout and presentation of this information.

1.8. In addition, on 28 June 2013, we made our decision¹⁷ to introduce new rules to oblige all energy suppliers (and their representatives) to treat consumers fairly, through legally binding Standards of Conduct (SOC). These are due to come into effect on 26 August 2013.

1.9. We have also consulted separately on new rules to help businesses, particularly smaller businesses, to get the best deal from the market with minimum hassle. We made our decision to implement our proposals on 28 June 2013.¹⁸ The first of our proposals to implement Standards of Conduct in the non-domestic market for micro-businesses is due to take effect on 26 August 2013. Other remedies will take effect from 31 March 2014.

Our process

1.10. Stakeholders have been broadly supportive of what we are trying to achieve through our RMR proposals. However, as with our March consultation, a number of issues have been raised through the statutory consultation process to which we have given consideration. As a consequence we have had a number of further meetings with industry to provide clarity where needed and to understand in full the concerns that have been raised. Throughout the duration of the RMR, we have engaged extensively with industry and consumer groups in bilateral meetings and in stakeholder workshops to clarify areas of our policy and legal text.

1.11. On the basis of this feedback, and further consideration of stakeholder responses, we have made a number of clarifications in this document to better reflect the policy intent of the RMR and have improved the legal text where we consider it necessary and proportionate to do so.

¹⁶ This applies to the Bill, Annual Statement, Price Increase Notification, Dead Notices and End of Fixed Term Notice.

¹⁷ Please see: <https://www.ofgem.gov.uk/publications-and-updates/implementation-domestic-standards-conduct-decision-make-licence-modifications>

¹⁸ Please see: <https://www.ofgem.gov.uk/publications-and-updates/implementation-retail-market-review-non-domestic-proposals-%E2%80%93-decision-make-licence-modifications>

1.12. Following detailed consideration of all the points raised in responses to the statutory consultation, we are proceeding to make our decision on the licence modifications associated with the Simpler Tariff Choices and Clearer Information proposals. The changes to licence modifications are set out in supplementary appendices to this document.

This document

1.13. This document sets out our proposals in three main sections:

- Simpler Tariff Choices.
- Clearer Information.
- Implementation.

1.14. For each section, we provide further clarity on specific detailed areas of the policy (including how we took stakeholders views into account) and highlight whether this has resulted in any change in terms of the legal text or minor clarifications of policy. For these sections we also provide a high level summary of the package of proposals.

1.15. We have considered all stakeholder responses carefully, but the detail in this document will focus on where we have made amendments to our legal text or clarified policy. The full explanation of these policies is set out in the June statutory consultation and the March consultation document. However, the Supplementary Appendices to this document set out the detailed legal drafting to give effect to all aspects of our proposals.

1.16. As indicated in previous consultation documents, in order to transpose the RMR domestic remedies, some changes have been made to licence conditions which directly affect both domestic and non-domestic suppliers. The relevant changes are highlighted in Appendix 2.

The Authority's decision

1.17. After considering responses to the June statutory consultation and further engagement with stakeholders, this document notifies stakeholders of the Gas and Electricity Markets Authority's ('the Authority') decision to proceed with licence modifications to the gas and electricity supply licences to give effect to our proposals. The effective date for these modifications is set out in Appendix 1 and Supplementary Appendices 1 and 2.

1.18. Statutory directions modifying the standard conditions of all electricity and gas supply licences have today been issued to all relevant licensees. The statutory directions have also been published on the Ofgem website.

Next Steps

1.19. Licence holders, trade bodies representing licence holders and Consumer Futures will have 20 working days to decide (from the first working day after this letter is published) if they want to appeal to the Competition Commission against the licence modifications. Barring any appeal the licence modifications will have effect from the relevant dates set out in the Supplementary Appendices to this document.

1.20. We will continue to closely monitor the performance of the market, including the impact of our new rules. In so doing, we will review the impact of the RMR remedies no later than 2017 and before then we may examine specific issues as new information and evidence emerges. Some responses to our Statutory Consultation requested that we consult with stakeholders on any indicators we may use to assess their impact. We are currently conducting further work to improve effectiveness of our routine retail market monitoring activities, including determining what the appropriate approach should be to monitor and assess the impact of our new rules. We welcome stakeholders' interest in our monitoring activities, and we intend to work with stakeholders' to inform our approach.

1.21. If you have any queries regarding the content of this document please contact David Hunt, Head of Retail, Retail Market Functioning (020 7901 7000) or email rmr@ofgem.gov.uk.

2. Simpler tariff choices

Chapter Summary

This chapter provides a summary of views expressed by stakeholders in relation to the new rules on making tariff choices simpler and sets out our views on the issues raised.

Introduction

2.1. This chapter provides a summary of views expressed by stakeholders in relation to the new rules on making tariff choices simpler, following the publication of our statutory consultation. A description of our new rules can be found in the March consultation and the June statutory consultation.

2.2. We set out our views on the concerns raised by respondents and, where appropriate, summarise any clarifications or minor amendments we have made following consideration of stakeholder responses. We discuss issues raised by respondents about implementation in Chapter 4.

Simpler tariff choices proposals

Our proposals

2.3. Our proposals on simpler tariff choices aim to make the market simpler and facilitate consumers' ability to be aware, access, assess and act on information available to them. To achieve this, in our March consultation and June statutory consultation documents we proposed:

- Introducing a **maximum limit on the number of core tariffs** that suppliers will be able to offer at any point in time.
- **Simplifying tariff structures** to ensure that all tariffs have a simple standing charge (which could be zero) and unit rate structure (no multi-tier tariffs).
- Simplifying how **discounts, bundles and reward points** are offered and presented.
- Improving existing and introducing new **consumer protection safeguards** for both evergreen and fixed term offers.

- **Migrating customers from tariffs that are closed to new customers** ('dead tariffs') **onto open tariffs**, where this would be beneficial to the customer.
- Facilitating **collective switching schemes** that meet consumer interests and the aims of the RMR, and allowing 'white labels' time to absorb and adapt to our proposals.

Consideration of consultation responses and decision

2.4. Respondents to the June statutory consultation continue to support the aims of the tariff simplification proposals. They recognise that a simpler market can help to increase consumer confidence and engagement in the energy market.

2.5. However, stakeholders raised specific concerns about some policies. Many of the points raised by suppliers related to the rules on mutual variations. We consider these and other concerns in the sections below, along with our response. Suppliers were also concerned about implementation timescales which are covered in Chapter 4.

Limiting tariff numbers

2.6. Suppliers offered few additional comments on the proposal to limit tariff numbers. There is now broad support for the policy and recognition that it can help to engage consumers in the market.

2.7. One supplier asked us to clarify the policy on banning price increases for fixed term contracts and whether capped tariffs would be permitted under the RMR. We can confirm that our proposed rules will prohibit capped tariffs where they allow for price increases. As we stated in the June statutory consultation, suppliers would not be permitted to increase the price of a fixed term contract in any way, even if prices have previously been reduced. Our rules allow fixed term tariffs where prices start at one level and decrease from that point providing they do not go up again. Increases in prices would not be permitted given our ban on unilateral variation for fixed term contracts.

2.8. One supplier suggested that the proposed licence drafting would allow it to offer four core tariffs to each segment of customers it identifies. For example, it could offer people aged over 70 its 4 'general' core tariffs, and also offer that customer segment an additional 4 core tariffs (8 in total). It asked us to clarify our policy intent.

2.9. To be clear, our policy intent is that consumers should face fewer tariff choices to make comparisons between them easier. To achieve this, suppliers cannot offer more than four core tariffs to any one customer. If a supplier wants to offer a specific tariff to a segment of customers, it must do this within its limit of four core tariffs. Further, we have reviewed the proposed licence drafting and do not agree that it

supports the previously described customer-segmentation scenario put forward in the supplier's response.

2.10. Another supplier commented that there is an overlap between the definitions of metering categories in the licence drafting. This means that Dynamic Teleswitched (DTS) meters could fit into more than one definition. It argued that because of this overlap, we should state an 'order of precedence' to make each definition explicit and to clarify the relevant category for DTS.

2.11. In our view, the metering category definitions do not need an explicit order of precedence as we believe this is currently captured within the licence text. This is because the current drafting specifically mentions radio signals in the definition of a 'Category E Metering Arrangement', and it is the only definition to do so. As a DTS meter is controlled remotely through radio signals, we consider that Category E is the only definition into which DTS could fit. Where this is the case, Category E takes precedence over the other metering categories.

2.12. In summary, there are no changes to the policies on the tariff cap.

Standard tariff structures and additional consumer protections

Tariff structure and surcharges

2.13. Stakeholders were supportive of our effort to standardise and simplify tariff structures. Some stakeholders do not feel the policy goes far enough and have proposed we consider removing standing charges and adopt a single unit rate structure. While our policy requires suppliers to adopt a standing charge and unit rate structure, we do not specify the level of standing charge and consequently any standing charge can be zero. Ofgem does not regulate prices in the retail energy market, and therefore the level of any prices results entirely from the commercial decisions of energy suppliers. Suppliers have fixed costs which they may look to recover through a standing charge. However, given the level of demand for low or zero standing charge products, in a competitive market we might expect such tariffs to be offered.

2.14. One respondent expressed concern that if wide proliferation of standing charges occurs it may undermine tariff simplicity. Whilst a wide proliferation of standing charges may work against what we are trying to achieve in terms of simplicity and comparability, we consider the potential for this to happen is significantly limited by our proposals to introduce a tariff cap. Moreover, there are benefits if consumers have a degree of choice over the standing charges to which they are exposed. This, in part, is why we are not proposing a range of rules around the standing charge element of our proposed revisions to the tariff structure. As with other areas of the package, we will monitor market developments and do not rule out taking steps to introduce further remedies in the event that there is evidence that more needs to be done to protect consumers and improve competition.

2.15. One supplier queried whether the list of separate charges included the cost of replacing a meter when it is badly damaged and proposed that this be added to the list. After reviewing the licence conditions we believe that the list of separate charges covers this cost and suppliers will be able to charge for the replacement of a badly damaged meter (when it is beyond repair). The same supplier also proposed that the list of separate charges includes the cost of replacing payment cards as well as prepayment cards. We agree with this proposal and have changed the licence conditions accordingly.

Green tariffs

2.16. One respondent was concerned that the tariff cap will reduce the number of green tariffs in the market. Our tariff rules permit green tariffs to be offered in a compatible manner and consequently believe there are still opportunities for such offerings to remain under the RMR. Furthermore, Ofgem is currently reviewing the “Green Supply Guidelines” which underpin the Green Energy Supply Certification scheme. We will consider how to factor any implications from this work into our policy on green tariffs at an appropriate point in time.

