

# Rules of engagement:

Putting customers at the heart of communications



# Energy UK review of customer communication supply licence conditions

## Executive summary

This work was commissioned by Ofgem and intends to inform a forthcoming Ofgem review of the supply licence rules relating to supplier-customer communications.

This report begins by identifying that customers need sufficient information to be able to:

- Pay for energy;
- Know where to seek assistance in relation to their energy;
- Complain if something goes wrong;
- Know what to do in an emergency;
- Find a deal to suit their characteristics and preferences; and,
- Be aware of and understand contractual obligations, rights, changes and events

The paper is based on a literature review and puts forward a number of conclusions including:

- The area of customer communications is a fast-changing and ever-evolving one and regulation must reflect this;
- Regulation of customer communications has become too prescriptive, restricting both innovation and consumer choice;
- It is important to differentiate between what a customer needs to know and what a customer may want to know in considering licence conditions; and,
- Channels of communication are likely to evolve over time with technology and customer preferences. A 'one size fits all' communication philosophy is, therefore, no longer adequate.

The report argues that the amended Standards of Conduct (SoC) and new Informed Choices principles provide a broad framework that offers sufficient regulatory oversight in relation to the six areas identified by Energy UK as being fundamental to customer communications.

We do not, therefore, believe any further broad principles are required in relation to customer communications. There may however be scope for new narrow principles or light-touch prescription to ensure a common baseline of service for customers and to clarify any specific outcomes Ofgem wishes to achieve.

This report argues for the removal of the majority of existing prescriptive licence conditions relating to customer communications. Where appropriate we recommend replacing the prescriptive licence condition with narrow principles or a more flexible form of prescription.

The report concludes by making five recommendations to Ofgem and Government:

1. Ofgem should be bold in removing prescription;
2. There is no need for further broad principles;
3. There may be scope for some new narrow principles or light-touch prescription;
4. The supply licence should not stipulate specific forms of communication such as a bill or Statement of Account; and
5. Ofgem should work with the Government to seek to reduce the reliance on supplier-led customer communications as a means of promoting information beyond the six priority areas noted above.

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## Section 1: Introduction

### 1.1 Overview

This work was commissioned by Ofgem and intends to inform a forthcoming Ofgem review of the supply licence rules relating to supplier-customer communications.

The report provides Energy UK's view on relevant licence conditions. Individual Energy UK members may hold differing views on particular issues.

### 1.2 Ofgem's requirements

Ofgem's Future of Retail Regulation (FRR) programme asked Energy UK to develop evidence-based recommendations for a set of rules, which may include both principles and prescription, to govern the provision of information from suppliers to consumers. Ofgem is keen for these rules to provide room for suppliers to innovate, whilst ensuring customers get the information they need to engage effectively with their energy supplier and the energy market.

Ofgem welcomed recommendations on:

- How, when and in what form information should be communicated to consumers;
- What principles could be applied to all communications, not just the four main regulated communications (i.e. bills, annual statements, price increase and end of fixed term notifications);
- Whether there are certain existing prescriptive rules that should be considered for removal or enforcement de-prioritisation in the short term; and,
- What should be expected of suppliers in relation to testing communications with consumers – for instance, evaluating their effectiveness over time – and whether there would be value in Ofgem setting out these expectations in prescriptive rules.

Ofgem indicated that we should assume that the Cheapest Tariff Message (CTM) will remain in place. We have therefore treated CTM as out-of-scope, although we look forward to Ofgem consulting on this in due course to ensure that current communication requirements remain appropriate, proportionate and effective.

### 1.3 Scope of report

Following discussion with the Energy UK Retail Committee and the Principles-Based Regulation (PBR) Working Group, this report seeks to:

- Define the problem(s) to be addressed.
- Scope the communications to be considered.
- Review what information customers need to know and when they need to know it.
- Consider what is already provided for in licence under the proposed updated Standards of Conduct (SoC) and the new, narrow Informed Choices principles.
- Consider, where there are gaps in the provisions of the SoC or the new Informed Choices principles, whether new principles or prescription are required to meet customers' needs.
- Consider the extent to which prescriptive rules could be removed or deprioritised.
- Consider appropriate compliance, monitoring and enforcement processes.
- Provide a final set of recommendations for Ofgem to consider.

Due to time constraints we have not been able to address all the areas on which Ofgem welcomed recommendations in detail. Energy UK, however, are open to exploring the feasibility of doing further work in this area to respond to all the areas set out in section 1.2 above.

The paper considers only **domestic** customer communications. There may be implications for communications with business customers which Ofgem might wish to consider at a later date.

In undertaking this project, we have assumed that there is **no existing EU legislation**<sup>1</sup> which requires Ofgem to set out prescriptive obligations on suppliers' communications with customers. We also note that currently the supply licence contains a number of requirements in relation to government programmes (Feed in Tariff (FIT), smart meter rollout and Green Deal), where Ofgem's scope for reforming the licence is likely to be limited.

#### **1.4 Research base**

To help ensure any recommendations are evidence-based, Energy UK has sought to make use of our members own experiences and existing research in this area. The level of evidence is, therefore, dependent on what has been provided by members. Due to Ofgem's desired timelines, whilst we have sought to provide evidence to support recommendations, we have been unable to provide Ofgem with detailed evidence-based commentary on all the likely impacts of our recommendations on consumers and/or suppliers.

It is also worth making clear that, in an ideal world, new primary consumer research tightly focused on the project specification would have informed this work.

#### **1.5 Stakeholder engagement**

The development of this report has been led by the Energy UK PBR Working Group. All Energy UK retail members with domestic operations (21 suppliers in total) are able to attend the group. We have also sought to regularly engage with and seek input from key stakeholders, including Ofgem, the Department for Business, Energy and Industrial Strategy (BEIS), the Energy Networks Association (ENA), Citizens Advice, Cornwall Insight and Which?.

**If you would like to discuss any of the work in this paper, please contact Natan Doron [natan.doron@energy-uk.org.uk](mailto:natan.doron@energy-uk.org.uk) or Dan Alchin [daniel.alchin@energy-uk.org.uk](mailto:daniel.alchin@energy-uk.org.uk).**

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<sup>1</sup> e.g. The Third Energy Package, Energy Efficiency Directive

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## Section 2: Background

### 2.1 The need to review rules around customer communications

Energy UK welcomes Ofgem's ambition to develop a regulatory framework which protects and supports customers but also encourages innovation.

Successive reviews of the energy retail sector have identified customer engagement as an area for improvement to ensure that the benefits of competition are distributed to as wide a range of customers as possible. The Energy Supply Probe of 2008 set out two remedies designed to promote active engagement through clearer information and helping consumers make well-informed choices<sup>2</sup>. Just four years later, the Retail Market Review (RMR) identified confusion around tariff choices and a lack of personalised information as barriers to engagement.<sup>3</sup> In response to these two investigations, Ofgem introduced extensive and prescriptive rules governing the format, content and layout of customer correspondence.

In 2016, the Competition and Markets Authority (CMA) completed a two-year investigation into the nature of competition in the energy market.<sup>4</sup> This report also identified low levels of consumer engagement as a barrier to greater levels of competition. The CMA identified the RMR as having had unintended consequences that may have distorted competition and reduced consumer welfare by constraining the behaviour of suppliers.

The difficulty of promoting good quality communication with customers through regulation is underlined by successive Government & Ofgem reviews (covering a period of almost ten years), identifying consumer engagement and information as key issues to be resolved. That the recent CMA review identified the RMR interventions as having unintended consequences suggests that it is both important to consider regulatory intervention carefully and in a timely manner to review the regulations governing customer communications in energy.

Ofgem is currently undertaking a move away from prescriptive regulation and seeking to develop a more principles-based approach. The current level of prescription around customer correspondence is inconsistent with Principles-Based Regulation (PBR), and there is evidence that it is limiting suppliers' abilities to meet different customer needs.

The way customers interact with the market is evolving, and suppliers are responding to the demand for more flexible and innovative services and products. At the same time, new and different suppliers are entering the market, and transformative technology and industry system changes are being introduced. It is important to recognise that there is not a 'one size fits all' solution due to differences in customer characteristics, preferences and behaviours.

Technology is developing fast and the rollout of smart meters and increasing use of smart phones open up new possibilities for engagement and communication with customers. It is important that regulations governing customer communication in the energy market are fit for purpose not only for today but for the way in which the market and consumer behaviour may develop in future. Technological advances have already overtaken licence conditions governing customer communications. The licence conditions were drafted to encompass a paper-dominated communications environment but today many customers prefer to receive their communications electronically.

In considering the need to reform the customer communications regulatory landscape, it should be noted that the current situation is relatively successful. Ofgem's own research shows that 82% of customers recall receiving one or more communication from their energy supplier. 70% of consumers claim to recall their bill and 86% of those who recalled the bill claimed to have read it in detail or at least glanced<sup>5</sup> at it.

There is, however, clearly room for improvement. Ofgem's segmentation based on extensive research defines 15% of the population as 'very engaged' consumers with a further 28% as 'engaged'. The aim should be to move as many of the 57% who are either 'somewhat' (36%) or 'very disengaged' (21%) into the engaged categories.

