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**18th October 2018**

Dear Katherine and Ruth,

**Response to statutory consultation on domestic supplier-customer communications rulebook**

This submission was prepared by Citizens Advice. Citizens Advice has statutory responsibilities to represent the interests of energy consumers in Great Britain. This document is entirely non-confidential and may be published on your website. If you would like to discuss any matter raised in more detail please do not hesitate to get in contact.

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We welcome the opportunity to respond to this consultation. We think that positive changes have been made since the policy consultation, and support the proposed new principles for supplier-customer communications. We think that the consumer outcomes set out by Ofgem are the right ones, and will challenge suppliers to improve their communications in order to meet them. We think this is particularly the case for consumers who are currently poorly served, including consumers in vulnerable situations, consumers who pay by prepayment and those on time of use tariffs.

We have answered the consultation questions in detail below. Our key remaining area of concern with the proposals is that we want to ensure that consumers are able to continue receiving bills and statements of account, if they need them or particularly prefer to receive these. Ofgem should clarify in its decision that this is the case under the proposed wording of the billing principle.

In the past, we have been concerned that new principles have been difficult for suppliers - and particularly small and new entrant suppliers - to understand, within the context of other rules in the licence. We think that the structure of the proposed licence conditions, pairing the new principles alongside the relevant prescription in each area, should make it much easier for suppliers to understand what is expected of them. The consultation document also clearly sets out Ofgem's aims and rationale for

the changes. We hope that the final decision document is equally clear, to act as a resource for suppliers to best understand the structure and content of the principles.

This work marks the conclusion of the Future Retail Regulation workstream. We have supported the transition to more principles-based rules, in order to allow more innovation and achieve better consumer outcomes. However, we are concerned that these are not always being followed, or having the impact that we might have anticipated.

We have written previously of our concern that tools on some supplier websites are inadequate to enable consumers to make informed choices.<sup>1</sup> We are also concerned that the move to principle based rules in relation to tariff distinguishability has made it more difficult for consumers to choose between a broad range of suppliers in some instances.<sup>2</sup> And we have engaged with Ofgem about the emergence of online-only suppliers, which we think fail to provide complete, fit-for-purpose customer service arrangements, in line with the Standards of Conduct.

We strongly support Ofgem's statement that 'it would not be acceptable for suppliers to use these proposed rule changes to reduce the quality of their service.' A strong monitoring and compliance framework is vital to ensuring this outcome is avoided across the areas where principles have been introduced in the past few years.

We therefore welcome Ofgem's commitment to provide greater detail on its monitoring of supplier performance at a later point, and an overview of the new arrangements should ideally form part of the decision document. This should focus on the areas of greatest risk, which we consider to be communications to time of use tariff, prepayment and standard variable tariff customers.

Monitoring is just the first step. When issues are identified, Ofgem must take prompt compliance action where appropriate. We support Ofgem's new approach in being more transparent about the opening of compliance cases, as this could help other suppliers identify and address their own compliance issues more quickly. The upcoming licensing review will also represent an opportunity for Ofgem to look again at its compliance tools. We would support the introduction of new rules to ensure suppliers have to provide more information upfront about how they plan to meet the required customer outcomes.

We also think that, in respect of customer communications, there are some important areas that have been out of scope, which may make the reforms less effective than

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<sup>1</sup><https://wearecitizensadvice.org.uk/to-get-a-fair-deal-on-energy-people-need-accurate-price-comparisons-bd5e5443283d>

<sup>2</sup> Forthcoming research. More details can be shared privately.

they otherwise would be. We think the time is right to review the customer journey for complaints in energy, including the Complaint Handling Standards. We are concerned that there is no longer a shared understanding of these rules across industry, which threatens the viability of the complaints framework.

Yours sincerely,

Alexander Belsham-Harris

Senior Policy Researcher, Citizens Advice

### **Our views on cross-cutting features of the proposals**

Ahead of the detailed consultation questions we have set out our view on some of the cross-cutting features that Ofgem identify in the consultation.

#### 'Providing' information

We strongly support Ofgem's view that suppliers must 'provide' this information to their customers - not simply 'make it available'. This will ensure that suppliers actively notify customers about new information, in ways that they will pay attention to, rather than quietly uploading it to their website.