Pre-defined price changes

2.17. One supplier suggested that consumers would be confused by our proposal to permit the standing charge or unit rate to vary, in a pre-defined way, by time of year, week or day. It argued that some consumers might focus on prices that occur earlier rather than later in a long-term tariff. For clarity our rules in this instance are permissive rather than obliging suppliers to adopt any particular approach to the standing charge.

2.18. We do not agree that our proposals on the standing charge will unduly confuse consumers. Suppliers will be required to provide certainty about when, and by how much, tariff prices will change during the term of the tariff. It will also be complemented by information remedies such as the Tariff Comparison Rate (TCR), and where relevant, the Personal Projection. Consumers will be able to use the TCR to compare the average cost of this type of tariff with any other on the market, reducing the likelihood that behavioural biases will influence their decision. Similarly where the Personal Projection is featured, it will provide consumers with a tailored estimate of the costs of a tariff taking into account such factors over the next 12 months from the data of calculation.

Price protection window

2.19. A minority of suppliers suggested that the 20-day price protection window should be removed. They believe it requires retrospective adjustment of prices because our rules propose that consumers will not need to inform suppliers of their intention to switch. Consequently, it would be costly and complex to implement.

2.20. However, this is a key consumer protection policy that forms part of the measures which transpose the Gas and Electricity directives which relate to price increases and other contractual changes. Consequently, we do not intend to change these proposals. As we stated in the March consultation, we do not consider that this is a significant change to the existing regulatory framework which has been in place for a number of years. Suppliers are already required to provide a price protection period if certain conditions are met. We have also clarified our policy in stakeholder meetings, workshops and in the June statutory consultation. Interested parties should consult these documents for additional detail.

Fixed term tariffs

Unilateral variations – cost pass-through

2.21. One supplier argued that the ban on unilateral variations on fixed term contracts would constrain its ability to pass through costs that it does not control. These costs include VAT and those associated with delivering environmental programmes. It suggested that consumers would not mutually agree a price increase associated with these costs and the supplier would therefore not be able to recoup them through bills.

2.22. We recognise the concerns around VAT. It is not usually possible to predict if or when the rate of VAT may increase and by how much. It is also not a charge that suppliers have any control over. This makes it challenging to price this risk into fixed-term contracts. We propose therefore to exempt VAT increases from the unilateral variation ban on fixed term contracts. Aside from this exemption, suppliers must still comply with the unilateral variation rules.

2.23. However, we do not agree that environmental costs should be exempt from the ban on unilateral variations for fixed term contracts. Suppliers should be fully aware of their obligations and be able to estimate the costs associated with delivering them, as they have to with other elements of their costs. Suppliers should be able to price these costs into fixed term contracts, mitigating any need to unilaterally vary the contract at a later date. We are therefore not proposing any changes to our rules for these costs.

Unilateral variations – termination fees

2.24. One supplier suggested that the proposed licence text in SLC 24.3(c) relating to disadvantageous unilateral variations should also cross-reference SLC 23.6. It argued that this change would prevent a supplier charging a termination fee to a customer who has been notified of a price increase or other unilateral variation. It also noted another implication of this change, that a supplier would be unable to charge that customer a termination fee at any point in the future, for example if the customer moved to a tariff with a termination fee and then decided to switch supplier. However, it considered it important to link the requirement to not charge a termination fee to the particular price change in question, so as to avoid any future uncertainty in the application of termination fees at a later date.

2.25. For clarity, where a Price Increase Notification (PIN) or unilateral variation notice is triggered, a supplier can never charge a customer a termination fee if the customer ends that contract at some point in the future. This is similar to existing rules, except that the ban on termination fees only applies where the customer has given notice that they intend to switch (though our RMR rules will remove this requirement).

End of fixed term contract notification window

2.26. One supplier suggested that the proposed 42-49 day window is too short. It argued that it would have to concentrate resources to meet this requirement, which could increase costs and ultimately consumer bills and have a detrimental impact on customer service.

2.27. However, we do not intend to increase the length of the window. In the June statutory consultation, we noted that seven days gives suppliers greater flexibility than for some other notification requirements. Our previous proposal to provide a notice 'on or about' a specific day would have meant a much shorter period than the seven days we are now proposing.

Definition of a fixed-term contract

2.28. One supplier asked us to clarify the definition of a fixed term contract. It argued that an evergreen contract, with an optional fixed term bundle, should not be defined as a fixed term contract overall.

2.29. We made our position on this issue clear in the June statutory consultation. Where any contract term which forms part of a supply contract has a fixed term period, that contract will be treated as a fixed term contract for the purposes of our rules.

Changes to payment method

2.30. All large suppliers and an industry association have raised concerns over the effect of our ban on price increases and other unilateral variations for fixed term contracts in relation to the way in which suppliers recover outstanding charges from consumers. The key concern is that our rules in the June statutory consultation would limit suppliers' ability to change a consumer's payment method and/or tariff in instances of non-payment of outstanding charges without express agreement. Specifically some suppliers did not consider that such variations should be subject to our ban on price increases and other unilateral variations where they have been set out in advance in a consumer's contract. In addition, the relevant respondents considered the notification requirements set out in SLC 23, such as the 30 days' advance notice and price protection window, would be problematic.¹⁹

¹⁹ For further information on information requirements in relation to SLC 23 notices, please see the

2.31. In response to the June statutory consultation suppliers stated that they were uncertain what practical alternatives there would be to terminating a contract, or in the last instance, disconnecting a customer if there is non-payment and no agreement from the consumer to mutually vary the contract to change payment method.

2.32. As stated in the June statutory consultation, we consider that our existing rules (and our proposed amendments) around price increases and unilateral variations apply to such situations.²⁰ However, we have considered the specific issues raised by industry in this respect and propose to allow some exemptions from requirements where these are compatible with consumer protection law. Subject to certain requirements set out below and in revised legal text, we are now allowing price increases and other unilateral variations to fixed term contracts in order for a supplier to move a customer from one payment method to another.

2.33. In order to rely on this exception suppliers will need to meet a number of requirements including:

- (a) that the ability to make changes can only be used where a customer is in debt and/or where they have failed to comply with contractual terms relating to payment methods;
- (b) the supply contract sets out a supplier's ability to make changes and the precise circumstances where this applies; and,
- (c) this is made clear before a contract is agreed with a customer, as part of the communication of key contractual terms.

2.34. In addition, where contractual changes arising from a change of payment method are set out in advance, only 7 days' advance notice for an SLC 23 notification will be necessary.²¹ This is aligned with the 7 days' notice required before a supplier is able to install a PPM on the basis of non-payment of charges. Where these contractual changes can be set out precisely, a further exception to the additional requirements for SLC 23 will also apply.

2.35. The effect of these changes is that in most cases, the key notification requirements that will apply to any contract variations will not differ from those set out in existing rules. We still consider that these requirements and aforementioned exemptions ensure these are fit for purpose. However, we are aware that suppliers continue to have concerns about the application of these rules and existing obligations for the read across to situations of debt and theft. We will continue to work with suppliers on how these scenarios should be dealt with, within the constraints of EU directives and wider consumer protection law.

chapter on Clearer Information.

²⁰ Paragraph 2.17, June statutory consultation.

²¹ This notification period is in line with the statutory notice period required before a supplier is able to install a PPM on the basis of non-payment of charges.

2.36. In summary, we have made the following change to the policies on standard tariff structures and additional consumer protections:

- **VAT pass through:** suppliers will be permitted to unilaterally vary a fixed-term contract to recoup any increase in VAT.
- **Changes to payment methods:** price increases and other unilateral variations are permitted for both fixed term and evergreen contracts to move a customer from one payment method to another where certain requirements are satisfied. In addition, where contractual changes arising from a change of payment method are set out in advance, only 7 days' advance notice for an SLC 23 notification will be necessary. Where these contractual changes can be set out precisely, a further exception to the additional requirements for SLC 23 will also apply.

Mutual variations

2.37. The majority of suppliers raised concerns about our proposed mutual variations rules. These are covered in turn below.

Customer-initiated/minor mutual variations

2.38. Suppliers raised concerns about the requirement to give consumers advance notice of a mutual variation and to secure a consumer's express agreement following the notice. They thought it would be impractical in two scenarios. Firstly, where a consumer initiates the mutual variation. In this case, a supplier would have to follow up the initial contact with a notice to which the consumer would have to agree. Secondly, where a requested variation is relatively minor, for example a change of name or payment method. Suppliers argued the process is too onerous for simple changes and could frustrate consumers.

2.39. Our policy intent is to protect consumers by allowing them to reflect on any proposed changes to their contracts. We consider that advance notice, and the requirement for express agreement, achieves this. However, we accept it may not be necessary in all cases.

2.40. Nonetheless, we cannot accept suppliers' proposal to differentiate by whether the mutual variation is consumer-initiated and/or whether it is 'minor'. For example, a consumer may call a supplier to request one type of variation, but during the course of the call agrees a supplier-suggested alternative that may or may not better suit their needs. It would be challenging to determine whether the mutual variation was consumer-initiated, and therefore which rules apply. It would also be challenging to effect in licence conditions. Further, we would need to produce a list of minor and non-minor variations. It would be challenging to make this comprehensive and again, to effect in licence conditions.

2.41. Our proposal is therefore to distinguish mutual variations by whether they are to the consumer's disadvantage or not, in a similar way to the proposed legal drafting in SLC 23. If they are to the consumer's disadvantage, the supplier must give advance notice regardless of whether the mutual variation is customer initiated or 'minor'. This is in line with the unilateral variation rules, in which suppliers must inform consumers if a unilateral variation is to the consumer's disadvantage. If the mutual variation is not disadvantageous, suppliers may follow a shortened process that does not require advance notice. In summary:

- **advance notice is required** where a supplier or customer initiates a mutual variation that is a price increase or other change that is disadvantageous to the consumer. This requires the consumer's express agreement following the notice.
- **advance notice is not required** where a supplier or customer initiates a mutual variation that is not a price increase or disadvantageous to the consumer.

2.42. In both cases, the supplier will need to provide Principal Terms to the consumer before agreeing the mutual variation. It will also need to provide confirmation within five working days of the agreement.

2.43. We note that suppliers are bound by the Standards of Conduct (SOC) on and from 26 August 2013 and are required to treat consumers fairly. Suppliers will need to use the SOC to guide their assessment of disadvantage.

Alignment of prices

2.44. One aspect of our proposed rules is that following a mutual variation, a consumer's tariff must become identical to a current live evergreen or live fixed term tariff. This has implications for a consumer on a fixed term or dead tariff that is no longer available for sign-up. It would mean they would have to agree to contract terms that may increase the price of their tariff. Suppliers argued this would frustrate consumers, particularly if they wanted to make a relatively minor administrative change or a change to their payment method or take their tariff to a new address. It would also create an incentive for consumers to resist the variation.