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<sup>2</sup> <https://www.ofgem.gov.uk/ofgem-publications/38437/energy-supply-probe-initial-findings-report.pdf>

<sup>3</sup> <https://www.ofgem.gov.uk/sites/default/files/docs/2012/10/the-retail-market-review---updated-domestic-proposals.pdf>

<sup>4</sup> <https://assets.publishing.service.gov.uk/media/5773de34e5274a0da3000113/final-report-energy-market-investigation.pdf>

<sup>5</sup> [https://www.ofgem.gov.uk/system/files/docs/2016/08/consumer\\_engagement\\_in\\_the\\_energy\\_market\\_since\\_the\\_retail\\_market\\_review\\_-\\_2016\\_survey\\_findings.pdf](https://www.ofgem.gov.uk/system/files/docs/2016/08/consumer_engagement_in_the_energy_market_since_the_retail_market_review_-_2016_survey_findings.pdf)

## Section 3: What do customers need to know and when and how do they need to know it?

### Executive summary

This section explores what customers need to know in order to engage with and secure the benefits of engaging with the energy market. The paper is based on a literature review and puts forward a number of conclusions including:

- The area of customer communications is a fast-changing and ever-evolving one and regulation must reflect this;
- Regulation of customer communications has become too prescriptive, restricting both innovation and consumer choice;
- There are six identified areas that a customer needs to know;
- It is important to differentiate between what a customer needs to know and what a customer may want to know in considering licence conditions; and
- Channels of communication are likely to evolve over time with technology and customer preferences. A 'one size fits all' communication philosophy is, therefore, no longer adequate.

### 3.1 Introduction

This chapter seeks to:

- Outline the communications to be considered; and,
- Review what information customers need to know, plus when and how they need to know it.

### 3.2 A 'blank sheet' approach

In commissioning this project, Ofgem asked Energy UK to consider what principles could be applied to supplier communications with domestic customers, not just the four main regulated communications (i.e. bills, annual statements, price increase and end of fixed term notifications).

As a starting point, we have, therefore, utilised a 'blank sheet of paper' approach (i.e. assuming there are no existing rules for customer communications) to consider what fundamental things a consumer needs to know, understand and be able to access in order to adequately engage with the retail market and realise its benefits.

### 3.3 What do customers need to know?

The project team at Energy UK undertook an in-depth literature review and drew on over twenty years collective experience in energy and related sectors to draw up a list of six things that a customer needs to know. This list was then tested with Energy UK members, the Cornwall Insight Small Suppliers Forum, Citizens Advice and Which?

Energy UK believes a domestic customer needs sufficient information to be able to:

- A. Pay for energy;
- B. Know where to seek assistance in relation to their energy;
- C. Complain if something goes wrong;
- D. Know what to do in an emergency;
- E. Find a deal to suit their characteristics and preferences; and,
- F. Be aware of and understand contractual obligations, rights, changes and events

The literature review also supports a wider acknowledgement that all information provided to customers should be:

- Simple – easily understood, without industry or legal jargon, just the right amount of detail for them
- Relevant – the right information at the right time for the customer
- Personalised – specific to them and not generic when appropriate
- Of value – something the customer needs/wants
- Accessible – delivered through their preferred channel
- Flexible – to meet the changing preferences and demands of customers

It is in a supplier's interest to meet these requirements to ensure customer satisfaction and retention.

We note that supplier communications are also currently used by both Ofgem and Government to drive a variety of other specific policy (i.e. improving uptake of energy efficiency measures) and market design (i.e. switching) aims. Such requirements are not reflected by the information requirements above as they are driven by Government and regulatory policy, and not necessarily customer need as identified by customers themselves. These are, therefore, not considered in this section.

Some feedback on our work argued that the ability to manage consumption (particularly in relation to Time of Use Tariffs) was another key thing that a customer should be able to do. The project team at Energy UK has taken the view that similarly to improving uptake of energy efficiency, this is more of a concern for Government policy not an issue that all suppliers should be mandated to communicate. Suppliers who want to offer Time of Use Tariffs are free to market these and inform customers of the potential benefits. Requiring all suppliers to communicate about this would inevitably dilute core messages and would risk increasing confusion among customers. More important is to ensure that suppliers communicate appropriate messages to customers who do have Time of Use Tariffs.

Each information requirement is identified in further detail below:

#### A. Paying for energy

It is clearly an essential need for a customer to pay for their energy. The industry depends upon customers paying for their gas and electricity in a timely fashion to ensure that energy can be available to all customers as cost efficiently as possible. Customers pay for their energy in a range of ways: in advance by Direct Debit and Prepayment Meters; in arrears by Direct Debit, credit card, cheque, cash or through Fuel Direct. Customers receive bills or statements of account which provide billing information.

Extensive work has been done within industry on what customers need to understand to pay for their energy. The Effective Billing Workshop held by Ofgem in November 2015 set out that billing information should communicate clearly and simply how much the customer owes, when that amount is due and how it can be paid<sup>6</sup>. The Effective Billing Workshop also developed a list of things that a customer may, or may not want on their bill, along with a list of what a customer actually needs. The list does not however relate to helping customers understand and pay for their energy.

Research undertaken by some Energy UK members underlines that consumers support the simplification of bills to include only the essential aspects of what they need to know. These correspond closely to the areas identified by the Effective Billing Workshop.

Billing information can be communicated in writing, either physically or electronically. Smart metering and half-hourly settlements mean that billing information in future could also be provided in real time.

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<sup>6</sup> [https://www.ofgem.gov.uk/system/files/docs/2016/03/effective\\_billing\\_workshop\\_251115\\_.pdf](https://www.ofgem.gov.uk/system/files/docs/2016/03/effective_billing_workshop_251115_.pdf)

What does the customer need to know?	How can this be communicated?	When should this be communicated?	What else does the evidence say about this?
<p>How much the customer owes, when that amount is due and how it can be paid.</p> <p>The customer should also know basic information about what they are paying for (including details of a Time of Use tariff, how much goes towards repaying a debt if appropriate etc).</p>	<p>Through billing information which could be communicated in a variety of formats both physically and electronically. Channels for communications are likely to evolve over time with technology and customer preferences.</p>	<p>This partly depends on the customer's chosen way of paying. Customers may wish to receive billing information as frequently as real-time, hourly, daily, or weekly or as infrequently as monthly, quarterly, every six months or annually.</p>	<p>A number of research reports (both public and private) make it clear that domestic customers often find their bill confusing. One private research report tasked customers with designing their own bill. Customers taking part in the research were not only surprised to find out how much information was mandatory for the bill but they often found this to be the information that was most confusing or the least relevant. Some of the information that customers found most confusing or the most irrelevant included the chart showing a breakdown of providers costs, the QR code and the Tariff Comparison Rate.</p>

### B. Knowing where to seek assistance in relation to energy

Customers should have the ability to contact their supplier and/or a relevant third party (e.g. Citizens Advice Consumer Service) if they have a question. This essentially means having access to relevant contact information. Customers need to be able to know where they can go for help in relation to both financial and non-financial assistance with their energy. From Energy UK's review it can be argued that the most important things that a customer would need to know are: what to do if they have trouble paying for energy; and what to do if they have special requirements unconnected to their ability to pay plus what to do in an emergency. There are further 'nice to have' aspects that a customer should know e.g. where to go for more detailed debt advice. Suppliers could also issue debt advice to customers who have been identified as being at risk of going into debt. When determining what is essential and what is 'nice to have' additional information, it is important to remember that communications should be:

- Simple – easily understood, no industry or legal jargon, just the right amount of detail for them
- Relevant – the right information at the right time for the customer
- Personalised – specific to them and not generic when appropriate
- Of value – something the customer needs/wants
- Accessible – delivered through their preferred channel
- Flexible – to meet the changing preferences and demands of customers

It would clearly not be relevant, personalised or of value to set out information regarding where to go for detailed debt advice to every customer, but it would be of value when communicating about an arrears.



What does the customer need to know?	How can this be communicated?	When should this be communicated?	What else does the evidence say about this?
<p>How to contact their supplier and/or a relevant third party (i.e. Citizens Advice Consumer Service).</p> <p>What to do if they have trouble paying for energy and what to do if they have special requirements unconnected to their ability to pay.</p>	<p>It is important that all customers are aware of what to do if they need financial or non-financial support in relation to energy.</p> <p>All communications should have basic information about what to do (e.g. "contact your supplier if you need support") whilst particular communications may want to provide more detailed relevant information.</p>	<p>The basic-level information should be communicated when reasonably appropriate based on consumer needs.</p>	<p>Ofgem's own research shows limited awareness and take-up of the Priority Services Register.</p> <p>Similarly, we know from research in the debt advice sector that a significant number of people are in debt and not seeking help or advice<sup>7</sup>.</p> <p>All sectors supplying services with regular bills, including energy, have a role in promoting awareness of available support.</p>

### C. Complaining if something goes wrong

Customers should be able to complain if they feel that something has gone wrong, and must be able to contact their supplier to do so.

More detailed information about complaint procedures is only necessary once a complaint has been made. There is basic information which should be readily available such as contact details and high-level information about how long a response will take to be provided. Beyond that, a customer needs to know where to access more detailed information, such as contact details for the Ombudsman Services: Energy and Citizens Advice.