We think that in some circumstances suppliers should be expected to go further. For example, they should be able to monitor if a consumer has failed to check their online bill or communication about tariff changes. Suppliers should use this information to assess whether their notifications are achieving the right impact, and should consider whether it is appropriate to send further prompts to the consumer, taking account of customer vulnerability and characteristics. Similar steps are already taken by some companies in the banking sector.

#### 'Form' of communications

We support Ofgem's definition of 'form', which includes both how the information is provided (eg verbally, hard copy etc) and the layout (font size, graphics etc). This has a clear link to vulnerability, as some consumers will need these communications in a way that is accessible for them. We have written previously that we think consumers should be able to receive paper communications without paying significant extra costs.<sup>3</sup> We also support Ofgem's view that suppliers will need to provide information verbally in some cases, to meet the needs of some vulnerable consumers. We think it is important that all suppliers have good quality telephone services for this purpose.

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<sup>3</sup> <https://wearecitizensadvice.org.uk/digital-by-default-e91f6711927>

## Taking account of preferences

We were previously concerned by comments from some stakeholders that they might seek to reduce communications almost entirely, based on customer preferences. We therefore strongly support Ofgem's view that the obligation to achieve the consumer outcomes defined in the principles is absolute. We think the proposed phrasing that suppliers should take preferences into account 'where appropriate' is clear that these cannot prevent the achievement of the outcome, or override needs based on the customer's characteristics. Similarly, this should protect suppliers from having to comply with consumer preferences that may not be practical - for example, if a consumer requested daily billing.

## Structure of the new rules

In order for these rules to be successfully implemented they must be straightforward and easy for suppliers to understand. We therefore support Ofgem's view that each principle - and associate prescription - should be gathered in a single licence condition, as much as possible. This should make the new rules straightforward to locate and understand.

We are aware that there may be new EU rules, containing new prescriptive elements, which may apply in Great Britain during a transition period as we exit the European Union. Ofgem should ensure that the structure of the new licence conditions allows for new rules to be added in a coherent manner.

**Question 1: Do you consider that a direction is required to enable suppliers to make changes to existing fixed-term contracts, so that those customers can benefit from our rule changes sooner? If yes, please provide suggestions for how the scope of the direction should be drafted to achieve our policy intent (set out in paragraphs 2.37-2.41 of this document).**

We do not have clear evidence on the need for a direction. Suppliers should be able to change their terms and conditions for new contracts in anticipation of the rule changes. And as the majority of fixed term contracts are a year long it should only take a number of months after the rule change for most affected consumers to be on new terms and conditions regardless. We recognise that this may not be the case for some consumers on contracts of more than one year.

If Ofgem proceeds with a direction we support the proposed consumer options of accepting the changes, rejecting them and remaining on current terms, or leaving the supplier without exit fees. We would expect the notice period for the changes to be 30 days, in line with the conditions that were in place when the consumer agreed the contract.<sup>4</sup>

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<sup>4</sup> Supply Licence Condition 23.4

**Question 2: Are there any other consequential amendments to the licences that we haven't proposed in annexes 1-2 that you consider would be needed in light of our proposed changes?**

We have not identified any further consequential amendments to the licences that are required.

**Question 3: Do you agree that our proposals reflect our policy intent relating to encouraging and enabling engagement?**

We broadly support the proposals in relation to the encouraging and enabling engagement principle. The new structure of the principle - with the overarching consumer engagement objective - is clear. The new definition and requirements related to Key Prompt Points are also clearer about the expectations of Ofgem, and set a good minimum backstop protection for consumers on variable tariffs and prepayment meters, who may otherwise receive fewer communications. We support the requirement that certain contract changes will be automatically defined as Key Prompt Points.

We think that the naming of the first part of the principle should be amended to 'continuing to make informed tariff *and consumption* choices'. We think that this better expresses the intent of the principle: to help consumers understand both the features of their tariff necessary to consider switching tariff/supplier, and to choose how to maximise the benefit of the existing tariff by altering their consumption.

This emphasis is particularly important given our concerns about the quality of the information, tools and services provided to legacy time of use customers to help them manage their consumption.<sup>5</sup> A key mark of the effectiveness of the new principles will be how suppliers improve their communications for these consumers. We will shortly write to suppliers to ask them what the changes they plan to take to achieve the outcomes required in the new principles. These customers should also be a key area for Ofgem's monitoring.