2.45. On balance, we agree consumers would benefit if we relaxed this rule. Therefore following a mutual variation, suppliers will no longer need to align the prices of expired fixed term and dead tariffs with an open tariff. This will ensure that consumers can keep the price of their current tariff if they choose.

2.46. One supplier asked whether the mutual variations rules would allow it to use surcharges in cases of debt or theft. It suggested that the requirement to align prices would prevent it from doing so. Whilst we have relaxed the alignment rule, the licence condition also provides specific provision for this. Sub-paragraph (f) of the definition of "Separate Charges" in SLC22A.9 allows a supplier to levy charges "in respect of, or related to" late payment of bills.

2.47. In summary, we have made the following changes to our policies on mutual variations:

- **Disadvantageous mutual variations:** suppliers will only need to provide consumers with advance notice of a mutual variation where it is to the consumer's disadvantage. They will also need to secure the consumer's express agreement following the notice.
- **Price alignment:** following a mutual variation, suppliers will not need to align the prices of an expired fixed-term or dead tariff with those of a live tariff. Consumers will be able to keep their current price if they choose.

Discounts, bundles and reward points

2.48. Our proposals for discounts, bundles and reward points aim to remove complexity in tariff offerings and reinforce consumer protection. Most respondents supported the modifications proposed with regard to our rules on discounts and bundles in our June statutory consultation and the clarifications provided. However one supplier noted in their response that the rules for discounts and bundles are complex and often confusing. We have not made any policy changes in this area, albeit we have provided further clarification of our policy intent and its intended effect. We have also provided further clarification where requested from respondents.

Continuously applied rule

2.49. Two respondents welcomed the relaxation of the continuously applied rule but one supplier, along with one industry representative, wanted suppliers to have the ability to provide 'surprise and delight' rewards. It was requested that the supplier could insert a line in the contract which stated that a customer may at some point be provided with an unspecified reward.

2.50. We believe it is important for a customer to be clear on the terms and conditions of the contract they are entering into and we therefore require the supplier to provide further details on the benefit the customer will receive within the Domestic Supply Contract. This detail will entail the nature of the product, the value of the product and the timing of the product a customer can expect to receive the benefit. The supplier may wish to provide an element of 'surprise and delight' by not specifying exactly what the customer will receive. For example a supplier can state in the contract that they will provide the customer with a small gift to the value of £5 around Christmas time.

2.51. Providing this information to the customer in the contract will also allow for the appropriate compensation to be made to a customer if they left prior to receiving the benefit. We also consider it is important that the supplier does not create any lock in effects which we feel may be created if they simply stated that the customer 'may at some point be provided with an unspecified reward.'

2.52. It should be noted that the rules would allow for customers to receive service related non-cash discounts of which the customer may not have been provided an explicit description within their contract. An example of this is when a supplier fails to provide a resolution to a complaint in a timely manner. The supplier may wish to provide the customer with a voucher to make up for the poor service the customer experienced. One respondent felt that Ofgem should prescribe how suppliers communicate to customers with regard to awards they may receive in the future and the fact that a customer may be compensated for leaving early. We do not believe that it is necessary to prescribe marketing communications by suppliers. Consumers will have adequate protection through obligations on suppliers that require them to provide information that is complete, accurate, not misleading, appropriate and fair through the Standards of Conduct.

2.53. One large supplier remained concerned about expressing discounted bundles in £/year or p/kWh. We can confirm that where it would be misleading to present the bundle in £/year or p/kWh the supplier would not be required to do so, but would still be required to present any changes in a manner which was appropriate and not misleading. An example of this is certain offerings related to telecommunication services.

2.54. One small supplier welcomed the amendments with regard to discounts, bundles and rewards which provide more flexibility for suppliers to incentivise good consumer behaviour. However, they argue that preferential rates for technologies such as electric vehicles and heat pump should be allowed via discounts rather than separate tariffs.

2.55. Ofgem welcomes innovation within the industry and we consider that suppliers can innovate in new technologies and different green energy supplies within our rules. If a supplier does not wish to use a separate tariff to promote such products they are free to provide compliant non-cash incentives or optional bundles to encourage take up of these innovations.

Staff discounts

2.56. Three large suppliers were keen to explore how they could continue to offer staff discounts under our rules. As mentioned in the June statutory consultation suppliers can use a core tariff with an access criteria to provide a group of customers, i.e. staff, a separate tariff with its own features available to those that are eligible for the tariff through these access criteria. To ensure that a staff tariff did not breach the tariff cap, a supplier could link the availability of the tariff to regions which constitute the individual premises of each member of staff.

2.57. An additional option for suppliers would be to create a 'region' for each staff member. Suppliers could then offer a staff tariff as one of the core tariffs for the staff member. This would however mean that the staff member would not be able to access one of the supplier's general core tariffs as each customer should only have four core tariffs they can access for each category of meter type.

Online discounts

2.58. One large supplier felt the definition of online discount was too narrow and that providing paperless discounts to all customers would be commercially difficult. They asked if it would be possible to have a layered discount for online account management.

2.59. As previously stated, our rules on discounts aim to make choices simpler for consumers. For this reason we do not feel that a layered cash discount for online account management is appropriate. We do not propose to change our policy in this regard, however we do note that suppliers are able to offer other non-cash discounts which could be provided in addition to paperless billing or they could provide an online account management core tariff.

2.60. Concerns were also raised by one supplier with regard to the Energy Efficiency Directive (EED) which is not yet transposed and argued that it may cause issues with Ofgem's online discount rule. We will keep under review the developments of the EED and its interaction with our policy. At this point we do not propose any changes to our rules and note that the licence conditions which permit suppliers to offer certain discounts or impose fees make clear that this is subject to compatibility with other laws and legislation.

Refer a friend

2.61. As stated in the June statutory consultation our discount rules aim to remove complexity in tariff offerings and reinforce consumer protections. Clarification was sought as to whether refer a friend schemes were prohibited by our rules. Refer a friend schemes are possible within our rules as bundled products and reward point discounts provided to a customer on the contingent behaviour of the customer to 'refer a friend'. The supplier is able to reward the customer via such non-cash arrangements. These rewards must also comply with our rules on how such offerings are presented.

Other discounts – contingent discounts

2.62. One respondent asked for clarification with regard to the definition of 'Features' in SLC 1. Our rules do not prohibit bundles that are discounts or reward points which are discounts from having contingent requirements if they fall within the exception to the continuously applied rule. The definition of Features in SLC 1 was created to distinguish between the different types of bundles that are permissible, which includes contingent bundles/reward points which are discounts.

Other discounts – cash discounts

2.63. Our discount rules, which were the main concern of a few respondents, provide the protection required for consumers in today's energy market. Our discount proposals allow for two cash discounts (dual fuel and online) and have a

general requirement for all discounts (including bundled products and reward points) to be applied continuously. However, in the case of bundled products and reward points, we provide an exception to the applied continuously rule, where these do not involve cash discounts and do not create lock-in effects. Suppliers will be required to ensure that they comply with the rules when making their offers and our proposals published in the June statutory consultation provide them with flexibility to do so. Please refer to our March consultation and June statutory consultation documents for further details.

2.64. Behavioural economics suggests that consumers make inconsistent decisions depending on when monetary rewards are received which has led us to limit the type of discounts allowed. As this issue is more acute for cash offerings than non-cash offerings we have allowed for non-cash discounts to be offered by suppliers and their representatives, such as vouchers and reward points. Our rules remove the issues consumers face when they incorporate the value of cash discounts disproportionately in their decision making.

2.65. One supplier expressed concern that the ban on cash discounts as drafted also applies to distributions of profit shares, or dividends. We clarified in the June statutory consultation document and the stakeholder workshops that shares would not be prohibited by a ban on cash discounts. In line with this policy intent we are now making it clearer, through an amendment to the licence condition drafting, that the ban on cash discounts does not apply to shareholder dividends and profit distribution arrangements akin to shareholder dividends.

Optional bundles – available to all customers

2.66. One large supplier raised queries with regard to optional bundles and the requirement to have optional bundles available to all customers. As stated in our June statutory consultation, optional bundles cannot have access criteria attached to them and they must be available to all customers new and existing. This means that if an existing customer is on a core tariff they should be able to access all optional bundles available to all new and existing customers for that core tariff.

2.67. We do not prevent suppliers offering optional bundles predominately via one marketing channel. However a supplier must make available the optional bundles regardless of the channel a customer uses to contact the supplier. For example, if a customer is aware that the supplier is promoting an optional bundle online and they ring the supplier and would like to opt into the bundle, the supplier must not prevent the customer from signing up to the optional bundle due to the method of signing up.

2.68. As outlined in the June statutory consultation, it should be noted that we do allow suppliers to limit the number of optional bundles that any one customer can take (as long as the customer is able to choose equally among all the optional bundles) and that suppliers may add options within optional bundles.

2.69. We note that we would require suppliers to be transparent in all of their marketing activities with the SOCs in mind. While we would not necessarily require suppliers to proactively offer bundles to all customers across all marketing channels, we would expect that a customer would ultimately be able to find out about the existence of the optional bundle, e.g. by checking a supplier’s website or asking a member of staff.

2.70. We do not propose to change our rules on discounts and tariff structures as we feel that they strike the right balance between providing simpler and clear tariffs and allowing suppliers some flexibility in their tariff offerings.

Representatives, cashback and collective switching

Representatives

2.71. One supplier requested that Ofgem make clear that representatives will have to comply with our RMR rules during a sales process as well as suppliers. We can reiterate that representatives will need to comply with our RMR rules and that suppliers have a responsibility to ensure their representatives are compliant.

Cashback

2.72. We received one response which outlined concerns over the implication of our rules for cashback models. The specific circumstance referred to was a cashback model that was not in the form of a direct discount, nor a bill deduction over time but a payment from the cashback companies paid directly into the customer’s chosen bank or Paypal account. As this is a cash discount, linked to the energy supply contact, and the customer receives it as a result of taking up the supply contract, we believe that this cashback reward will still impact the customer’s decision and is therefore not permissible under our rules.

2.73. As mentioned above, it is for suppliers to ensure that their representatives comply with these rules.

Collective switching

2.74. Our proposals on collective switching aim to promote a consistent approach among suppliers and to ensure that consumer protection safeguards are in place. Collective switching is in its infancy in Great Britain, and we want to ensure that collective switching works in the best interest of consumers.

2.75. We do not propose to change our RMR rules with regard to collective switching. We have allowed for the number of tariffs to expand outside our cap of core tariffs and segmenting of the market to occur through collective switching as we see that there are potential benefits in encouraging collective switching schemes which are often aimed at engaging vulnerable customers.