What does the customer need to know?	How can this be communicated?	When should this be communicated?	What else does the evidence say about this?
<p>The customer needs to know how to contact their supplier in order to complain.</p> <p>Only once a complaint has started should a customer should know where to find details of complaints handling standards as well as how and when to escalate a complaint to the Ombudsman.</p>	<p>The very basic information explaining how to contact a supplier to complain should be readily available across a range of communications.</p> <p>More detailed information should be available when communicating with a customer about a complaint, or otherwise easy to find or ask for when needed by a customer.</p>	<p>The basic information should be communicated when reasonably appropriate based on consumer needs.</p> <p>More detailed information should be available when it is relevant.</p>	<p>We note that the majority of the complaints journey, including the requirements around customer communication, are set out in the Compliant Handling Standards regulations<sup>8</sup> and not the supply licence.</p>

<sup>7</sup> See 'A Picture of Over-Indebtedness', MAS, 2016 <https://www.moneyadviceservice.org.uk/en/corporate/a-picture-of-over-indebtedness>

<sup>8</sup> [http://www.legislation.gov.uk/ukxi/2008/1898/pdfs/ukxi\\_20081898\\_en.pdf](http://www.legislation.gov.uk/ukxi/2008/1898/pdfs/ukxi_20081898_en.pdf)

#### D. Knowing what to do in an emergency

Customers have to know what they need to do in an emergency. Power cuts and gas outages and leaks can be a matter of life and death. Clear information about what to do in an emergency situation, including the network operator’s contact details, should be easy to find.

Again, there may be more detailed information that can be signposted to but it is essential that customers know what to do and how to get help in an emergency.

What does the customer need to know?	How can this be communicated?	When should this be communicated?	What else does the evidence say about this?
Customers need to know what to do if their supply cuts out or if they have an urgent safety concern relating to their energy.	In a variety of formats both physically and electronically. Channels for communications are likely to evolve over time with technology and customer preferences.	The basic information should be communicated when reasonably appropriate based on consumer needs.  Emergency information should be easy for customers to find (e.g. in a power cut they may make use of smart phones to search their supplier’s website for information).	Research (undertaken by a comms agency, unpublished but seen by Energy UK) prepared for the launch of the 105 emergency number revealed that a significant number of consumers are not confident about what to do in an emergency power cut and that too few people know that they should contact their network operator.

#### E. Finding a deal to suit their characteristics and/or preferences

In a competitive market, a customer has to be able to understand their own circumstances, including their usage, and then be able to find and understand the range of tariffs available from their supplier or from a competitor.

A range of research has been carried out within industry around what a customer needs to know to find a deal to suit their characteristics and preferences. Ofgem has previously undertaken a series of workshops with consumers to understand what information is needed at each stage of the switching process<sup>9</sup>.

The list of information a customer may need to know according to this research is lengthy. We can attempt to rationalise the list by differentiating between what is essential and what would be a helpful ‘nice to have’. This should allow us to make a judgement on what needs to be proactively communicated and what needs to be available upon request. The key thing is whether or not the information is relevant, personalised and accessible. For example there is the information that a customer needs to be able to get an accurate quote for a new deal and switch and then the more detailed information about usage which would only be of interest to some customers.

<sup>9</sup> <https://www.ofgem.gov.uk/sites/default/files/docs/2012/10/consumer-engagement-with-the-energy-market%2C-information-needs-and-perceptions-of-ofgem.pdf>

What does the customer need to know?	How can this be communicated?	When should this be communicated?	What else does the evidence say about this?
<p>Details of their tariff and their usage. Where to look for other tariffs – ensuring that customers are aware that there will be options to switch to a new tariff with their current supplier as well as switching to a new supplier.</p>	<p>In a variety of formats both physically and electronically. Channels for communications are likely to evolve over time with technology and customer preferences.</p>	<p>Research shows that there are trigger events for consumers switching tariff.<sup>10</sup> In these events it is important that a customer knows how to find key information.</p> <p>Regular forms of communication which do not relate to tariffs should therefore carry only limited information about tariffs and only when appropriate.</p> <p>Documents which set out to provide a more thorough overview of someone's usage and/or are linked with known trigger events should provide greater detail.</p>	<p>Extensive industry (unpublished) research shows that customers feel their bills are too cluttered and confusing.</p> <p>There is less evidence about other communications because it has not been properly researched.</p>

#### F. Being aware of and understanding contractual changes & events

Customers should be notified of changes to their contract or when a supplier takes an action in line with a contract that a customer would reasonably expect to be informed of e.g. when a customer has been prevented from switching because of they are in arrears. Changing a contract or agreeing a new contract also requires some form of communication, e.g. to provide and confirm details of the tariff change. This is already consistent with contract and consumer law.

<sup>10</sup> [Ofgem Consumer First Panel - Year 4: Second workshops \(held in March 2012\). Consumer engagement with the energy market, information needs and perceptions of Ofgem](#)

What does the customer need to know?	How can this be communicated?	When should this be communicated?	What else does the evidence say about this?
<p>Customers need to understand if their contract has been altered in any important way, particularly where this is to their detriment.</p> <p>Customers may need to know when certain actions have been taken in accordance with contract terms.</p>	<p>Contract and consumer law dictate that some changes in contract details need to be communicated in writing (which includes electronic means).</p> <p>Actions taken in response to contract terms may or may not be communicated depending on a supplier's decision about what a customer can reasonably expect to want to know.</p>	<p>Contract changes should be communicated as soon as possible in accordance with any legal requirements.</p> <p>Actions taken in response to contract terms and changes should be communicated as and when suppliers see fit. This should be done in line with what they think a customer can reasonably expect and which allows customers to have sufficient notice to take action.</p>	<p>Research (private and unpublished) undertaken by some Energy UK members shows that some customers find the end of fixed term notifications too long, complicated and confusing. Most customers would prefer a shorter, more concise notification. Many customers would prefer notification nearer to the end of the fixed-term than the prescribed 42-49 days.</p>

The six areas identified in this report focus on what a customer can expect a supplier to communicate. There is perhaps also a case for suppliers doing more to communicate what a customer's obligations and responsibilities are, such as payment obligations and submitting meter readings.

### 3.4 Other lessons from our literature review

In addition to the six key customer needs discussed above, we also note that our review of existing literature has identified the following additional areas for consideration as part of any review of customer communications:

- The current level of prescribed information is too high<sup>11</sup>;
- There should be greater freedom for suppliers to tailor messages to consumers and to explain jargon<sup>12</sup>;
- The ground is constantly shifting and what might be an effective communications solution in a certain situation today may change in future<sup>13</sup> therefore we need to "future proof" licence conditions;
- There is an over-reliance on the use of bills and annual statements as the primary means of engaging consumers to think about energy costs and consumption<sup>14</sup>;
- Consumers find much of what is currently prescribed in communications by regulation to be confusing<sup>15</sup>.

<sup>11</sup> [https://www.ofgem.gov.uk/system/files/docs/2016/03/effective\\_billing\\_workshop\\_251115\\_.pdf](https://www.ofgem.gov.uk/system/files/docs/2016/03/effective_billing_workshop_251115_.pdf)

<sup>12</sup> Ibid

<sup>13</sup> <https://www.ofgem.gov.uk/ofgem-publications/39464/prompting-engagement-and-retention-written-customer-communications-pdf>

<sup>14</sup> Missing the Mark, Consumer Focus, 2011. This report is important but clearly more and newer research is needed.

<sup>15</sup> Unpublished private research undertaken by a supplier

## Section 4: Do Standards of Conduct & Informed Choices principles suffice?

### Executive summary

We believe that the amended Standards of Conduct (SoC) and new Informed Choices principles provide a broad framework that offers sufficient regulatory oversight in relation to the six areas identified by Energy UK as being fundamental customer communications.

We do not, therefore believe any further broad principles are required in relation to customer communications. There may however, be limited scope for new narrow principles or light-touch prescription to ensure a common baseline of service for customers and to clarify any specific outcomes Ofgem wishes to achieve.

### 4.1 Introduction

This chapter will consider whether the proposed updated Standards of Conduct (SoC)<sup>16</sup> or the new Informed Choices principles<sup>17</sup> provide sufficient regulatory oversight in relation to the six areas identified by Energy UK as being fundamental customer communications needs.<sup>18</sup>

The paper then makes recommendations for whether new principles and/or prescription is needed in addition to the amended SoC and the new Informed Choices principles to ensure appropriate customer outcomes.

### 4.2 Do SoC and Informed Choices suffice?

In considering whether new principles or prescription are required in addition to the amended SoC and the new Informed Choices principles, a number of tests and considerations have been set out to inform our thinking. New principles or prescription are more likely to be required if:

- There is insufficient incentive or scope for innovation or differentiation;
- There are insufficient incentives on suppliers to deliver the desired outcome;
- The risk of non-intervention in terms of customer detriment and/or competition is high;
- There is no existing legislation or regulation that does a similar job, (e.g. consumer protection law and the amended SoC and informed choices principles will not deliver the desired consumer outcomes); and
- The proposed regulation flows directly from Ofgem's statutory objectives and duties, as long as and to the extent that it does not run counter to promoting competition.

#### A. Paying for energy

The amended SoC already requires suppliers to ensure that:

*“The licensee and any representative provide information (whether in writing or orally) to each Domestic Customer which:*

- (i) is complete, accurate and not misleading (in terms of the information provided or omitted);*
- (ii) is communicated (in terms of the information provided in Writing, drafted) in plain and intelligible language with more important information being given appropriate prominence;”*

In addition, it is reasonable to conclude that under SoC, information about paying for energy would be considered important and, therefore, be given appropriate prominence.