We support Ofgem's view that the principle should not mean suppliers always recommend reductions in energy usage, or changes to the time of energy usage, especially where this could be harmful to consumers. This will be an important part of the consideration suppliers must make based on the consumer's characteristics, tariff features and, where appropriate, preferences.

We have a minor query over the proposed prescriptive requirements related to the Cheapest Tariff Message. While the proposed definition at SLC 31F.15 (electricity) / 31F.15 (gas) is clear where there is a Relevant or Alternative Cheapest Tariff is available, it is less so about what suppliers should do where this is not the case. For example, if there is no cheaper tariff available, should the supplier have a message to tell the consumer that this is the case, or is it acceptable to have no message at all? This is

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<sup>5</sup> [False Economy \(2018\)](#)

likely to be the case at quite a lot of new and smaller suppliers, many of whom enter the market offering only one tariff and so will not have a cheaper tariff to inform the consumer about. Ofgem should clarify its intentions for these circumstances.

**Question 4: What are your views on our proposal (set out in paragraphs 3.35-3.36) to move the rules around engagement prompts into a direction separate from the supply licences?**

We think there are some benefits to this proposal. Ofgem's trials have already identified some prompts to engage which may be effective for certain groups of consumers. We would not want to see implementation of new measures unnecessarily delayed, especially given the length of the trials process itself, as this would delay the consumer benefit of these changes.

Our concerns regarding the proposal would be that suppliers may be more likely to miss the existence of a direction. Previous experience has shown that suppliers have been less aware of rules outside the licence, such as the Complaint Handling Standards or Guaranteed Standards. This risk could be mitigated by referencing the direction in the licence and/or Ofgem's licence guidance documents.

We would want assurance that Ofgem would consult on the direction and any subsequent changes to it - particularly in regards to wider aspects of the policy which had not been tested during the trial. This could include issues around implementation costs, or data privacy implications. We would also expect Ofgem to consult if the Cheapest Tariff Message were replaced, rather than remaining alongside any new prompts. We are not currently aware of evidence that would lead to the removal of the Cheapest Tariff Message, and we continue to think it is an effective prompt for consumer engagement.

**Question 5: Do you agree that our proposals reflect our policy intent relating to assistance and advice information?**

We strongly support Ofgem's view that there is value to an assistance and advice principle that sets clear expectations of the outcomes that suppliers must achieve in this area.

We support the changes that Ofgem has made to split the principle in two, better reflecting that some of the information is likely to be more relevant and effective if provided at particular points, based on the circumstances of that consumer. We support the use of the language 'as appropriate in the circumstances' in SLC 31G.2 to achieve this intent.

Suppliers will be required to provide information to signpost consumers to the Citizens Advice consumer service, which provides dedicated, specialist energy advice under SLC 31G.1. However, we would expect suppliers may also signpost consumers to the wider Citizens Advice service (ie the network of local offices affiliated with Citizens Advice and

Citizens Advice Scotland) where this is appropriate to achieve the objective in SLC 31G.2 (b). And there will be ongoing prescriptive rules to provide information about our service on Bills and statements of account, or annually where these are not sent.

We currently provide guidance on signposting to our service, and have run a number of audits to understand how effectively suppliers are doing this in practice.<sup>6</sup> We intend to revise the guidance in line with the new rules proposed by Ofgem, and to re-run the audit process once the new rules are embedded. This will help us to monitor the implementation of the principles and ensure that they have improved consumer outcomes. We will also monitor usage of our consumer service to pick up on red flags where suppliers are not achieving the outcome required in the principle.

We note that one limit on the effectiveness of the principle in achieving its aims is in relation to the complaints customer journey in energy. The Complaint Handling Standards, which set out the requirements for signposting to the redress scheme, were considered to be outside of the scope of this work.

We are undertaking work to look at the customer journey and how it could be improved, and we are aware that similar work is underway by Energy UK. This forthcoming work will identify key areas where we think the process could be improved for consumers. We would support an Ofgem-led review of the customer journey - including the requirements in the Complaints Handling Standards - to ensure that these improvements can be delivered effectively and coherently with the objectives set out by Ofgem here for customer communications.