2.76. We received more responses than previously, 8 in total, with regard to collective switching (particularly from Third Party Intermediaries (TPIs)).

2.77. Three respondents were concerned with the potential for tariff proliferation and market segmentation and two respondents raised concerns with the ban on cashback offered by TPIs (in some cases in a wider context than just collective switching). We received a request for some form of certification or accreditation of switching providers which may provide customers looking to join a collective switching scheme greater confidence. Another respondent raised concerns that a voluntary code may not provide adequate protection as organisations that present the most risk are the least likely to sign up to a voluntary code.

2.78. One large supplier was concerned with the requirement for a supplier to be satisfied that any collective switching scheme they participate in complies with our collective switching criteria as set out in the SLC 22B.38 definition of 'Collective Switching Scheme'. Ofgem can confirm that suppliers are able to participate in schemes that do not meet our criteria, however they can only introduce additional (fixed term) tariffs outside of their cap of four for a scheme if they are satisfied on the available evidence that it meets our collective switching criteria. For the avoidance of doubt, this requirement does not mean that a supplier is ultimately responsible for the way a collective switching scheme is actually conducted in practice, but does require the supplier to exercise due diligence before taking a decision to take part in such a scheme. For example, depending on the circumstances, a supplier may be able to satisfy their obligations by placing reliance on fully comprehensive documentation provided by a scheme provider on the rules of the scheme.

2.79. One respondent raised concerns with the term 'bulk' when referring to collective switching. They feel that this may lead to customers expecting bespoke tariffs to be created specifically for their collective switching scheme. We feel that TPIs and those involved in communicating with customers in collective switching have the responsibility to manage customer expectations with this regard.

2.80. In summary, we do not propose to change our rules as outlined in the June statutory consultation with regard to collective switching and representatives. We will take into account responses provided to our June statutory consultation in this area under our programme of work involving TPIs and collective switching.

Dead notices

2.81. The consultation responses on dead notices are covered in Chapter 3.

White labels

2.82. There was a mix of responses to our policies on white label suppliers. One white label welcomed our proposed exemption period to December 2014 and the additional time it would have to consider its options. However, a minority of other

suppliers argued that the exemption period would give white labels and their parent suppliers an unfair competitive advantage. They would be exempt from some RMR rules whilst other non-white label suppliers would not be.²²

2.83. We recognise this concern. However, on balance, we consider that it is still appropriate to put an exemption period in place. In our March consultation and June statutory consultation documents, we stated that we do not want to prevent white label suppliers operating in the market where they add genuine choice and value for consumers. Without some accommodation of white label suppliers at this stage, there is a risk that the RMR proposals could detrimentally affect outcomes for consumers. Whilst the exemption period will allow white label suppliers to make their case to Ofgem, it will also enable us to thoroughly examine the issues in this area of the market.

Legal text

2.84. One supplier has requested a change in the legal text in SLC22B.2B where we have used the word 'something' as they consider it is too vague. The term 'something' was intentionally used to encapsulate all types of bundles/discount/rewards. We believe that this is the most appropriate word to describe the scenarios required.

2.85. We have amended our legal text with regard to the continuously applied rule following suggestions from one supplier. We feel that the changes requested still reflect our policy intent and make the policy clearer for licence holders. These changes can be found in Condition 22B.28.

2.86. One large supplier suggested changes to our definitions of Bundled Product, Opt-in Bundles and Opt-out Bundles. We have noted their concerns with regards to the linkages between the supply contract and bundled products/rewards. We have provided amendments to these definitions to better reflect our policy intent as outlined in the June statutory consultation. These amendments can be found in our definitions for bundles and reward points.

2.87. As noted above within the chapter we have amended our licence drafting to exempt VAT cost increases from the unilateral variations rules. We have also made amendments shareholder dividends and similar payments and we have added 'payment cards' to schedules in SLC 22A and SLC 22B.

2.88. A number of suppliers highlighted typographical errors with the text of certain licence conditions. Ofgem has also identified other typographical errors of this nature. We have therefore made a range of minor changes to address all of these issues. Full details of all the changes made to the licence conditions following the June statutory consultation are set out in the legal notices which accompany this decision document.

²² Respondents had views on the Cheapest Tariff Messaging (CTM) and its implications for white label suppliers. As the CTM is a Clearer Information proposal, we discuss this in chapter three.

3. Clearer information

Chapter Summary

This chapter gives an overview of our proposals to ensure suppliers provide clearer information to consumers, outlines stakeholders' responses to the June statutory consultation proposals, and provides our views on the issues they raised.

Introduction

3.1. This chapter provides a brief overview of our final proposals to provide consumers with clearer information and describes views expressed by stakeholders on these new rules following the publication of the June statutory consultation. The detailed description of our new rules can be found in our June statutory consultation and March consultation.

3.2. We set out our views on the concerns raised by respondents and, where appropriate, summarise any clarifications or amendments we have made following consideration of stakeholder responses. We discuss issues raised by respondents about implementation in Chapter 4, Implementation.

Clearer information proposals

Our Proposals

3.3. In our March consultation we proposed to introduce a package of new rules designed to provide consumers with more relevant and useful information. For instance, ensuring they have information on their energy costs, their energy tariffs and their consumption. We proposed to do this by providing consumers with new information-based tools and more relevant information in their routine communications.

3.4. In summary, we proposed to introduce the following new information based tools:

- **A Tariff Comparison Rate ('TCR')** helps consumers to compare the costs of different energy tariffs by different suppliers. This is similar to the Annual Percentage Rate (APR) used in savings, credit and loan agreements.
- **Personal Projections** establish a common means of calculating estimated annual energy costs which are personal to the consumer. This will help

consumers to make accurate comparisons between suppliers on a like-for-like basis.

- **Cheapest Tariff Messaging ('CTM')** provides consumers with personalised information on how much they could save by switching tariffs with their current supplier. This is designed to improve consumers' awareness of the savings available from switching and prompt them to consider their options.
- **Tariff Information Label ('TIL')** creates a standard way of presenting energy tariff features to help consumers understand all the characteristics of a tariff and compare them across suppliers.

3.5. In addition we also proposed new rules to provide consumers with more relevant and accessible information within a number of routine communications. These include new rules for:

- **Bills** to contain personalised information for the CTM, and Personal Projections on the first page. The second page will include consumers' tariff information such as tariff name, exit fees and their annual consumption. Finally it will also include information on the TCR for the consumer's current tariff, where applicable.
- **Annual Statements** to provide a range of information on a consumer's energy costs and consumption in a specified layout. This includes information such as the CTM, where to find independent advice on switching, a version of the TIL and a graph of a consumer's consumption over the last 12 or 24 months.
- **Price Increase Notices** to contain two clear and easy to understand tables showing the price increase. These compare the previous and new rates and a comparison of the Personal Projections at the new and old rates.
- **End of Fixed Term Notices** to include information on what their tariff options are at the end of the current tariff and what will happen if the consumer takes no action.
- **Dead Tariff Notices** to ensure those consumers who are on evergreen tariffs which are no longer open to new consumers (i.e., dead tariffs), are aware of any changes to their tariff and understand what their tariff options are.
- **Terms and Conditions ('T&Cs')** to provide greater consumer protections for individual consumers by ensuring T&Cs for contracts reflect the effect of our new rules.

Consideration of consultation responses and decision

3.6. Overall the majority of respondents welcomed our package of information proposals. Stakeholders supported our aim to provide consumers with more relevant information, in a simpler and more accessible form. Some respondents felt we had reached the correct balance between creating a prescriptive framework for information based rules and allowing sufficient flexibility to create engaging communications.

3.7. However some respondents raised some specific concerns about detailed aspects of our policy. The following section provides a summary of the issues raised, outlines our view and where appropriate, provides clarification of the intent behind our new rules. The first section considers issues raised with our new communications tools and the second section summarises issues associated with routine communications.

New communications tools

TCR

3.8. Respondents to our statutory consultation document, while supportive of the intent to create a tool to allow 'at-a-glance' comparison of tariffs, expressed concern with the TCR. In particular, respondents felt the TCR could prove confusing and misleading for consumers if they do not fully understand it. Respondents also had certain queries about how the TCR would be calculated, where it would be included, and the supporting information that would sit alongside it.

3.9. We recognise respondents' concerns that the TCR has the potential to be misinterpreted by consumers, who may as a result use it as their sole comparison tool. We nonetheless consider the TCR has significant potential as a comparison tool for consumers. The TCR should act as an initial prompt for consumers to engage, but it is also intended to be used in tandem with a broader array of information remedies, such as the Personal Projection.

3.10. However, we agree the TCR will require careful explanation to consumers if it is to be used correctly. In addition to the supporting information which suppliers will be required to include on communications that feature the TCR, we also intend to feature the TCR prominently as part of our consumer communication and education programme. Nonetheless, the use of the TCR by consumers will be monitored closely once implemented to ensure that it is clearly understood and beneficial as a comparison tool.

3.11. At a more detailed level, one respondent raised a query as to how the value of tied bundles should be reflected in the TCR where these bundles were comprised of multiple elements²³. Previously, our policy intent was that where a tied bundle was comprised of multiple separate elements, those that could be expressed in £/year or

²³ The requirements in this regard apply equally in the case of both the TCR and the Personal Projection.

p/kWh should be included in the TCR, while others of the same bundle, which could not be expressed in that way, should be excluded.

3.12. For clarity, the draft licence conditions from the June statutory consultation require all elements of a tied bundle to be included in the TCR, if they could all be reflected in £/year or p/kWh. However, where it would be misleading or inappropriate to reflect any element of a tied bundle in either £/year or p/kWh, the value of the entire tied bundle should be excluded from the TCR²⁴. To illustrate how the licence condition would work, where a tied bundle is comprised of a £20 per month fee for boiler cover, and 500 minutes of free phone calls, it would not be possible to put a precise monetary value on the phone call element and therefore the entire bundle. Consequently both the boiler cover charge and the phone call element would be excluded from the TCR. This would mean only the energy element and applicable discounts of the tariff would be reflected in the TCR.

3.13. Following consideration of stakeholder responses, we propose no change to the June draft licence conditions and therefore wish to clarify that our policy is now aligned with what was set out therein. We consider this to be appropriate as there are certain complicated bundles whose cost will in large part not be capable of being expressed in £/year or p/kWh, so the TCR would not provide a meaningful reflection of the costs of a tariff. We nonetheless intend to closely monitor suppliers' bundling practices, in order to ensure the rules in this area are effective.