<sup>16</sup> <https://www.ofgem.gov.uk/system/files/docs/2017/02/standards-conduct-suppliers-retail-energy-market.pdf>

<sup>17</sup> [https://www.ofgem.gov.uk/system/files/docs/2017/04/slc\\_25\\_decision\\_document\\_0.pdf](https://www.ofgem.gov.uk/system/files/docs/2017/04/slc_25_decision_document_0.pdf)

<sup>18</sup> Energy UK has undertaken the review against the SoC proposed in Ofgem's policy consultation. Our assessment of the SoC's suitability may change if the drafting of the SoC is changed at statutory consultation”

We note that there is a strong incentive for suppliers to ensure that a customer:

- Knows how much is owed;
- Knows when payment is due;
- Knows how to pay; and,
- Has at least a basic understanding of what they are paying for.

Given the incentives on suppliers in relation to this topic, we also do not believe it is necessary to prescribe particular forms of communication (e.g. bills, annual statements). By not prescribing in this way, Ofgem will encourage suppliers to innovate and tailor their offerings to meet customers' characteristics and preferences and allow customers to choose how they receive information. The potential for customer-focused innovation will be particularly important, as technological developments open up new ways for suppliers to engage with customers.

## B. Knowing where to get assistance in relation to energy

The SoC may be interpreted as ensuring that a customer knows how to get assistance of both a financial and non-financial nature in relation to energy. The SoC stipulates that:

*“(c) The licensee and any Representative:*

- make it easy for a Domestic Customer to contact the licensee;*
- act promptly and courteously to put things right when the licensee or any Representative makes a mistake; and*
- otherwise ensure that customer service arrangements and processes are complete, thorough, fit for purpose and transparent;”*

and;

*“(d) the licensee and any Representative:*

- seek to identify each Domestic Customer in a Vulnerable Situation, in a manner which is effective and appropriate, having regard to the interests of the Domestic Customer; and*
- when applying the Standards of Conduct in paragraphs (a) to (c) above, do so in a manner which takes into account any Vulnerable Situation of each Domestic Customer identified in accordance with (d) (i) above or otherwise.”*

The SoC, therefore, makes it clear that it should be easy for customers, including those in vulnerable situations, to contact their energy supplier.

We note that the SoC does not explicitly require suppliers to provide customers with their contact details, although Energy UK recognise it is in the suppliers' interest to do so. The SoC also only covers the ease with which customers can contact their supplier and so does not require suppliers to direct customers to independent third-party advice, i.e. the Citizens Advice Consumer Service (CACS). We note that this is currently covered by SLC31.

## C. Complaining if something goes wrong

As previously discussed, the amended SoC ensures that it should be easy for a customer to contact their supplier if something goes wrong, as well as ensuring something is put right when a mistake is made. We note that the requirements for how the rest of the complaints journey is communicated with a customer is set out in the Complaints Handling Standards (CHS) regulations<sup>19</sup>, rather than the electricity and gas supply licences. Energy UK believes there may be a case for reviewing the CHS regulations in light of Ofgem's work to move to principles-based regulation.

We also note that on the topic of complaints Ofgem, Citizens Advice and the Ombudsman regularly seek to compare suppliers. Where Ofgem is seeking to make direct comparisons between supplier performance, the case is greater for clear prescription to ensure that Ofgem is comparing like-for-like. Principles would inevitably mean that different suppliers adopt varying approaches to identifying and categorising complaints, thus reducing comparability. In such circumstances, it may be that ensuring comparison fulfils a more important consumer objective than simplifying the rulebook, but the tension has to be acknowledged.

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<sup>19</sup> [http://www.legislation.gov.uk/uksi/2008/1898/pdfs/ukxi\\_20081898\\_en.pdf](http://www.legislation.gov.uk/uksi/2008/1898/pdfs/ukxi_20081898_en.pdf)

#### D. Knowing what to do in an emergency

Customers need to know what to do in an emergency. The “Customer Objective” of the amended SoC requires that:

*“... the licensee or any Representative would not be regarded as treating a Domestic Customer Fairly if their actions or omissions give rise to a likelihood of detriment to the Domestic Customer, unless the detriment would be reasonable in all the relevant circumstances.”*

One interpretation of the SoC is that, by not providing information on what to do in the event of a power cut, a flood, gas leak or a Rota Load disconnection event, a supplier would be giving rise to a likelihood of detriment to the customer that is not reasonable in all the relevant circumstances.

We note that the SoC does not, however, explicitly set out what emergency information a supplier should provide their customers or how this information should be provided. However, this is currently covered by SLC20.

There is a debate to be had about whether there is benefit in prescribing what and how emergency information should be communicated to a customer or whether narrow principles may provide a sufficient steer. The correct answer may differ based on the piece of information in question. By prescribing what, how and when emergency information is communicated regulation risks restricting supplier innovation or forcing suppliers to provide information in a form that is no longer preferred or even used by their customers. However, there may be wider benefits of ensuring a minimum standard of information provided to all customers and/or having all suppliers communicate key information in a consistent manner.

#### E. Having the information to find the best deal to suit their circumstances and preferences

The amended SoC will require suppliers to provide information which:

*“...is sufficient to enable the Domestic Customer to make informed choices about their supply of gas and/or electricity by the licensee.”*

Meanwhile the new Informed Choices principles require that the licensee must ensure:

- *“That the structure, terms and conditions of its Tariffs are clear and easily comprehensible.*
- *That its Tariffs are easily distinguishable from each other.*
- *That it puts in place information, services and/or tools to enable each Domestic Customer to easily compare and select appropriate Tariffs within its offering, taking into account that Domestic Customer’s characteristics and/or preferences”*

One interpretation is that the SoC and new Informed Choices principles require that a supplier ensures each customer can easily access information on their own usage and tariff as well as having the knowledge and tools needed to make meaningful comparisons and informed choices. Ofgem has stated that the amended SoC makes clear that consumers need to be proactively provided with enough information at relevant times, to ensure they can make informed decisions about their energy services.<sup>20</sup>

We note that the SoC and Informed Choices principles do not explicitly require a supplier to remind customers that they can switch tariff. The Informed Choices principles, encourage suppliers to determine how best to provide relevant information, services and/or tools that will help their customers engage in the market.

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<sup>20</sup> [Para 2.45 Standards of Conduct for Suppliers in the Retail Energy Market, 30th January 2017](#)

## F. Being aware of contractual obligations, changes and events

As noted above, the amended SoC will require that:

*“... the licensee or any Representative would not be regarded as treating a Domestic Customer fairly if their actions or omissions give rise to a likelihood of detriment to the Domestic Customer, unless the detriment would be reasonable in all the relevant circumstances.”*

Furthermore, the Informed Choices principles also require that:

*“The licensee must ensure that the structure, terms and conditions of its Tariffs are clear and easily comprehensible.”*

Suppliers also have to abide by the requirements of broader contract law. For example, suppliers must inform a customer of any changes to their Terms and Conditions.

There is, therefore, a view that a combination of SoC, Informed Choices and contract law should ensure that suppliers make their customers aware of contractual obligations, changes and events. This would, however, not guarantee that all suppliers communicate about such events in a consistent manner.

We note that this is previously an area where Ofgem has sought to go above and beyond the requirement of broader contract law, introducing broader protections in some areas (e.g. price increase notices and communications around the end of fixed term contract), ensuring consistency in approach across all suppliers. The transition to principles-based regulation would be a good time for Ofgem to review whether such gold plating of broader contract law remains necessary.

### **4.3 Scope for new principles/light-touch prescription**

As set out above, we believe that the amended SoC and Informed Choices documents provide a broad framework that already offers Ofgem regulatory oversight in relation to the six areas identified as being fundamental customer communications needs.

We also note that the amended SoC requires that:

- Information is complete, accurate and not misleading;
- Language is in plain English; and,
- Important information is given appropriate prominence

We do not, therefore, believe any further broad principles are required in relation to customer communications and do not believe that any further changes should be made to the SoC. The regulatory framework for broad principles should remain stable to provide regulatory certainty as Ofgem introduces narrow principles and removes prescription.

There may, however, be scope for new narrow principles/light-touch prescription to ensure that a common baseline of information is provided to customers and to set out any specific outcomes Ofgem wishes to achieve. Our view on the potential for new narrow principles/light-touch prescription in each of the six areas is set out in the table below.



<b>Communication need</b>	<b>Scope for a new narrow principle or prescription</b>	<b>Rationale</b>
<i>Pay for energy</i>	No	We believe a combination of the SoC and suppliers' incentives are sufficient to ensure customers receive accurate and timely billing information.
<i>Know where to seek assistance in relation to their energy</i>	Potentially	While the SoC ensure that a supplier needs to be easy to contact, it does not explicitly require a supplier to proactively provide contact details to customers or signpost customers to independent third-party advice, i.e. the Citizens Advice Consumer Service (CACS). We, however, note that prescription could discourage supplier innovation in how such information is provided.
<i>Complain if something goes wrong</i>	Potentially	See above.
<i>Know what to do in an emergency</i>	Potentially	We believe there is merit in exploring a minimum level of communication about what to do in an emergency. Narrow principles or even prescription could be used to help achieve this.
<i>Have sufficient information to find a deal to suit their characteristics &amp; preferences</i>	No	Sufficiently addressed by the amended SoC and new Informed Choices principles.
<i>Be aware of and understand contractual obligations, changes &amp; events</i>	Potentially	Subject to degree to which there is a need for a consistent approach across all suppliers. Ofgem's transition to principles-based regulation is, however, a good opportunity for Ofgem to review whether existing gold plating of broader contract law remains necessary.

