



By Email

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

Dear Clem,

This letter is a response to the above consultation, published 3 August 2016, sent on behalf of the gas and electricity supply licensees within Npower Group PLC. The content and comments below address the questions posed in your document.

As within our response to your Statutory Consultation we welcome the removal of certain RMR ‘Simpler Tariff Choice’ rules and the greater freedom and flexibility given to suppliers to innovate and develop tariffs focused on customers’ needs and preferences. This will encourage even greater and more informed engagement by customers, complementing the upturn in switching you recently highlighted between January and June this year.

On the proposals put forward we are similarly supportive of the shift from detailed prescriptive rules to a greater reliance on principles based regulation, to accompany this greater freedom and flexibility. It’s a more appropriate way of maintaining an overview of how suppliers structure, present, explain and promote their tariffs to customers, while maintaining the requisite protection for customers and the ability to intervene if poor customer outcomes emerge.

It is also encouraging that Ofgem has turned its attention to the Clearer Information Tools, introduced by RMR, to assess if they are still appropriate and fit for purpose given the changes to the tariff rules and the greater flexibility, innovation and number of tariffs that will ensue.

Below we provide some detailed comments on your proposals - the proposed move to a greater reliance on principles rather than detailed rules (tariffs, sales and marketing) and the proposed removal and/or adjustment of requirements related to the Clearer Information Tools.

Any questions on our response, please contact me, and we look forward to providing further contributions as these changes to the regulatory framework evolve.

Yours sincerely,

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Helping customers to make informed choices

- Given the removal of some of the prescriptive rules around tariffs, discounts, etc. introduced by RMR, the shift to a principles based approach to tariff comparability and the information supplied to customers about tariffs, is the logical next step.
- We support the stated policy objective of facilitating customers making informed choices by being able to easily assess which of any supplier's tariffs offers them the best value, as appropriate to their own circumstances and preferences.
- To such an extent that the objective would be better achieved as an overriding principle in its application to tariff comparability and how tariffs are promoted/sold.
- However, it is less certain that six additional sub-principles are necessary or whether, in addition to the above principle covering off the policy objective around informed choice, two broad principles are required in relation to tariff comparability and marketing respectively.
- In a sense we already have the framework for a broad objective for sales/marketing through the Objective currently set out in SLC 25.1, that already lists all the relevant points around transparency, fairness, appropriateness, not misleading, no high pressure tactics, appropriate products, etc. No doubt a single principle covering off your principles 4, 5 and 6 (fair, honest, transparent, appropriate / don't mislead or use inappropriate tactics / appropriate products or services) would have the same effect.
- A similar approach on your proposed 1, 2 and 3 on tariff comparability (tariffs that are clear and easily understandable / easily distinguishable from one another / information, tools to facilitate comparison and selection of tariffs appropriate to a customer's needs) would be prudent. In essence an SLC 25-like objective with separate strands for tariff comparability and marketing.
- We concur that the marketing element of the above, our suggested revised single principle on the subject, should apply across all channels, and not be constrained as rules are currently to face-to-face and telephone activities.
- In respect of the scope of the above principles, we agree with Ofgem and the CMA that they should apply across all suppliers to ensure the customer experience and how customers are protected is consistent.

Consequential changes to Clearer Information tools

- We agree wholeheartedly with the proposal to remove the requirement to provide a **Tariff Comparison Rate (TCR)** as it is no longer appropriate, both in the context of the greater flexibility in the number of and the form tariffs will take, and the confusion created in customers minds by TCRs being based on average consumption;
- We support retaining the requirement on suppliers to provide customers with an estimate of annual costs on relevant communications, known as the **Personal Projection**. As we mentioned at the workshop, annual cost is the currency that is most common and accepted across the market, including by customers and exhibited by its use by online comparison sites. It is also for consideration whether a more flexible approach can also be adopted here where contracts are shorter than 12 months duration and/or there is a seasonal element to them?

- We similarly support the amendment of the definition of “**Estimated Annual Costs**” to allow suppliers the freedom to develop their own methodology to calculate the estimated annual costs, provided they do so on an internally consistent basis, wherever the **Personal Projection** is used.
- However, this must be on the basis that the Personal Projection methodology used, particularly in a sales context, is transparent and as complete and accurate as possible, reflecting and explaining the assumptions, data available and used, when providing the associated information to customers.

This clarity and transparency is essential if customers are not to be faced by a wide variety of results, dependent on which supplier or Third Party Intermediary (TPI) through whom they choose to switch.