3.14. Separately, one respondent queried how the calculation of bundles and discounts for the TCR, as set out in the licence drafting, should be performed in practice. Based on previous consultation responses, we amended the draft licence conditions to present the TCR calculation as a formula, a move that has been received positively. In the June statutory consultation we made clear that although we provide a formula for the calculation in the legal drafting, suppliers will be free to structure the calculation as they choose, as long as there is an equivalent mathematical result. We consider this point is clear and would anticipate suppliers should be able to accurately calculate the value of the discounts and bundles that will apply to a given tariff.

3.15. One respondent raised a concern about the display of the TCR on price comparison websites.²⁵ The respondent felt that there should be no requirement to display a generic metric like the TCR on these sites as consumers have the ability to obtain personalised comparisons. We acknowledge this concern, and have structured the requirements for the TCR such that they can be fulfilled in certain instances by providing a TIL (which contains the TCR).²⁶ This should ensure that consumers do not get conflicting information about the cheapest tariff for them when using a price comparison website.

²⁴ For the avoidance of doubt, suppliers will still be required to calculate a TCR for these tariffs, but the value of the tied bundle would be excluded.

²⁵ Our rules requiring the display of the TCR apply equally to price comparison websites where they are representatives of suppliers.

²⁶ For clarity, the requirements in respect of when a TCR should be displayed (e.g. when the charges for supply are displayed) apply equally in the case of price comparison websites. However, as noted above, it is possible to structure the display of information such that a TIL, which includes a TCR, could satisfy these requirements.

3.16. However, we also consider that for the TCR to be effective as a comparison tool, it should feature on a widespread basis. As a crucial source of information for consumers, Third Party Intermediaries ('TPIs') will play a key role in the success or otherwise of the TCR. We therefore intend to engage with price comparison websites and other TPIs to ensure the appropriate use and display of the TCR, for instance in best buy tables.

3.17. One respondent raised a query in respect of the scenarios where the long and short list of TCR supporting information would apply. The short list would apply where the TCR features on routine communications and in other limited circumstances such as on certain marketing materials, so as not to overload these documents with information.²⁷ However, the long list would apply on websites, for instance, where the space constraints would not be as severe.

3.18. The long list of supporting information would also apply in the case of the TIL where it is provided in hard copy or via email, for example.²⁸ In order for the label to act as a useful summary of tariff features, it needs to be consistent across suppliers, and not overwhelmed with additional information. We therefore set out that the TCR supporting information should be included on a separate page to the TIL. Due to the adaptable and innovative nature of website functionality, it was not possible to define the exact form in which this information should be displayed where the TIL appears on a website. However, we would anticipate suppliers would embrace the policy intent behind this requirement and display both the TIL and the TCR supporting information in a suitable manner on their websites.

3.19. For clarity, we have made one minor amendment to the draft licence conditions published with our June statutory consultation. This is so as to allow, though not require, suppliers to provide a single TCR and list the applicable payment methods where all other tariff features are identical. Previously suppliers were required to do so.²⁹

Personal Projection

3.20. Respondents to our statutory consultation did not raise significant concerns with the Personal Projection, though certain queries were raised. This included its use in the marketing process, the consumption to be used in its calculation, the supporting information to be included alongside it, and whether specific prices such as those that might apply during the price protection window should be included. These queries are discussed in more detail below.

²⁷ For clarity, we have amended draft licence condition 23 in order to reflect our policy intent, such that the short list of supporting information is required to appear on the SLC 23 notice, rather than in the same envelope. This change is reflected in the amendments to the definitions of exempt information in draft licence condition 23.

²⁸ This is set out in draft licence condition 31C.5 (da).

²⁹ This is set out in draft licence condition 31C.5B. Suppliers can alternatively display multiple identical TCRs and state the specific payment method that applies in each case. A similar amendment has been made in the case of the TIL, which has been reflected in Schedule 1.7B to draft licence condition 31B.

3.21. The intention of our proposed methodology for the calculation of the Personal Projection is to provide consumers with a view of the costs they would incur over the next 12 months should they take no action in the interim. We do not consider it appropriate to assume a consumer will take a certain action - therefore prices such as those that may apply during the price protection window should not be taken into account. While we acknowledge this approach may not reflect those costs a consumer will incur in practice, we consider the proposed methodology will produce the most robust, consistent, informative and useful estimated annual cost figure for a consumer. Although it may not be fully accurate in all circumstances, we consider it to be more accurate than other formulations considered throughout our policy development process.

3.22. Respondents to the June statutory consultation queried whether the Personal Projection could be used as a means of complying with the requirement to provide an estimate of annual costs in the existing marketing licence condition³⁰. While in general it could be used, we consider that in limited circumstances using the Personal Projection would not be sufficient to comply with the requirements of SLC 25. Although this may necessitate the provision of two separate projections, it will be important that consumers clearly understand the difference between them. Although we are proposing to require suppliers to provide an explanation of the Personal Projection to consumers, further action may be necessary in future. We wish to explore this issue further to ensure consumers receive clear and helpful information throughout the sales process. We consider the TCR workgroup may be an appropriate forum for further discussion with stakeholders on this issue.

3.23. Certain respondents had concerns about the extent of the supporting information that would need to be included alongside the Personal Projection. It was felt the list could, in certain instances, be extensive, while one respondent felt the messaging should also indicate that a consumer's consumption may change in future.

3.24. Consumers must understand the Personal Projection if it is to be useful for them as a comparison tool. However, due to the variety of tariffs available, we consider that a 'one size fits all' description would not be appropriate. Our requirements are, therefore, high-level and principles-based in order to allow suppliers the freedom to word the information as they choose and tailor it to a consumer's circumstances. This could include information about the prices, consumption, discounts and bundles used in the calculation.

3.25. Certain respondents to the June statutory consultation queried the nature of the 'Annual Consumption Details' definition in the draft licence conditions and were concerned that one methodology was a backward-looking view of consumption, while the other was forward looking.

3.26. We consider that the licence drafting is sufficiently clear. The first method sets out that where suppliers have actual meter readings for a consumer which cover the previous 12 months, this consumption should be used. The second method sets out

³⁰ This is set out in Standard Licence Condition 25.

that where actual meter readings are not available, suppliers should use their best estimate of what a customer is likely to consume within a given 12 month period. We do not consider that this necessarily implies a forward-looking view of consumption only.

3.27. At present, the majority of annual consumption calculations will require some degree of estimation, in which case the second method would be appropriate. It is the suppliers' responsibility to ensure they provide an accurate estimate of consumption to consumers, whether used as part of the Personal Projection calculation or otherwise.

Cheapest Tariff Messaging

3.28. Overall stakeholders did not express views on the concept of CTM. However they did raise some issues related to the tariffs it includes and the information to be displayed to consumers. In particular, one supplier argued that, for the CTM to be useful to customers, it should exclude those tariffs for which the customer is not eligible (e.g.: a tariff that is only available to customers over 60 years old should not appear in the CTM of customers under 60 years old).³¹

3.29. We think the above is a valid concern. In our view the concern raised is partly mitigated by our proposal to allow suppliers to include in the CTM a caveat on limited tariff availability. For the avoidance of doubt, we have made changes to the legal drafting to reflect this caveat can cover eligibility criteria. Beyond this, while we remain of the view that in general all open tariffs should be included in the CTM, we recognise some flexibility for the exclusion of tariffs that are not relevant for specific consumers would be beneficial. We have also made changes to the legal text to allow (but not require) suppliers to exclude a tariff from the CTM of a customer if they are satisfied that the particular customer is not eligible. We note that in some instances suppliers will not have the necessary data when producing the CTM to determine whether a customer is eligible for a tariff. Where suppliers do not have sufficient evidence, we expect them to produce the CTM taking into account all open tariffs.

3.30. Another supplier and an industry association argued that customers would be frustrated if after seeing the CTM they called their supplier to switch tariffs and found out that the cheapest tariff is no longer available. As we have set out previously, we have accommodated this concern by allowing suppliers to caveat limited tariff availability with a statement and/or relevant date. Furthermore, requirements in respect of the 'close proximity' to which the Personal Projection and CTM are calculated and when they are provided to a customer are principles-based. It will be the responsibility of each supplier to ensure the information they provide to their customers is sufficiently up-to-date and accurate.

3.31. A small supplier was of the view that the CTM should not apply to PPM customers as it will generate distress to those PPM customers in debt. We have made it clear that we think it is important for PPM customers, particularly those in debt, to

³¹ In our Statutory Consultation we proposed to allow suppliers to set eligibility criteria on tariffs. Prior to that, we proposed to ban them.

be aware of any savings they could achieve by switching tariff. In our view, this concern is addressed by allowing suppliers to caveat any conditions and restrictions that may apply to a PPM customer wishing to switch tariff. In addition, we require suppliers to include a statement for PPM customers saying that those in debt may be able to switch supplier if their new supplier agrees to take on the debt.

3.32. Two suppliers did not agree with the treatment of white labels in the CTM³². Our policy is to treat white labels and their parent suppliers as a single supplier in the 'wide' CTM (but not in the 'narrow' CTM) after the transitory period ending on 31 December 2014.³³ It is our view that the 'narrow' CTM should treat them separately as customers have expressed a preference for brand and the 'narrow' CTM presents similar tariffs to those the customer is in.

3.33. The same two suppliers thought that white labels and their parent supplier should be treated as a single supplier in both the 'narrow' and the 'wide' CTM. We have previously stated that we think the 'wide' CTM should treat white labels and parent suppliers as a single supplier to ensure consumers are able to make well informed decisions. We propose to retain the current exemption until December 2014, to allow us to thoroughly examine these issues.

TIL

3.34. Stakeholders provided limited discussion on the TIL within their responses. One supplier sought clarification on the provision of the TIL when discussing tariff information. Our proposed policy is that where suppliers or their representatives provide the Principal Terms of a tariff, suppliers must take all reasonable steps to provide (and ensure that their representatives provide) the TIL.³⁴ This can be done verbally where appropriate. For the avoidance of doubt, it was not our intention that representatives would have to provide up-to-date TILs in circumstances where they are providing any information about a supplier's tariff. Rather our intention was to require suppliers to ensure that representatives are using an up-to-date version of a TIL when they are required to provide a TIL with Principal Terms. Changes to the proposed legal drafting have made this point clearer.

3.35. The same supplier suggested that, in the event that an entry in the TIL is not applicable to a tariff (e.g.: entry on termination fees for tariffs that do not have them), we allow suppliers to choose the wording to communicate this. We think that, to ensure clarity of the TIL and consistency across suppliers, it is necessary that the text in the TIL continues to be prescribed as far as possible. To address the concern that the prescribed text 'N/A' is not sufficiently clear, we have replaced it with 'Not applicable'.

³² Please see previous chapter on 'Simpler Tariff Choices' for more discussion on white labels

³³ The 'narrow' CTM presents customers with the savings that they could achieve by switching to the cheapest tariff from their supplier that is similar to the one they are currently on. The 'wide' CTM presents customers with the savings that they could achieve by switching to the overall cheapest tariff from their supplier.