## Section 5: Review of the existing supply licence

### Executive summary

Energy UK advocates the removal of the majority of existing prescriptive licence conditions relating to customer communications. Where appropriate we recommend replacing the prescriptive licence condition with narrow principles or a more flexible form of prescription.

### 5.1 Introduction

Section 5 is intended to consider the extent to which prescriptive rules could be removed or adjusted with a view to simplifying the licence conditions. A final set of recommendations is provided for Ofgem to consider.

Proposed changes sit within the framework of Ofgem's shift to a principles-based approach to regulation that seeks to facilitate increased innovation while offering ongoing protection to all domestic consumers. Each licence condition is evaluated against these two criteria. The first of these is a consideration of risk and what is necessary for consumer protection. This judgement is informed by an analysis of whether the customer outcome in question is already covered by the amended SoC and Informed Choices licence conditions. It also factors in whether a minimum standard may be required due to the importance of the issue, being considered already covered by the SoC. The second aspect of the criteria is a consideration of opportunity and the degree to which the removal of the licence condition in question could be expected to encourage greater innovation and improved customer outcomes.

### 5.2 Summary of recommendations relating to individual licence conditions

Recommendations have been divided and into three areas:

- **High Impact:** The first area highlights the most significant areas for removal from the supply licence. This section includes licence conditions that, if removed or modified, would have the largest impact on promoting innovation and improving customer outcomes.
- **Medium impact:** The second area provides a broader summary of additional areas of the licence which could be removed or simplified in line with the shift to principles-based regulation.
- **For consideration:** The final area identifies a number of licence conditions which merit consideration for removal, but we acknowledge there is additional context that may make removal or replacement more complicated. It is recommended that Ofgem considers these in further detail.

The licence conditions are ordered chronologically within each of the three sections. Unless stated otherwise in the summary table below, or in the 'applies to' box within each table, licence conditions assessed relate to both electricity and gas.

For each condition we have only considered and made recommendations around the requirements relating to customer communications and therefore, unless otherwise stated, not the condition's wider policy objectives and/or requirements. For example, in relation to condition 13 (Arrangements for site access) we have only considered the requirements around the publication of a supplier's policy on access, not their wider obligations with regards to access.

## Summary Table

SLC	Condition Title	Decision
<b>Highest Impact Proposals</b>		
21B.5	Billing Based on Meter Readings	<u>Remove</u> : To open up increased flexibility for billing in an area where customers are well protected by SoC.
22C.3-22C.5(a), 22D.5C, 22D.9	Renewal of Fixed Term Supply Contracts	<u>Simplify and/or narrow principle</u> : To cover engagement with customers due to experience a contractual change or reach the end of a fixed term contract.
23, 23A	Notification of Domestic Supply Contract Terms and Mutual Variations	<u>Shorter and/or narrow principle</u> : To promote innovation in methods to provide clear and intelligible information about contract terms and changes.
31A	Bills, Statements of Account and Annual Statements	<u>Remove</u> : To encourage different approaches and techniques to communicate the information currently in the customer bill.
<b>Medium Impact Proposals</b>		
14.9	Domestic Customer Transfer Blocking	<u>Remove / Narrow principle</u> : To reflect that this is covered by SoC.
20.1 – 20.3 (E) 20.2-20.4 (G)	Licensed Distributor's Enquiry Service	<u>Narrow principle</u> : To facilitate different approaches to meet this customer outcome.
20.4 (E) 20.5 (G)	Supply Number	<u>Remove</u> : To reflect that suppliers are already required by SoC to provide complete and accurate information to a customer about their supply.
20.5 – 20.6 (E) 20.6 (G)	Dispute Settlement	<u>Remove</u> : To enable suppliers to tailor information to the customer based on their circumstances and in line with the Complaints Handling Standards.
21D.5-21D.10	Tariffs with Environmental Claims	<u>Remove</u> : To reflect that this is covered by SoC.
22.8	Duty to offer and supply under Domestic Supply Contract	<u>Remove</u> : To reflect that this is covered by SoC and Informed Choices Principles.
22.9 & 22.10	Duty to Offer and Supply Under Domestic Supply Contract	<u>Narrow principle</u> : To simplify the condition in order to cover only those aspects not covered by SoC.
27.12	Provision of Information Relating to Payments and Disconnections	<u>Remove</u> : To reflect that this is covered by SoC.
31.2 – 31.3	General Information for Domestic Customers	<u>Remove</u> : In line with the focus on the six fundamental areas for communication identified in this paper.
31E.6 – 31E.17	Overarching Requirements	<u>Remove</u> : To reflect that this is covered by SoC and the Informed Choices Principles.
<b>Further Consideration</b>		
13.2	Arrangements for Site Access	<u>Simplify</u> : To shift the focus from the communication method to the customer outcome.
21.1-9	Fuel Mix Disclosure arrangements	<u>Remove / narrow principle</u> : To open up choice in the manner and method of supplying this information.
21C 1 – 3 (E)	Declaration of a Licensee's FiT Status	<u>Consider removal</u> : Further to consideration of the risk that existing contracts were made on the basis of this condition.
28.1 – 28.3	Information About Prepayment Meters	<u>Simplify</u> : To update and future-proof this condition in line with the desired customer outcome.
29.4 - 29.6 (G)	Provision of Gas Safety Information	<u>Narrow principle</u> : This has potential benefits but it is noted that it is a high risk topic.
31.1, 31.4 – 31.8 (E) 31.1, 31.4 – 31.9 (G)	General Information for Domestic Consumers	<u>Narrow principle</u> : To facilitate flexibility and innovation in how information about Citizens Advice is communicated to customers.
37.2-37.3, 37.5-37.8	Green Deal Information Requirements	<u>Narrow Principle</u> : In line with the recommendation for 21B but with acknowledgement that contracts have been signed on the basis of this condition.

# High Impact Proposals

Condition 21B.5: Billing based on meter readings					
<p><b>Summary:</b> This condition states that a bill or statement of account must be made available to customers at least twice yearly.</p>					
<p><b>Applies to:</b></p> <table border="1" style="width: 100%; text-align: center;"> <thead> <tr> <th style="background-color: #dcdcdc;">Electricity Licence</th> <th style="background-color: #dcdcdc;">Gas Licence</th> </tr> </thead> <tbody> <tr> <td>✓</td> <td>✓</td> </tr> </tbody> </table>		Electricity Licence	Gas Licence	✓	✓
Electricity Licence	Gas Licence				
✓	✓				
<p><b>Considerations for Consumer Protection:</b>            Customers can be seen to be well protected by SoC with regard to the provision of information which is <i>“complete, accurate and not misleading”</i> (in terms of the information provided or omitted). Furthermore, it is in the interest of a supplier to ensure that a customer knows how and when to pay for their energy.</p>					
<p><b>Considerations to Encourage Innovation:</b>            The removal of this licence condition offers an opportunity for promoting industry innovation. Customers will have a range of preferences for billing frequency, ranging from real-time, hourly or daily at one end of the spectrum to annually at the other. Technological changes including the smart rollout and half-hourly settlement open up the opportunity of increased flexibility for consumers to pay for their energy in a way that reflects their preferences. The backstop protection in the licence condition possibly constrains the opportunities for suppliers to innovate in the options that they provide their customers and at the very least requires something which some consumers may deem unnecessary.</p>					
<p><b>Recommendation:</b> Remove this condition from the licence. Citizens Advice have, however, expressed some concern about the removal of the backstop on billing.</p>					

**Condition 22C.3, 22C.4, 22C.5(a), 22D.5C, 22D.9: Renewal of Fixed Term Supply Contracts**

**Summary:** These sections of the licence constitute 10 pages and outline the communication requirements for suppliers when: a customer is nearing the end of a Fixed Term Supply Contract; the terms and conditions of a dead tariff are due to change; and, a customer is being moved from a dead tariff to the relevant cheapest Evergreen tariff<sup>21</sup>. This includes: highlighting the end date; explaining that it might be worth thinking about switching tariff or supplier; signposting to impartial advice; and, outlining the terms that currently apply and would apply on an Evergreen tariff. It also prescribes a notification window of 49-42 days.

**Applies to:**

Electricity Licence	Gas Licence
✓	✓

**Considerations for Consumer Protection:**

SoC specifies the need for accurate, transparent and intelligible information that is “sufficient to enable the Domestic Customer to make informed choices about their supply of gas and/or electricity by the licensee”. It is likely to be understood from these standards that a customer approaching the end of a fixed term contract or receiving updated contract terms should receive the notification and data they require in order to make a decision on their future supply. We note Ofgem’s articulation in the most recent SoC consultation paper that this principle places an onus on suppliers to think carefully about, and be proactive in providing, the right information at the right time.

**Considerations to Encourage Innovation:**

The challenge of prompting a customer to engage with the contract renewal process is one that is likely to be best met through the trialling of different approaches that use a range of technology and messaging.

The current prescription may discourage innovation on the grounds of cost. Increased flexibility in the licence would be likely to result in suppliers using a range of methods to engage customers in this area, as appropriate for their characteristics and/or preferences. More flexibility on the timing of the notification may also increase engagement.