- Ofgem should also consider whether some form of principle, whether specific to tariffs themselves or the marketing of them, provides a framework in which Personal Projections are provided to customers. This would help avert and/or mitigate against too much variation in what customers see. While permitting some flexibility in how suppliers build up the projected annual cost, including where necessary the use of robust consumption factors and customer characteristics that can be substantiated. We would question though how practicable or reliable it is to insist on and then try and factor in characteristics such as the number and type of appliances, given the numerous variables at play (e.g. energy efficiency improvements; appliance size / energy rating, etc.).
- Ofgem guidance and clarification would be welcome on whether increased flexibility permits suppliers to either pro-rate as part of the calculation where a fixed term contract has less than 12 months to run (assuming the remainder of the year at standard evergreen price), or adopt a flat rate approach of 12 months at the current fixed price for comparison purposes, or alternative calculations. Subject of course to the internally consistent requirement and transparency. This could also be reflected in the above principle.
- The idea of a principle and/or guidance would also help in those circumstances where inevitably the methodology may need to differ, for example where time of use / restricted meter tariffs are involved and the impact that might have on what information or data is available for use.
- We support the retention of the **Tariff Information Label (TIL)** including any changes that are a consequence of other changes i.e. the removal of the TCR and changes in the calculation of Personal Projections. However, based on feedback from our customers, we would like greater flexibility around the format and terminology prescribed in the current TIL template.

As outlined in our response (1 May 2015) to Ofgem’s call for evidence on the impact of RMR, the design does not lend itself to a positive digital experience. The term Tariff Information Label does not resonate with users and the prescribed layout and headings are confusing (such as the references to “Your tariff information” and “About your gas tariff”, which are confusing with feedback such as “Are you saying all of these TILs are mine?”). In our view, something like “Tariff details / key facts” would make more sense.

- On **Cheapest Tariff Messaging (CTM)** there is potential for complexity and confusion for customers, because we are already witnessing an increase in the number, range and type of tariffs available from suppliers, with all their various nuances in terms of eligibility and other requirements (new/existing customers, online account management, payment method and linked offers, etc.). This might mean customers' experience of what represents the cheapest tariff is very different?
- While we recognise Ofgem's rationale for the retention of CTM, on the basis that it has some traction with and is valued by customers, Ofgem do need to ensure that the prompts and messaging that surround it are appropriate given the relaxation of many of the RMR tariff rules.
- In this context Ofgem should review the definitions of the 'narrow' and 'wide' scenarios for CTM, as they have done with Estimated Annual Costs, to ensure they are more principle based than prescriptive on a line by line basis. This would complement the greater flexibility and choice that has commenced with the effective removal of many of the RMR Simpler Choice rules.

Removing prescription from the marketing licence condition (SLC 25)

- During earlier stages of Ofgem's thoughts on a new form of principles based retail regulatory framework - it was immediately apparent that SLC 25 was a prime candidate for that transition, sooner rather than later.
- Such a move does not dilute the protection provided to customers because as a supplier, from a compliance prospective, the broad principles contained in the Objective of SLC 25 have always been a focal point for delivering positive customer outcomes through our sales activities.
- We are therefore in favour of Ofgem's proposals, subject to our comments above about a single broad principle in this area of sales/marketing (and not a number of sub-principles), allied to expanding the scope of any requirement to all sales channels.
- A query is raised on the retention of records for two years, including whether this should be all sales channels, or just face-to-face and telephone sales? We would ask Ofgem to review and report back on what is already covered off in consumer law and if there is a gap that needs to be addressed, then it should be as part of the principles based framework outlined above, rather than a prescriptive rule as per your document.
- Generally we hold information for as long as is necessary, as we are required to delete personal data that is no longer required to fulfil the purposes for which it was originally collected. For example when for a specific marketing campaign, then once it is completed the data should be deleted.
- The onus is therefore on ourselves, without specified time limits in Data Protection Act, to determine what is necessary in given circumstances, including taking account of whether information might be needed for compliance purposes, or future investigation activity given our previous experiences.
- As we suggest above we would urge Ofgem to be prudent in this area in the context of consumer law and data protection provisions, and the shift that has commenced from prescriptive rules based to principles based regulation.

Ability to roll customers onto another fixed-term contract – but customer can leave without penalty and at any time?

- At face value we welcome further discussion around the ability to pursue this but again would counsel against any form of prescription in this area, relying on the principle(s) around tariff comparability to provide the necessary protection to customers.
- This would enable suppliers to have an appropriate dialogue with customers to arrive at appropriate consumer outcomes. Thus taking account of customers' existing tariff arrangements, preferences going forward, tariff comparability and characteristics, etc.

General / Impact Assessment / Monitoring

- In summary we are supportive of the proposals put forward by Ofgem in this document, save for a couple of examples which we believe require further review and/or adjustment to ensure Ofgem adhere to a principles based approach or align requirements to better fit the new regulatory landscape, where suppliers enjoy greater freedom in the number, form, structure and type of tariffs they develop.
- This form of lighter touch regulation should extend to how suppliers engage with and communicate to their customers under the broad principles and similarly how Ofgem monitor suppliers under the new framework, i.e. avoiding unofficial measures to focus on key matters such as customer ease of access, satisfaction/dissatisfaction, complaints, etc.
- Finally while much of the documentation and proposals now in train seek to unravel the majority of the rules put in place by the RMR, we would urge Ofgem to persist with their promised reporting out of the impact of those original RMR changes and requirements you set down in the licence.