³⁴ It also remains our intention that TILs will have to be provided on websites and where a person (other than a person acting in the capacity of an employee of any supplier) requests a copy from a supplier.

Derogation from certain requirements in relation to bespoke heating arrangements and unmetered energy

3.36. In the June statutory consultation we proposed that information on the savings available from switching are provided to customers with bespoke heating arrangements. We acknowledged that if there were significant practical issues raised during implementation we may consider a derogation for these consumers. Consequently we are amending the licence text in SLC 22F to give the Authority the power to direct that the licensee is not required to comply with these requirements.

3.37. We consider there is also merit in amending the licence text to confer the ability for the Authority to grant a derogation from the broad requirements in SLC 22E.

Summary

- **CTM** - we are now allowing (but not requiring) suppliers to exclude a tariff from the CTM of a customer if they are satisfied that the particular customer is not eligible. We have clarified that the caveat on limited availability can cover eligibility criteria.
- **TIL** – in the event that an entry in the TIL is not applicable to a tariff the prescribed text 'N/A' is now replaced with 'Not Applicable'.
- **Derogation from certain requirements in relation to bespoke heating and unmetered energy arrangements** – we are inserting provisions into the legal text to allow the Authority to direct that the licensee is not required to comply with the requirements in SLC 22E and SLC 22F.

Routine Communications

3.38. Alongside the concern raised regarding the TIL language, one supplier also reiterated their concerns with some of the language we have required suppliers to use within routine communications. In particular they expressed the view that the title 'Could you pay less?' for the CTM could cause confusion amongst consumers and that the term 'Personal Projection' is not consumer friendly. As we have outlined in our previous consultations,³⁵ for both of these terms, the language is reflective of our consumer research³⁶ and consideration of stakeholder views. We appreciate the supplier concerns raised and we intend to monitor the impact this language has in practice. If we receive sufficient evidence to suggest the language is not functioning as intended, we will consult with stakeholders to use our power of direction to

³⁵ Please see 'The Retail Market Review – Final domestic proposals', Chapter 3 'Clearer Information' and 'The Retail Market Review – Statutory consultation on the RMR domestic proposals', Chapter 3 'Clearer Information'.

³⁶ Please see SPA Future Thinking, Options for Cheapest Tariff Messaging on consumer communications; Report of qualitative research, Oct 2012 and SPA future Thinking Price Increase Notification Letters, Summary Box on Bills, Tariff Information Labels and Annual Statements, October 2012.

change the language at a later stage, or temporarily remove the requirement to facilitate further research.

Bill

3.39. While our bill proposals have been supported by many stakeholders, some suppliers still raised similar concerns about the level of prescription. These included concerns regarding having the CTM on page 1 of the bill, prescribing information that adds ‘jargon’ to the bill and which has the potential to confuse consumers, as well as having an unnecessarily high level of prescription. We set out in our previous consultation the reasons why we think our level of prescription on content and formatting is proportionate and appropriate. Our approach is the outcome of significant engagement with stakeholders and has received previous support. As a result, we do not intend to alter our proposals at this stage.

3.40. More specifically, one supplier argued that annual consumption, Personal Projections and CTM would be irrelevant or misleading in final bills as the customer has either changed suppliers or moved property. An industry organisation echoed this view by suggesting we provide discretion to suppliers on the extent to which they include in their final bills our proposed information requirements.

3.41. We are of the view that we have not been provided with any evidence that supports the position that our bill proposals will be detrimental for customers when applied to final bills. When a customer moves premises, they can ask their supplier to supply at the new premises. As the customer is unlikely to significantly vary their consumption pattern, our bill proposals remain relevant. Also, when a customer gets a final bill because they have chosen to switch supplier, the prescribed information can lead the customer to reconsider the switch or otherwise provide reassurance as to the choice made.

Price Increase Notice³⁷

3.42. We did not receive many views from respondents on our information rules for Price Increase Notices (‘PINs’). One supplier considered it was not appropriate to restrict joint mailing with certain communications, in particular the PIN, as it will prevent useful information being provided to the consumer. While we have considered these views within our previous consultations and the associated impact assessments, we remain of the view this proposal is important to ensure the purpose of these documents is clear to the consumer.

3.43. We have previously used less restrictive measures to help ensure clarity and transparency of PINs. We have written directly to suppliers setting out our expectations on clarity of the notices and we have issued guidance.³⁸ Alongside this we have made our policy intent clear throughout the RMR consultation process.

³⁷ For information related to unilateral variations in cases to recover debt or outstanding charges, please see the Simpler tariff choices chapter.

³⁸ [Guidance on notification of price increases - Standard Licence Condition 23](#), 16 August 2011.

However, despite these actions our most recent review of suppliers' routine communications showed the purposes of these notices would still be unclear to consumers.³⁹

3.44. We have conducted consumer research and taken account of views from stakeholders to inform our rules on the relevant information to be contained on PINs. As we set out in the June statutory consultation, following views from stakeholders this has been extended to include alternative tariff information through the CTM. However one supplier was concerned that, as this notice is triggered 30 days in advance of prices increasing, this messaging would provide out of date tariff information. We would like to remind suppliers our rules require the CTM to be based on all announced price increases. Our monitoring of supplier practices shows that in the vast majority of cases price increases are announced at the same time for all evergreen tariffs offered by that supplier. On this basis, our expectation is that the CTM on PINs will be relevant and useful for consumers.

3.45. Furthermore, it is our intention that the CTM acts to increase consumers' awareness of the savings available by switching and encourages them to consider their tariff options. It is important consumers are making well informed, accurate switching decisions. As a result of the CTM, we would expect consumers to be taking further action to find a tariff which is right for them. Therefore our intention is for consumers to be contacting suppliers to help them consider what the best options are for them or seeking independent advice.

3.46. To address previous concerns raised by respondents, in the June statutory consultation we also extended the information contained on a PIN to allow signposting to further advice on energy efficiency measures. One supplier considered it would have more impact to provide the advice together with the PIN. However, as stated previously it is important the purpose of these notices remain distinct and do not overload the consumer with information. There are other opportunities for energy efficiency advice to be provided to consumers which may be equally impactful, for example at the point at which a bill is issued or through separate mailings.

3.47. Finally, we have previously outlined our intention that non-price unilateral variation notices should include similar information requirements to those notices related to price. For example, these notices should include information such as the CTM and the consumer's TCR. However, we would like to clarify that for non-price variation notices required under SLC 23, a Personal Projection and annual consumption information must also be provided on the notice.

3.48. We recognise that previous consultation documents were not explicitly clear on this point in respect of the Personal Projection. We did, however, state in our March consultation that when providing CTM information to a consumer, this would always include a Personal Projection. This requirement, and the requirement to

³⁹ A review of suppliers' routine communications conducted in 2010 and 2011. A further review was carried out in January 2013.

include annual consumption information, has now been reflected in the licence drafting in respect of non-price unilateral variation notices.

Annual Statements

3.49. Our new rules require the Annual Statement to be mailed separately from the bill and set out what information it should contain. An industry organisation continued to raise concerns that the Green Deal Annual Statement information requirements must be provided on a separate document to the Annual Statement. It is their view that the current requirements are too similar and minimal to warrant a separate communication.

3.50. Following consideration of these concerns in conjunction with DECC, we maintain our view that the Annual Statement should be a standalone document, with the specific purpose of increasing awareness of a consumer's energy usage and costs, and prompting engagement. Requiring Green Deal information to be separate from the information on the Annual Statement will ensure the purpose and messaging of both documents is clear and simple. In addition this provides flexibility for the Green Deal information requirements to adapt in the future, without being constrained to a set layout or space restrictions. We recognise, however, that there may be synergies here and as such our rules allow both documents to be mailed in the same envelope.

3.51. As a result of changes to the requirements for Annual Statements, and to ensure there is clarity regarding the requirements of the two statements, we have also made some consequential changes⁴⁰ to the requirements for the Green Deal Annual Statement. These clarifications align the methodology used for producing estimated annual costs and provide a distinction in the definition between the Green Deal Annual Statement and the Annual Statement referred to in SLC 31A.

Dead Tariff Notice

3.52. With respect to our rules for Dead Tariff Notices, two suppliers were still unclear about the timing of the information-based requirements which use new tools such as the TIL and the TCR. As we discussed in the June statutory consultation, when a supplier makes the final change⁴¹ to a customer's dead tariff (or makes all necessary changes at the same time), they will need to send out a Dead Tariff Notice. Before then and starting from day 1 of implementation, a supplier must notify the customer of any change that it makes to a dead tariff, in full compliance with our information remedies. This ensures that customers receive clear information on any incremental changes to their dead tariff.

3.53. A consumer organisation requested clarity on the arrangements for those consumers on 'transitional' dead tariffs while changing to a new tariff. 'Transitional'

⁴⁰ The consequential changes to SLC 37 in the electricity supply licence have been made pursuant to section 11B(3) of the Electricity Act 1989.

⁴¹ Suppliers may need to make multiple changes to the features of a dead tariff before it is fully in line with our rules new rules.

dead tariffs are those tariffs that are made dead for up to 49 days, while the supplier transfers customers to a live tariff and closes the previous tariff.

3.54. For these tariffs, as we have set out in our licence conditions, no Dead Tariff Notification rules apply as they are temporary arrangements (SLC 22D.1C). However, the existing communication tools and rules for routine communications are still applicable.

Terms and Conditions (T&Cs)

3.55. To ensure consumers are able to seek individual redress if suppliers are not fulfilling their obligations we previously proposed all RMR related licence conditions should be contained within a consumer's T&Cs for their energy contract. However, following consideration of suppliers' views that this requirement would be too onerous and cause complex, lengthy T&Cs, we proposed a more targeted approach as part of the June statutory consultation.

3.56. We proposed to limit this requirement so that suppliers are only required to reflect the effect of specific provisions. This was also combined with a principles-based requirement to ensure those provisions which relate to consumer protection measures, should also be reflected.

3.57. One energy supplier still considered this approach to be too onerous given the complexity of some conditions. It is their view that this would require detailed translation into the T&Cs and that it is not entirely clear which conditions need to be reflected. We maintain the view that the current proposal is sufficient to address previous concerns. The current rules require the effect of the licence conditions to be translated into the T&Cs combined with a principles-based approach. Suppliers therefore have some discretion to decide what the appropriate level of detail is. We will, as previously stated, keep this area under review to ensure that the licence conditions are affording consumers the appropriate protections.

Summary

- **PIN** – Personal Projections and annual consumption information should be contained within non-price unilateral variations.