The large size of the prescription in this area has the potential impact of encouraging a compliance mindset rather than innovative approaches. A simpler, shorter version of the licence conditions would provide suppliers with the freedom to think more broadly about the most effective methods and opportunities for communicating ahead of the end of a fixed term, particularly in light of Ofgem’s proposal changes around default tariffs at the end of a fixed-term contract.

**Recommendation:**

We recommend the replacement of the current licence conditions with a shorter, simpler principle around engaging customers who are due to receive a contractual change or are approaching the end of a fixed term contract (particularly where the change would be to the customer’s detriment). This principle could set the expectation that customers are provided with the information that they need to make an informed decision on next steps in appropriate timescales to allow the customer to make an informed decision. There should be no indication as to when the customer should be informed or what information should be provided to the customer.

<sup>21</sup> We note that Ofgem is currently consulting on default tariffs for domestic customers at the end of a fixed-term contract

### Conditions 23 and 23A: Notification of Domestic Supply Contract Terms and Mutual Variations

**Summary:** These conditions comprise 25 pages of the licence. They outline the expectation for suppliers to communicate the key contract terms before entering into a domestic supply contract with a customer, to give notification prior to the end of the contract, and to flag clearly any changes to charges or other adverse unilateral variation during the contract.

**Applies to:**

Electricity Licence	Gas Licence
✓	✓

**Considerations for Consumer Protection:**

The combination of SoC and the Informed Choices principles outline that customers are given clear and intelligible information both before and during their contract.

**Considerations to Encourage Innovation:**

The large size of the prescription in this area has the potential impact of encouraging a compliance mindset rather than innovative approaches. A simpler, shorter version of the licence conditions would provide suppliers with the freedom to think more broadly about the most effective methods and opportunities for communicating contract terms and changes to their customers. The outcome would be that customers are well-informed about their contract at the outset and for its duration.

**Recommendation:** The replacement of the current section of the licence with shorter, simpler prescription regarding notification of contract terms and/or changes in contract terms (both unilateral and mutual).

### Condition 31A: Bills, Statements of Account and Annual Statements

**Summary:** This condition constitutes 26 pages of the licence and outlines the format requirements and information that must be included on every bill or statement of account. This includes tariff information, consumption data, the “could you pay less?” label and the “about your tariff” label.

**Applies to:**

Electricity Licence	Gas Licence
✓	✓

**Considerations for Consumer Protection:**

It is essential that customers receive clear and transparent information about their tariff and consumption data in order to make informed choices. This could be assumed to be encompassed by the requirements of the SoC to provide complete and accurate information relating to products and services. Any consideration of consumer protection must also take into account the evidence that suggests that customers find their bills and annual statements to be an ineffective vehicle for receiving communication wider than the amount of money owed<sup>22</sup>. Customer research from one large supplier found that 75% of customers spend less than a minute reading their bill, with a significant number only reading the first page. Only 7% could recall reading information about the Tariff Information Label on their bill. The inclusion of wider information on the bill may create a false assumption that this means the customer has processed the information.

**Considerations to Encourage Innovation:**

The removal of this prescription would open up the opportunity for suppliers to compete and differentiate in the area of providing clear and engaging information to their customers. The likely outcome would be a proliferation of different methods and techniques to communicate the information that is currently contained in a bill and/or annual statement. Consumers would benefit from receiving communication that is tailored to a specific, clear message rather than a combination of information in a single piece of communication that could be overwhelming.

**Recommendation:** Remove this condition from the licence.

<sup>22</sup> *Missing the Mark: Consumer Energy, Bills, Annual Statements and Behaviour Change*, Consumer Focus, June 2011

## Medium Impact Proposals

Condition 14.9: Domestic Customer transfer blocking					
<p><b>Summary:</b> This condition states that if the licensee makes a request (in accordance with the Master Registration Agreement) to prevent a Proposed Supplier Transfer of a Domestic Customer; it must give a notice to that customer as soon as reasonably practicable after making the request. The condition outlines what information should be included in the notice.</p>					
<p><b>Applies to:</b></p> <table border="1" style="width: 100%; text-align: center;"> <thead> <tr> <th style="background-color: #d3d3d3;">Electricity Licence</th> <th style="background-color: #d3d3d3;">Gas Licence</th> </tr> </thead> <tbody> <tr> <td>✓</td> <td>✓</td> </tr> </tbody> </table>		Electricity Licence	Gas Licence	✓	✓
Electricity Licence	Gas Licence				
✓	✓				
<p><b>Considerations for Consumer Protection:</b> The SoC outlines that the actions or omissions of the licensee must not give rise to the likelihood of unreasonable detriment to the customer, and that important information must be given appropriate prominence. In this instance, it is expected that the supplier should clearly explain their reasoning for requesting to prevent a switch.</p>					
<p><b>Considerations to Encourage Innovation:</b> The current licence condition stipulates a process rather than a consumer outcome. A supplier is required to provide a broad range of information relating to energy efficiency, debt management and alternative contracts, which may not be relevant to the customer in every situation. A principles-based approach would enable and require suppliers to work towards a customer outcome that is tailored to their customer's needs rather than following a prescribed checklist. A potential outcome could be that customers receive the information that they need to know in order to understand the reason(s) for the switch being prevented and possible next steps.</p>					
<p><b>Recommendation:</b> Our recommendation is to remove this condition on the grounds that 25C.4 of the SoC make it clear that the licensee must give complete and accurate information that enables a customer to make informed choices about their supply.</p> <p>If, however, Ofgem desire consistency of communications in relation to requests to prevent transfers, a narrow principle could be produced to this effect. This would maintain some consistency whilst creating more opportunity for supplier innovation in how the information is communicated. Citizens Advice have highlighted that they would like to see a narrow principle on preventing transfers, in order to ensure there is no ambiguity in this area for suppliers.</p>					

**Condition 20.1 – 20.3: Licensed Distributor’s Enquiry Service (Electricity)  
Condition 20.1 – 20.4: Emergency and Enquiry Service (Gas)**

**Summary:**

This condition relates to electricity and states that the licensee must keep each of its customers informed of the current postal address and telephone number of the Licensed Distributor’s Enquiry Service, with options for how to go about this. The equivalent gas condition has similar but slightly different requirements to those set out in the electricity condition. The gas condition specifies the options for informing customers that an escape or a suspected escape of gas should be reported immediately.

**Applies to:**

Electricity Licence	Gas Licence
✓	✓

**Considerations for Consumer Protection:**

Emergency contact information is essential and this area is not explicitly covered by the SoC or Informed Choices Principles.

**Considerations to Encourage Innovation:**

Suppliers have different and diverse customer bases. A principles-based approach would provide flexibility in how and when to provide this information, and it would have the potential to lead to a more effective consumer outcome. For example, the address aspect of the licence condition is considered to be an out of date aspect and research has provided evidence that customers do not view an address as being useful in an emergency situation.

**Recommendation:**

A narrow principle is recommended to safeguard against consumer detriment whilst allowing room for supplier innovation as to how and when this is provided.

**Condition 20.4: Supply Number (Electricity)  
Condition 20.5: Meter Point Reference Number (Gas)**

**Summary:**

This condition of the electricity licence requires suppliers to inform their customers of their supply number either on each bill or annually. The equivalent condition of the gas licence requires suppliers to inform customers of their Meter Point Reference Number either on each bill or annually.

**Applies to:**

Electricity Licence	Gas Licence
✓	✓

**Considerations for Consumer Protection:**

SoC requires suppliers to provide complete and accurate information and to “*make it easy for a Domestic Customer to contact the licensee*”.

**Considerations to Encourage Innovation:**

The removal of this condition would enable suppliers to consider the most effective method of sharing this information with their customers. It would also be consistent with the proposed shift away from using the bill as a primary method of communicating wider information with customers.

**Recommendation:** Remove this condition from the licence.



**Condition 20.5 – 20.6: Dispute Settlement (Electricity)  
Condition 20.6: Dispute Settlement (Gas)**

**Summary:**

This condition states that, in the event of a dispute, the supplier must provide each of its customers with information concerning their rights regarding the means of dispute settlement available, and outlines how and through what medium the dispute can be settled.

**Applies to:**

Electricity Licence	Gas Licence
✓	✓

**Considerations for Consumer Protection:**

The SOC require that a supplier should promptly and courteously put something right when they have made a mistake. In addition, suppliers are obligated to signpost customers to the Ombudsman in the event of a dispute reaching the eight week or deadlock stage.

**Considerations to Encourage Innovation:**

Removing this condition is likely to create capacity for innovation and/or improved customer outcomes as suppliers could tailor information to the customer based on their circumstances. Suppliers would have the flexibility to provide information about dispute settlement at the point where a customer needs it, which could result in a better customer outcome.

**Recommendation:**

Remove this condition from the licence.

**Condition 21D.5 - 10: Tariffs with Environmental Claims**

**Summary:** This condition applies to a licensee who offers a tariff to Domestic Customers to which it attaches an Environmental Claim. 21D.5 – 21D.9 relates to Transparency and 21D.10 relates to Responsibility for Representatives.

**Applies to:**

Electricity Licence	Gas Licence
✓	✓

**Considerations for Consumer Protection:**

The SoC outline that information provided to customers must be complete, accurate and not misleading (in terms of the information provided or omitted). This puts in place a strong safeguard to ensure that any labelling of a tariff as “environmental” is underpinned by evidence that is accessible to the customer. We note that Ofgem has outlined that the scope of the broad Informed Choices Principle extends to factors such as environmental impacts. Any claims are also subject to Consumer Law and the Advertising Standards Agency.