We support the requirement to provide information to enable the consumer to quickly and easily contact the Relevant Party, including for queries, complaints, disputes or emergencies. This aligns with the Standards of Conduct, which require suppliers to make it easy for consumers to contact them, and to have 'customer service arrangements and processes are complete, thorough, fit for purpose and transparent'. In addition, there are prescriptive rules in the Complaint Handling Standards that require supplier to allow consumers to make and progress their complaint by telephone.

In 2015 Ofgem set out an expectation that 'telephone services should be accessible to all consumers', and that 'for customers without internet access, with certain disabilities or for those with urgent queries, phone contact will be essential'.<sup>7</sup> We continue to believe this is the case, and we are concerned by the emergence of online-only suppliers that do not have these services in place.

We do not consider these models to be compliant, based on our understanding of the current rules. We are aware of cases where consumers with these suppliers have been

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<sup>6</sup> The current guidance is available [here](#). We ran signposting audits in [2016](#) and [2013/14](#).  
<sup>7</sup> ['Telephone services – our expectations of suppliers operating in the domestic energy market' \(2015\)](#)

disconnected from their supply for up to four days while they struggle to contact their supplier.

Ofgem has proposed that it will retain a prescriptive requirement for telephone services to help consumers in gas emergencies, as this is a 'minimum health and safety standard'. There is clear evidence that disconnection from gas and electricity supply can cause physical and mental harm. A telephone service for customers in this situation should also be a minimum health and safety standard, and could be inserted as a prescriptive requirement in these rules.

### **Question 6: Do you agree that our proposals reflect our policy intent relating to Bills and billing information?**

We support the introduction of the Bills and billing information principle, and in particular expect that this should ensure that prepayment and smart meter customers receive billing information in future. We support the removal of prescription related to the content and format of these communications, in order to make them more engaging for consumers. We also support the change to define Relevant Billing Information, which makes it clearer to what components this includes.

However, we think that the new drafting makes it likely that more consumers will receive only Relevant Billing Information, rather than Bills and statements of account.

As Ofgem sets out in the consultation, Bills are demands for payment which are only required for customers paying on receipt of bills. Statements of account are provided to direct debit and (some) prepayment customers to tell them about the status of their account. In the original drafting of this principle, it was our understanding that all consumers would receive a Bill and/or statement of account, at least some of the time.

The new drafting, is to provide 'Relevant Billing Information, *and where relevant* Bills or statements of account'. Ofgem sets out that it expects some suppliers may consider that Bills and statements are never relevant to some consumers.

As consumers move onto smart meters - and the requirement for Bills and statements of account at SLC 21B.5 no longer apply - suppliers may decide that statements of account are no longer relevant to direct debit customers. This would greatly expand the number of customers who do not receive these communications.

In response to previous consultations on customer communications we have set out our view that all consumers should receive Bills and statements of account, at least some of the time. We recognise that Ofgem think this could stifle innovation in communications. However we think that these communications will remain important to some customers - such as those who are offline, or who rely on the support of others to help them with their bills - for some time to come. We think that in its decision Ofgem should clarify that when considering the relevance of Bills and statements of account in SLC 31H.1 suppliers must take account of the consumers'

characteristics, Tariff features and, where appropriate, preferences - rather than simply what meter type they have or which payment method they use. This will ensure that suppliers continue to provide Bills and statements of account to those who want or need them most.

In addition, we are concerned that consumers who only receive Relevant Billing Information will not be able to have a copy available for reference, as the new prescriptive rule (SLC 31H.3) applies only to Bills and statements of account. We strongly support the proposal for consumers to be able to easily retain this information, as we think this is helpful in the case of disputes, or where the consumer wants to share copies of this information with advice services.

We are aware that SLC 21B.9 already requires suppliers to provide energy billing and historical consumption data to customers on request. We would support this requirement being moved to SLC 31H to ensure that suppliers are aware that they must provide this information on request to consumers who have only received Relevant Billing Information and who need this information. This could mitigate the risk that consumers, who only receive Relevant Billing Information, will struggle to get records of their consumption and payment.