4. Implementation

Chapter Summary

This chapter provides an overview of the issues raised by respondents to the June statutory consultation with regards to the implementation timetable we proposed. We outline our response to the issues raised, and where appropriate, any revisions we have made.

Introduction

4.1. We set out our views on the concerns raised by respondents on our proposed implementation timescales and, where appropriate, summarise any clarifications or minor amendments we have made following consideration of stakeholder responses.

Implementation

4.2. There was a sentiment across all suppliers, large and small, that the timelines we have proposed for implementation are challenging. For larger suppliers this was particularly the case for the implementation of the tariff package by 31 December 2013 given our slightly longer consultation process. While we recognise there may be some operational challenges, many suppliers indicated they have already started to make progress implementing some aspects of our proposals in this area and consider it is achievable. We have also made our intentions very clear through a series of consultation documents and industry stakeholder workshops. On this basis we have decided to maintain our proposal to implement the tariff simplification proposals by 31 December 2013.

4.3. Two small suppliers were concerned about the cost and resource implications for implementing the Clearer Information proposals by 31 March 2014 given the significant investment it required. We appreciate the implementation of our requirements may be more of a burden for some small suppliers. We are not proposing to change the implementation timeline for the information requirements; however, we intend to engage with this group further to understand their concerns in more detail.

4.4. Below we discuss some specific queries raised by respondents on the implementation of certain aspects of our proposals. A table providing more detail on the broad implementation timetable can be found in Appendix 1 and the exact timescales for individual policy measures can be found in the modification notices for the gas and electricity supply licences published alongside this document.

Unilateral variations

4.5. In relation to unilateral variations, in the June statutory consultation, we proposed that certain existing fixed term tariffs⁴² would be exempt from some of the RMR rules. This exemption includes the ban on unilateral variations on fixed term contracts. We also stated that for fixed term contracts that did not meet these date requirements, the ban on unilateral variations would be in place from Day 1 of RMR. This was a change from our final proposals in the March consultation, in which we stated that the ban on unilateral variations would be effective from 31 March 2014 but had no exemption for contracts already entered into.

4.6. One supplier said it would now be unable to raise the prices of any fixed term tariffs it had launched after the exemption dates. It had launched these tariffs in the expectation that it could raise prices unilaterally up to 31 March 2014. It argued the change of implementation date is retrospective regulation.

4.7. We do not agree that the change of implementation date constitutes retrospective regulation. We have a duty to consider responses to our consultations, and where we deem appropriate, alter our proposals accordingly. As a consequence, stakeholders were aware that our proposals could change between our final proposals in the March consultation and the June statutory consultation. Our policy in the March consultation to apply our rules prohibiting disadvantageous unilateral variations from 31 March 2014 did not have any exemptions for existing fixed term contracts. Having now proposed such an exemption in the June statutory consultation, the consequence is that we believe it is important to protect consumers from disadvantageous unilateral variations from Day 1 of the RMR, not 31 March 2014.

End of Fixed Term Notices

4.8. For those consumers on fixed term tariffs, our policy intention is that End of Fixed Term (FT) notices which are sent to relevant consumers from 31 March 2014 are compliant with all the new RMR rules. More specifically, the notices must include all the relevant new clearer information requirements and must be sent 42 to 49 days in advance of the end of a fixed term contract. We have made this policy intention clear in our March consultation and June statutory consultation.

4.9. One respondent was concerned that the current licence drafting implied that any fixed term contract that ends from 31 March 2014 would require an FT notice to be sent 49 days in advance of that date which is compliant with the new RMR information requirements. In particular, this would result in suppliers needing to have the CTM operational before 31 March 2014, which was considered particularly challenging.

⁴² Where (a) the fixed term contract was entered into before 1 May 2013; or (b) the fixed term contract was available for customers to enter into before 1 May and was entered into by a customer before 15 July 2013; or (c) The fixed term contract was entered into before 1st May 2013 and the duration of the contract was extended before 15 July 2013.

4.10. This would have the unintended effect of pushing implementation timelines of our information remedies for FT notices to mid February 2014. To avoid this and maintain our policy intention, we have made the necessary changes to SLC 22CA. In effect, suppliers will have to send out RMR compliant FT notices from 31 March 2014.

TCR and TIL

4.11. Respondents to our statutory consultation expressed the view that implementation of the TCR and TIL should be aligned with that of other information remedies on 31 March 2014 instead of 31 December 2013. We consider this change to be appropriate. We recognise the concerns expressed by some suppliers at requiring multiple iterations of changes to their communications and the resource/cost implications this may have. Our range of information remedies are also intended to function together as a package, so there are significant benefits to consumers in launching them simultaneously. We therefore consider it appropriate to require implementation of the TCR and TIL on 31 March 2014.

Terms and Conditions (T&Cs)

4.12. One supplier requested greater clarity on when suppliers would be required to implement our new rules for T&Cs. We outlined in the June statutory consultation that the T&Cs should be updated as and when the relevant consumer protection provisions become effective. We appreciate there are resource and cost implications for suppliers through requiring multiple revisions of the T&Cs over the next year. However, to ensure consumers' interests are protected we believe it is important for consumers to have these provisions available as soon as possible. We also note that it is unlikely the majority of these changes would be to the disadvantage of the consumer. Therefore, we expect suppliers will have flexibility in how they choose to notify consumers of these changes, which will provide suppliers with an opportunity to minimise the resource implications.

Derogations

4.13. Several suppliers have highlighted in their responses to the June statutory consultation that they intend to apply for derogations from a number of our rules. We are of the view that derogations would be granted only in exceptional circumstances where our rules could have unintended consequences for consumers. Whilst we have made every effort to ensure such potential is minimised, we recognise that it would be advantageous to have flexibility not to apply certain aspects of our rules in extenuating circumstances.

4.14. We have been asked to provide more information on the process we would adopt for the granting of derogations and the key criteria that would need to be met for any derogation to be granted. We are in the process of developing guidance on our approach to derogations and intend to publish a document shortly.

Monitoring and evaluation

4.15. Some suppliers and consumer organisations suggested we develop a monitoring package designed to identify any success, or otherwise, of the RMR rules, which is shared and agreed with stakeholders. Some respondents considered there is a need to monitor the impact of the RMR on an ongoing basis. They suggested we seek regular feedback from consumers and industry stakeholders to identify issues and, where possible, address them as and when they emerge.

4.16. As we have outlined previously, we are committed to closely monitoring the performance of the market, including the impact of our new rules. Through this work, we may examine new issues which arise or consider the impact of any new evidence on our RMR measures. As part of this, we will review the impact of our new rules no later than 2017.

4.17. We are currently conducting further work to improve the effectiveness of our routine retail market monitoring activities, including determining what the appropriate approach should be to monitor and assess the impact of our new rules. We intend to work with stakeholders in the near future to inform the results of this work.

Appendices

Index

Appendix	Name of Appendix	Page Number
Appendix 1	Implementation timescales	45
Appendix 2	Application of some proposals to non-domestic suppliers	47
Appendix 3	Other associated documents	48
Appendix 4	Glossary	51

Supplementary appendices published separately

Supplementary Appendix	Name of Appendix
Appendix 1	Modifications and notice of reasons to modify the Standard Conditions of Gas Supply Licences
Appendix 2	Modifications and notice of reasons to modify the Standard Conditions of Electricity Supply Licences

Appendix 1 – Implementation timescales

The table below provides a general overview of the main implementation dates of certain of our proposals. The table is only intended to provide a rough guide to the main implementation dates and therefore should not be relied on for the fully precise and correct position. It excludes information on exceptions.

For exact and detailed information on the implementation dates for all the licence modifications that transpose our proposals, please refer to the modification notices for gas and electricity. For further information on the proposals please refer to the main body of this document. Day 1 is the 56th day after the date on which the Authority’s decision is published.

	Proposal	SLCs where the key requirements can be found
Day 1	Definitions	
	- Most new definitions and amendments to existing definitions – with exceptions	SLC 1
	Tariffs-related consumer protection measures	
	- 28 days notice to terminate evergreen contract	SLC 7
	- Prohibition of termination fees for Deemed contracts	SLC 23
	- Provision of Principal Terms	SLC 24
	-	
	Price increase and adverse unilateral variations	
	- Ban on price increase and adverse unilateral variations – with exceptions to existing fixed term contracts	SLC 22C
	- Requirement to notify any changes to the disadvantage of the customer – with exceptions in relation to the notice content	SLC 23
Process of switching supplier and tariff		
- Requirements on termination fees and switching	SLC 24	
Mutual variations	SLC 23A	
At the end of a fixed term contract		
- Prohibition of auto-rollovers		
- Requirement to notify customers of the switching window	SLC 22C	
- Requirement to default customers to an evergreen contract (cheapest evergreen from 31 March 2014)		
Dead tariffs		
- Prohibition of new dead tariffs		
- If suppliers decide to make changes to Dead tariffs:		
o Tariff simplification rules	SLC 22D	
o TCR, Personal Projection		
o TIL, CTM		
o Clearer information requirements for the Dead Notice		
Start of temporary provisions applied to White Labels	SLC 31D	
31 December 2013	Tariff Cap	SLC 22B

The Retail Market Review – Implementation of Simpler Tariff Choices and Clearer Information

	<p>Standardise tariff structures</p> <ul style="list-style-type: none"> - Except earlier implementation for Dead tariffs 	SLC 22A
	<p>Rules on bundles, discounts, reward points</p> <ul style="list-style-type: none"> - Except earlier implementation for Dead tariffs 	SLC 22B
31 March 2014	<p>Personal Projection</p> <ul style="list-style-type: none"> - Except earlier implementation for Dead tariffs 	SLC 31E
	<p>Clearer Information requirements for:</p> <ul style="list-style-type: none"> - Cheapest Tariff Messaging, Tariff Comparison Rate, and Tariff Information Label (except earlier implementation for Dead tariffs) - Routine Communications: Bill, Annual Statement, Price Increase Notification, and End of Fixed Term Notice 	SLC 31E SLC 31C SLC 31B SLC 31A SLC 22C SLC 23
	<p>Fixed term - Auto-rollover and Switching Window</p> <ul style="list-style-type: none"> - Default to cheapest evergreen 	SLC 22C
From day 1 to 30 June 2014	<p>Ban on expensive dead tariffs</p> <ul style="list-style-type: none"> - Migrate customers from expensive Dead tariffs to cheapest evergreen 	SLC 22D
31 December 2014	End of the temporary provisions for White Labels	SLC 31D
30 June 2015	First Dead tariffs annual check	SLC 22D

Appendix 2 – Application of some proposals to non-domestic suppliers

As Ofgem has indicated in previous consultation documents, in order to transpose the RMR domestic proposals we are making some minor and clarificatory changes to licence conditions which affect both domestic and non-domestic suppliers. The main relevant changes are as follows:

- Changes to the part of the existing definition of Principal Terms which refers to contract duration.
- Changes to the existing definition of Charges for Supply of [Gas/Electricity].
- Changes to the existing definition of Holding Company.
- Changes to the existing definition of Subsidiary.
- One of the changes to the existing definition of Termination Fee.
- The insertion of the defined terms “Standing Charge” and “Unit Rate”.
- The insertion of a new paragraph 2.5A in standard condition 2.
- The insertion of new paragraphs 7.6A, 7.11, 7.12, 7.13 and 7.14 in standard condition 7.