**Considerations to Encourage Innovation:**

In line with the move to Principles-Based Regulation, the removal of this licence condition will encourage suppliers to think creatively around how to present the benefits of environmental tariffs in a clear fashion to their customers.

**Recommendation:** Remove this condition from the licence.

### Condition 22.8 - Duty to offer and supply under Domestic Supply Contract

**Summary:**

22.8 relates to Provision of Domestic Supply Contracts specifically. This condition states that if a person requests a copy of any form of Domestic Supply Contract, that the licensee may offer under paragraph 22.2, the licensee must send a copy of that contract to that person within a reasonable period of time.

**Applies to:**

Electricity Licence	Gas Licence
✓	✓

**Considerations for Consumer Protection:**

In tandem, SoC and Informed Choices Principles give substantial protection to consumers with regards to the transparency of tariffs and contracts. The Informed Choices Principles state that the licensee must make provision for each customer to easily compare and select appropriate tariffs within its offering. This ensures that the outcome of transparency for customers can be met, but with more freedom for suppliers to identify the best method of doing so for their customer base.

**Considerations to Encourage Innovation:**

The current licence condition specifies an activity rather than a customer outcome. An outcomes-focused target sourced from the SoC and Informed Choices Principles will enable suppliers to manage their resources in order to reach the same consumer outcome in the most effective way.

**Recommendation:** Remove this condition from the licence.

### Condition 22.9 & 22.10 - Duty to offer and supply under Domestic Supply Contract

**Summary:** 22.9 relates to Provision of Customer Information specifically. This condition states that where a Domestic Customer requests the licensee to pass on his Historic Consumption Data and/or Supply Number either to the Domestic Customer or to another Electricity Supplier or to any other person, the licensee shall comply with that request free of charge as soon as reasonably practicable. 22.10 is a definition relating to 22.9.

**Applies to:**

Electricity Licence	Gas Licence
✓	✓

**Considerations for Consumer Protection:**

The SoC make it clear that the customer must be able to be provided information relating to their products and services. It is not, however, explicit that this must be free of charge and there could be merit in retaining this aspect of the condition as a narrow principle.

**Considerations to Encourage Innovation:**

There is significant overlap between the SoC and these conditions, which could be simplified by their replacement with a narrow principle.

**Recommendation:** Replace these conditions with a narrow principle around the provision of account information free of charge.

### Condition 27.12: Provision of Information relating to Payments and Disconnections

**Summary:** 27.12 outlines that the licensee must publish a clear statement of their obligations with regard to disconnections and supporting customers in payment difficulty.

**Applies to:**

Electricity Licence	Gas Licence
✓	✓

**Considerations for Consumer Protection:**

The broad Vulnerability Principle requires suppliers to “seek to identify each Domestic Customer in a Vulnerable Situation, in a manner which is effective and appropriate, having regard to the interests of the Domestic Customer”. Ofgem has noted that, in order to meet this new principle, suppliers might consider a number of options, including to be transparent about how, when and where vulnerable consumers can get extra help. As well as the Vulnerability Principle, we believe there are relevant SoC principles that would demonstrate a wider coverage for non-vulnerable customers too, such as the obligation to provide information that is complete, transparent and not misleading.

**Considerations to Encourage Innovation:**

This condition focuses on an output rather than an outcome. Its removal would encourage suppliers to proactively consider how best to communicate these messages to their customer base. The overall effectiveness of a supplier’s communication with its customers could also benefit from a reduction in the volume of separate pieces of written communication that are shared with customers. Suppliers should be able to determine what information to provide customers, through what medium and in what communications.

**Recommendation:** Remove this condition from the licence. Citizens Advice has, however, highlighted that it believes there should be a narrow principle on disconnections.

### Condition 31.2 – 31.3: General information for Domestic Customers

**Summary:**

Condition 31.2 & 3 outlines information about efficient use of electricity and gas.

**Applies to:**

Electricity Licence	Gas Licence
✓	✓

**Considerations for Consumer Protection:**

Information in relation to energy efficiency does not fall under the category of any of the six fundamental areas for customer communication identified earlier in this paper. The requirement for this type of information is not covered by SoC or Informed Choices Principles.

**Considerations to Encourage Innovation:**

In order for customer communication to be innovative and effective, priorities must be identified and the surrounding prescription streamlined. Energy suppliers are not always best-placed to communicate this information in a manner that changes consumer behaviour, particularly given the large volume of information on other topics that customers receive from suppliers.

**Recommendation:**

Remove this licence condition.

### Condition 31E.6 – 31E.15: Overarching Requirements

**Summary:** 31E.6 outlines that all information must be in plain and intelligible language, and specifies requirements for font size and colour. 31E.7 stipulates that a customer's estimated annual costs must be communicated using the name "Personal Projection". 31E.8 requires the provision of the Tariff Information Label and Estimated Annual Costs at the same time as Principal Terms, and 31E.9 sets the condition for a statement to explain what is included in Estimated Annual Costs. The specified subset of this licence condition also covers communication regarding: VAT; the possibility of a future increase in estimated annual costs for customers on an Evergreen Supply Contract; opt-out bundles; Staggered Charging Tariffs; and, Time of Use Rates.

**Applies to:**

Electricity Licence	Gas Licence
✓	✓

**Considerations for Consumer Protection:** It can be seen that there is a significant degree of overlap between the SoC and 31E.6-31E.15. In particular, the requirement for information to be communicated in "plain and intelligible language with more important information being given appropriate prominence" and that "information is complete, accurate and not misleading" might be regarded as protecting consumers in the specific subset of 31E. In addition, the Informed Choices Principles require that the licensee must ensure that they provide information that is sufficient to enable the customer to make informed choices, which would be likely to cover a number of the prescriptive requirements in this subset of conditions.

**Considerations to Encourage Innovation:** In the context of the wider review of licence conditions on customer communications, there is a risk that 31E.6-31E.15 remains highly prescriptive and constraining in areas such as font size and how to explain estimated annual costs to customers. The removal of this condition could support the wider changes taking place with the licence.

**Recommendation:** Remove this licence condition.

## Conditions for consideration by Ofgem

### Condition 13.2: Arrangements for Site Access

**Summary:**

This condition requires suppliers to publish a statement explaining how they comply with the arrangements for site access licence conditions.

**Applies to:**

Electricity Licence	Gas Licence
✓	✓

**Considerations for Consumer Protection:**

13.2 stipulates how a licensee communicates their compliance with the licence conditions on site access. In terms of consumer protection, it would therefore be likely to affect only the method of communication rather than the substance of the protections themselves.

**Considerations to Encourage Innovation:**

The current condition could be detrimental to innovation by focusing on the means of communication rather than the consumer outcome. The requirement for suppliers to publish the statement on their website is unlikely to encourage suppliers to consider innovative ways of ensuring that customers understand key messages about site access.

**Recommendation:**

We recommend that this is replaced with a narrow principle or simplified prescription of what is required from suppliers, which will give more flexibility to suppliers with regard to methods of communicating this information.

### Condition 21.1 – 21.9: Fuel Mix Disclosure Arrangements

**Summary:**

The purpose of this condition is to require the licensee to publish specified information about:

- (a) fuel sources from which the electricity supplied has been generated; and
- (b) the environmental impact of generating electricity from those fuel sources.

This includes: the licensee's duty to publish, data for publication and publishing data.

**Applies to:**

Electricity Licence	Gas Licence
✓	✓

**Considerations for Consumer Protection:**

This is not explicitly covered by the SoC or Informed Choices Principles, although these do require that information about a tariff that suit a consumer's preferences are made clear. The Informed Choices Principle Statement (section iii) provides guidance around ensuring information on tariffs is sufficient for customers to compare and select one that suits their preferences. In addition, Ofgem has outlined that the broad Informed Choices Principle applies to environmental impacts and not just information relating to tariffs.

Removing this requirement will clearly mean that fuel mix and environmental impact information will not be shared by all suppliers in a consistent manner. We do not however see this as likely to give rise to detriment or undermine any fundamental aspect of customer communication.

The communication requirements stipulated by this condition do not meet the six key areas of customer communication outlined at the start of this paper. It is also noted that this outcome is likely to be met by the strong competition across the market for customers who want to know the fuel sources of their electricity.

**Considerations to Encourage Innovation:**

There are opportunities for innovation as there may be better ways to go about providing this information, compared to what is currently required within the licence.

For example, research suggests that the customer bill is an ineffective medium for communicating this type of wider information<sup>23</sup>. There is also a potential wider innovation opportunity as a number of suppliers are likely to publish information in relation to fuel mix as part of their brand or ethos.

**Recommendation:**

We recommend this condition be removed. We recognise that the market will increasingly require information about fuel mix, but this does not need to be prescribed.

However, Ofgem may wish to consider this further and perhaps consider a narrow principle. It is noted that customers must be able to access this information as and when they require it or wish to receive it but the manner and method of providing this communication should be left open.

<sup>23</sup> *Missing the Mark: Consumer Energy, Bills, Annual Statements and Behaviour Change*, Consumer Focus, June 2011

### Condition 21C: Declaration of a Licensee's FIT Status

**Summary:**

The licensee must keep each of its customers informed as to whether it is a Mandatory FIT Licensee, Voluntary FIT Licensee or neither.