In relation to billing frequency we support the removal of prescriptive requirements. We think that suppliers will be incentivised to continue to provide bills, statements or relevant billing information regularly, in order to comply with the backbilling protections. We would also expect the requirement for suppliers to take account of customer preferences (where appropriate) should lead them to offer regular billing options. Evidence we submitted to Ofgem previously demonstrated that most customers wanted to be billed at their current frequency or more often, with monthly and quarterly billing being the two most popular options.<sup>8</sup> The introduction of Relevant Billing Information should allow suppliers to provide important billing information more regularly, and in impactful ways.

Ofgem should closely monitor how suppliers implement this principle, with particular regard for whether billing frequency declines, and the extent to which suppliers choose to send Relevant Billing Information rather than Bills and statements of account. The risks are particularly high for prepayment customers, as the removal of Annual Statements considerably reduces the amount of communication they will receive based only on prescriptive rules.

### **Question 7: Do you agree that our proposals reflect our policy intent relating to contract changes?**

We broadly support the proposals. It is vital that consumers receive information that helps them understand contract changes and take action as appropriate. This is

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<sup>8</sup>[Citizens Advice response to Ofgem's working paper on domestic supplier customer communications rulebook reforms \(2018\)](#)

particularly important in the context of the forthcoming price cap. Ofgem has proposed reviewing the level of the cap every six months. This would mean a consumer on the SVT would receive a notification this often, but only if the price rises. Well designed and timed notices will help ensure consumers on these tariffs understand that they are still be able to save money by switching supplier, even with the cap in place.

We previously supported Ofgem including notification of price decreases in this principle. We recognise that this does not necessarily require the same notification period as a price decrease, but we continue to think these notifications would be useful prompts to consumers on the cap to engage, while the detail of the new price would protect them from switching to tariffs that meant they were worse off.

We recognise that there should be commercial incentives to inform customers of price decreases, and we also support Ofgem's view that suppliers would need to assess the need for notification under the Standards of Conduct. Nonetheless, these price decrease notices will not form a Key Prompt Point under the new rules, and will therefore not necessarily include prompts to engage. We would prefer that Ofgem retained the requirement for price decreases to be notified to customers, and for these to form a Key Prompt Point.

In relation to other changes, we remain of the view that in relation to complex time of use tariffs suppliers will need to carefully consider the impact of non-price changes such as the hours for certain rates, and whether these will be disadvantageous. Any assessment should be done conservatively, and not make assumptions over the future behaviour of the consumer.

We strongly support the new proposal to require notices to be sent at 'an appropriate time that is designed to prompt that Domestic Customer to make an informed choice'. This should prevent suppliers sending notices excessively in advance of the contract change, which could decrease consumer engagement.

We also strongly support the change to require the switching window to start either 49 days before the end of the contract, or when the statement of renewal terms is sent, whichever is earlier. This will allow suppliers flexibility in sending the notice, and ensure consumers are able to act on the information they receive, without penalty. It will also act as a commercial incentive (in addition to the regulatory imperative) not to send these notices excessively early. We note that this rule would not prevent other forms of 'light touch' communication in advance of the switching window to consumers who might benefit from a warning that this is coming - for example consumers who have a debt that will need to clear in order for them to switch.

We recognise the risk that if suppliers send these notices near to the contract end date, some consumers may not be aware that they were able to switch away without exit fees from the start of the switching window. This could mean they miss out on particular deals if prices rise between the window starting and the consumer switching.

We think this risk could be mitigated in various ways. There is nothing to prevent suppliers informing customers about the start of this window in a light touch communication (eg a text alert) ahead of the full statement of renewal terms being sent at a later point. As Ofgem sets out, suppliers may want to consider such actions under the informed choices and 'continuing to make informed choices' principles.

If a consumer previously used a price comparison site or third party intermediary to switch, then that organisation may also send reminders at the start of the window that they are able to switch again. We will also review our consumer advice to make sure it is clear they have the right to switch without penalty in the last 49 days of their contract without penalty, even if the supplier has not sent a notification.

Finally, we support the change to allow suppliers to signpost to the principal terms, rather than include these with the notice. However, as elsewhere in the consultation, this signposting must take account of the needs of the consumer, so that an online signpost would not be appropriate for an offline customer. For these customers a paper copy of the principal terms should be available free of charge, on request.