Appendix 3 – Other associated documents

- RMR policy intent and legal drafting workshop: TCR and Personal Projection presentation, 10th May 2013.⁴³
- The Retail Market Review – Final non-domestic proposals, March 2013, Reference: 38/13.
- The Retail Market Review – Impact Assessment for the final non-domestic proposals, March 2013, Reference: 38a/13.
- Review of Ofgem’s enforcement activities – consultation on strategic vision, objectives and decision makers, March 2013, Reference: 43/13.
- Draft domestic licence conditions for the Retail Market Review proposals, October 2012, Reference: 135c/12.
- Ipsos MORI, Customer Engagement with the Energy Market - Tracking Survey 2012, October 2012.
- Boag McCann, Ofgem RMR Consultation Visuals, Forthcoming.
- Boag McCann, Ofgem Information Improvements: Implementation Guidelines, October 2012.
- SPA Future Thinking, Price Increase Notification Letters, Summary Box on Bills, Tariff Information Labels and Annual Statements, Report of consumer testing to support template development, October 2012.
- Ipsos MORI, Consumer views on Tariff Comparison Rates, Findings from the Ofgem Consumer First Panel Year 4 and new participants: Fourth workshops (held in August 2012), October 2012.
- SPA Future Thinking, Options for cheapest tariff messaging on customer communications; Report of qualitative research, October 2012.
- Insight Exchange, Consumer research and collaborative engagement on the proposed Standards of Conduct – Domestic Customers, October 2012.
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⁴³ For more information see the following link:
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Appendix 4 – Glossary

A

Annual Statement

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, estimate of annual cost for the next 12 months and details of any premium or discount that applies to the tariff.

Automatic contract rollover ('auto-rollover')

Where, due to the terms of a contract, a supplier has the ability to extend the duration of an existing Fixed Term tariff or apply a new Fixed Term tariff without the consumer's positive assent.

Annual Bill

The amount that a customer would have to pay for gas and/or electricity over one whole year.

Authority

The Gas and Electricity Markets Authority

B

Barrier to entry

A factor that may limit a firm's ability to enter the market.

Barrier to expansion

A factor that may limit a firm's ability to increase in size.

Big 6

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 ScottishPower.

Bundled Products (Bundles)

An 'opt in' bundle for the purpose of this proposal is when consumers can add on additional services/products to their energy offering.

A 'tied' bundle for the purpose of this proposal is a form of pure bundling where it is tied/mandatory to buy the entire bundle to receive all the products and services offered, ie the specific energy offering is only available with this particular bundled form.

An 'opt out' bundle for the purpose of this proposal is a when a consumer is presented with an entire bundled product and they are required to 'opt out' of the additional services if they wish to only purchase the energy element of the bundle or if they wish to 'opt out' of any one of the elements of the bundled product.

C

Code of Practice

A set of guidelines and principles to be followed by members of some profession, trade, or group.

Cooling-off period

Usually refers to a period of time after the consumer has entered into a contract or signed up to a tariff during which they can reverse their decision without incurring any cancellation fees.

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.

Cross subsidise

The part financing of one product or activity by another.

D

Dead tariff

An Evergreen Tariff that is not an Open Tariff.

Deemed Contract

A contract deemed to be in place pursuant to paragraph 8 of schedule 2B to the Gas Act 1986 and/or paragraph 3 of schedule 6 to the Electricity Act 1989, eg where a customer takes a supply of electricity and/or gas otherwise than under a contract that has been expressly entered into with a supplier.

Department for Energy and Climate Change (DECC)

The UK government department responsible for energy and climate change policy.

Derogation

An exemption from or relaxation of a rule.

Direct debit (DD)

A method of payment where a fixed or variable amount is taken from a bank account each month, quarter or year.

Domestic customer

A customer that uses energy for non-commercial purposes.

Domestic energy suppliers

Companies who sell energy to and bill domestic customers in Great Britain.

Dual Fuel (DF)

A type of energy contract where a customer takes gas and electricity from the same supplier.

Dynamic Teleswitching (DTS)

A particular type of electricity meter where the tariffs have a control unit that allows the supplier (or distribution company) to switch the metered supply remotely by radio teleswitch. The Radio Teleswitching Access Provider controls the radio switches, and therefore heating load, following instructions from the supplier.

E

Economies of scale

The efficiency gains made when the average cost of producing a good or providing a service falls as output increases.

Economy 7 / Economy 10

A type of tariff that has different unit rates for consumption during the day and during the night. The number following 'Economy' refers to the number of hours for which night-time rates are available.

End of Contract Notification

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.

Evergreen contract

A supply contract of indefinite duration which may be terminated by the customer by giving notice in accordance with the contractual terms, eg 28 days' notice

Ex-PES

The previous Public Electricity Supplier (PES) for one of the 14 electricity regions in England, Wales and Scotland. From privatisation in 1990 until 1998 the ex-PES had a monopoly of electricity supply and distribution in their designated areas. Local distribution is still a monopoly regulated by Ofgem, however, competition has been introduced in supply, and so these 14 suppliers (consolidated now into five) are known as ex-PES suppliers. The 14 regions are detailed below, together with the name of today's ex-PES company for each region.

Region	Supplier Group
London	EDF Energy
Seeboard	
SWEB	
East Midlands	E.ON UK
Eastern	
Norweb	
Midlands	RWE npower
Northern	
Yorkshire	
Scottish Hydro	SSE
Southern	
Swalec	
Manweb	Scottish Power
Scottish Power	

F

Fixed price tariff

A tariff that guarantees that the price paid per unit of gas or electricity used will not change for a given period of time.

Fixed term tariff

A tariff with a fixed end date.

Fuel poverty

Households who need to spend more than 10 per cent of their annual income on fuel to maintain an adequately heated home.

G

[Green Deal](#)

A scheme that allows householders to improve the energy efficiency of their homes and repay the cost through energy bills.

[Green tariff](#)

A tariff that is promoted primarily on the basis of its association with renewable energy sources and/or climate change mitigation

I

[In-area customers](#)

Customers of an electricity supplier who are located within the supplier's original ex-PES region.

[Incumbent suppliers](#)

See ex-PES suppliers

[Intermediary](#)

An organisation that can help consumers to switch energy tariffs

K

[kWh](#)

Kilowatt-hour is a unit used to measure energy consumption in both electricity and gas.

L

[Loyalty discount](#)

A discount that is paid at a pre-specified point in time if the consumer does not switch energy suppliers.

M

[Market segmentation](#)

The process of splitting customers, or potential customers, in a market into different groups, or segments.

Market share

The proportion of total customers (usually as proxied by the number of meter points) within a market that are registered to a particular supply group.

Mutual variation

An amendment to the terms and/or conditions (including price) of a consumer's energy supply contract, agreed with the consumer. The consumer would not be obliged to accept the proposed variation. The variation can only be binding following express agreement from the consumer.

MWh

A megawatt hour. Equal to 1000 kWh.

N

New entrant

An entrant that does not have an incumbent customer base.

Non Time of Use tariff (Non-ToU)

A tariff that is not a Time of Use (ToU) tariff.

O

Office of Fair Trading (OFT)

The body established by the Enterprise Act 2002 (which replaced the office of Director General of Fair Trading) with functions that include enforcing consumer protection law and competition law, reviewing mergers and conducting market studies.

Ombudsman Services: Energy

Ombudsman Services: Energy means the Ombudsman Services provided to Energy Suppliers and Energy Network Operators. The Ombudsman's principal aim is to receive complaints made by complainants in accordance with the *Ombudsman Services Terms of Reference* and to consider and, where appropriate, investigate such complaints in order to encourage and/or facilitate the terms of their resolution, settlement and/or withdrawal.

Online tariff

A tariff for the supply of electricity/gas which may only be entered into via a website, and/or a tariff which must be managed fully or partly by a customer via a website.

Open tariff

A Tariff that is available to new and existing customers at any given time.

Out-of-area customers

Customers of an electricity supplier who are located outside of the supplier's original ex-PES region.

P

Personal projection

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.

Prepayment

A method of payment where 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.

Price Increase Notification (PIN)

If a supplier increases the price of a tariff, 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 takes effect.

S

Self regulation

Industry regulation without Ofgem's binding licence conditions. However, if self regulation is not operating as Ofgem would hope, licence conditions may be introduced.

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.

Small suppliers

Suppliers which operate in the domestic gas and electricity market but do not hold significant market share. This can refer to all suppliers other than the Big 6.

Standards of Conduct (SOC)

A written policy and procedure that outlines broad standards of integrity and business ethics.

Standard credit

A method of payment where the consumer receives a bill for their energy use over a number of months and pays their bill by cash or cheque.

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 and which is chargeable in addition to charges arising on the basis of a unit rate.

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).

Surcharge

An additional and exceptional charge added to the usual charge(s).

Switching

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

Switching window

The period in which a consumer is eligible to switch supplier, in response to an End of Contract Notification, in which they will not be subject to any Termination Fees or be required to notify their supplier of their intention to switch.

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 would allow consumers to compare the price of energy tariffs on a like-for-like basis using a typical consumption figure.

Tariff Information Label (TIL)

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

Tariff structure

The way in which a tariff's charges are structured. For example, currently some tariffs have a single unit rate whilst others have more than one unit rate (multi-rate).

Termination (exit) fees

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

Third Package

The term 'Third Package' refers to a package of EU legislation on European electricity and gas markets that entered into force on the 3rd September 2009. The purpose of the Third Package is to further liberalise European energy markets. DECC is primarily responsible for its transposition in Great Britain and must do this by the 3rd March 2011.

Time of Use tariff (ToU)

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.

Tracker tariff

Currently, this is a tariff where the price per kWh for gas/electricity will vary in reference to other prices or indices. For example this can be the price of another tariff from another supplier. These tariffs will no longer be able to track the price of tariffs offered by suppliers, but only a published stock exchange quotation or index or a financial market rate over which the supplier has no control.

U

Unilateral variation

An amendment to the terms and/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.

V

Variation

An amendment to the terms and/or conditions (including price) of a consumer's energy supply contract.

W

White label tariff

A tariff 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