**Applies to:**

Electricity Licence	Gas Licence
✓	X

**Considerations for Consumer Protection:**

It would be expected that this requirement is covered by SoC (although not explicitly) in the section that states the need for a supplier to provide complete and accurate information (see Section 3.2: A – Paying for Energy).

**Considerations to Encourage Innovation:**

The shift to principles based regulation offers the opportunity to simplify the licence by removing sections such as this where there is a significant degree of overlap with the SoC.

**Recommendation:**

The benefits of removing this section of the licence need to be considered alongside the risk that existing contracts were made on the basis of this licence condition. Given the risk of detriment to those with existing contracts, we feel this condition requires further consideration by Ofgem.

### Conditions 28.1 and 28.3: Information about Prepayment Meters

**Summary:**

28.1 relates to information about prepayment meters that should be provided to a customer prior to, or upon installation of, a prepayment meter relating to the advantages and disadvantages of a prepayment meter, where to obtain information or assistance where the meter is not operating effectively, and the process for removing or resetting a prepayment meter.

28.3 relates to the obligation on suppliers to prepare a statement covering the information required under condition 28.1 and how and when suppliers must provide this information to customers.

**Applies to:**

Electricity Licence	Gas Licence
✓	✓

**Considerations for Consumer Protection:**

There may be a need for a minimum standard for suppliers in this area in light of the context that PPM customers have been identified by the CMA as being more likely to be in vulnerable situations. While the SoC provides some protection, it is recognised that some additional prescription for PPM customers may be valuable.

**Considerations to Encourage Innovation:**

In the context of the smart meter rollout, there is an opportunity to update and future-proof this section of the licence. A simplified set of conditions could encourage suppliers to innovate in the manner in which they provide information about PPMs to their customers.

**Recommendation:** Simplify these conditions to emphasise the outcome that clear and necessary information about payment methods is needed.

**Condition 29.4 - 29.6: Provision of Gas Safety Information****Summary:**

The condition relates to gas only and notes that the licensee must take all reasonable steps to provide free and clear outlined information on gas safety to domestic customer at least once each year and must provide it when requested to do so by a domestic customer.

**Applies to:**

Electricity Licence	Gas Licence
X	✓

**Considerations for Consumer Protection:**

Emergency information is vital for consumer protection, and it has been noted earlier in this paper that it is an aspect that is not explicitly covered by the SoC.

**Considerations to Encourage Innovation:**

There may be more effective ways to communicate this information to customers than is currently outlined within the licence. A narrow principle around ensuring the customer knows what to do in an emergency would ensure information is provided but allow suppliers to innovate according to the profile of their customer base.

**Recommendation:**

We recommend that this condition be replaced with a narrow principle. However, given the level of potential risk, we recommend Ofgem considers this further.

**Conditions 31.1, 31.4-31.8: General Information for Domestic Consumers (Electricity)**  
**Conditions 31.1, 31.5-31.9: General Information for Domestic Consumers (Gas)**

**Summary:** 31.1 outlines that each bill or statement of account must provide details about the Citizens Advice consumer service. Licence conditions 31.4 to 31.8 apply to the Energy Consumer Guidance and the Concise Guidance published by Citizens Advice. They include the requirement to provide a copy of the Concise Guidance annually, and to include information with each bill on how to access each type of guidance.

**Applies to:**

Electricity Licence	Gas Licence
✓	✓

**Considerations for Consumer Protection:**

It is recognised that Ofgem may wish to outline specific measures to be taken by suppliers to inform customers about the Citizens Advice consumer service and consumer guidance. The current conditions are heavily prescriptive in detailing how and when this information must be shared by suppliers.

**Considerations to Encourage Innovation:**

A narrow principle would enable suppliers to seek to identify the most effective method of communicating this information with their customers. This has the potential to encourage innovation as suppliers would be able to move away from placing large amounts of text on the bill and consider alternative methods to get this message across.

**Recommendation:**

We recommend that these conditions be replaced with a narrow principle. We note that the current conditions stem from European law and that this change would require further consideration from Ofgem.

**Conditions 37.2, 37.3, 37.5-37.8: Green Deal Information Requirements**

**Summary:** These conditions stipulate billing requirements and the information that needs to be displayed on bills and statement of accounts sent to customers who are Green Deal bill payers. This includes prescription on the frequency with which statements of account are issued and the requirement of an annual statement. The information that is specified as a requirement to display on bills includes payment information and where to find impartial advice.

**Applies to:**

Electricity Licence	Gas Licence
✓	X

**Considerations for Consumer Protection:**

The SoC require suppliers to provide complete and accurate information relating to products or services appropriate to the customer, under which it would be likely to be understood that the Green Deal is covered. It is recognised that contracts have been signed on the basis of these licence conditions and that this restrict the level of flexibility to change this licence condition.

**Considerations to Encourage Innovation:**

A key recommendation of this report is that removing prescription around billing and statements of account offers one of the greatest opportunities to promote supplier innovation. Customers have different preferences and needs for the way in which they are billed, and it is logical that simplification of the Green Deal prescription should be included alongside simplification of licence condition 21B.

**Recommendation:**

To maximise the opportunity offered to innovate in billing, the customer communications elements of this condition should be replaced with a narrow principle to specify that customers who are Green Deal bill-payers receive the information that they need to know.



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## Section 6: Compliance

### 6.1 Introduction

Ofgem asked Energy UK to consider what should be expected of suppliers in relation to testing communications with customers and whether there would be value in Ofgem setting out these expectations in prescriptive rules. In this section we present Energy UK's views on compliance, monitoring and enforcement in relation to a more principles-based approach to regulating customer communications.

### 6.2 Compliance framework

A compliance process, which allows Ofgem to work with those it regulates to resolve problems that it has identified, is one of the most important elements in a successful transition to more principles-based regulation.

Energy UK acknowledges that any compliance or monitoring regime needs to allow Ofgem to maintain its ability to take enforcement action where a licensee acts contrary to its obligations in a way that causes detriment to consumers. It is in the interests of suppliers, their customers and of the industry as a whole that it continues to do so. At the same time, balance must be kept to ensure suppliers have flexibility to meet principles based on their own judgement, to innovate and have a constructive and proactive two-way engagement with Ofgem.

### 6.3 Monitoring

We welcome Ofgem previously acknowledging the importance of monitoring being proportionate, risk-based, targeted and not unduly burdensome.

Ofgem must not assume that increased monitoring is needed to ensure suppliers are compliant with its rules. Monitoring should instead fit with a new way of viewing compliance.

Energy UK notes that a more principles-based approach to regulating customer communications will mean there are fewer mandated communications and/or data points across suppliers to measure compliance via quantitative analysis. Monitoring will need to become more qualitative and bespoke. Each supplier's compliance will need to be monitored independently, and it would not be appropriate for Ofgem to measure suppliers' compliance with principles through comparisons with or by benchmarking against other suppliers. For instance, if one supplier chooses to fulfil its obligations under customer communication principles by providing its customers with an online live chat service, other suppliers should still be able to demonstrate compliance without providing this service. If Ofgem believes that prescriptive rules are required to achieve customer-focused outcomes, this should be specified and provided for in the licence.

As is currently the case, responsibility for deciding whether a supplier practice is appropriate should lie with the supplier, and Ofgem's compliance regime should not involve Ofgem suggesting or signing-off suppliers' practices. Ofgem should be engaging in discussions prompted by suppliers around innovative ideas and solutions. Suppliers should be expected to be able to evidence that a reasonable and appropriate process was followed in making decisions which affect customers, and be able to demonstrate to Ofgem why these decisions meet relevant principles.

Any monitoring system also needs to be able to isolate and acknowledge the impact of external factors and influences (e.g. price changes, industry system changes) on customer outcomes, and be able to differentiate between one-off issues and systematic failures.

To this end, Energy UK notes that improved and increased engagement between Ofgem and suppliers will be vital for:

- helping to ensure that company behaviour reflects Ofgem's policy intent;
- helping new and potential new entrants understand what is or might be required of them when entering the supply market; and,
- lowering barriers to entry and growth, thus promoting competition.

## 6.4 Enforcement

Since 2012 there have been a number of developments which have strengthened the case for an appeals process that is unambiguously merits-based. One of these is Ofgem's intent to regulate more through principles which, being more subjective than prescriptive rules, are susceptible to mistakes in enforcement decisions. Ofgem has also stated that it intends to impose higher fines as a matter of policy. It is, therefore, important that licensees have an effective route to appeal all Ofgem enforcement decisions on the merits of the case.

Members believe that Ofgem should allow a due diligence defence as further principles are added to the licence, as this would solve many of the known problems of PBR identified by Black *et al* (2007)<sup>24</sup> such as regulatory uncertainty, guidance proliferation, and hindsight-driven enforcement. The supplier should be able to show that it 'took all reasonable precautions and exercised all due diligence' to prevent a negative outcome. The standard is high and requires the supplier to have taken all reasonable precautions to prevent a negative outcome. The due diligence defence is well established in the UK law, regulated sectors such as food standards and in regulation in other jurisdictions, such as Canada.

## 6.5 Guidance

Ofgem should ensure that guidance produced in relation to new narrow principles and/or the outcomes of enforcement action does not amount to 'regulation via the back door', undermining the goal of simplification and removing barriers to innovation.

It is particularly important that Ofgem bear this in mind as it seeks to move forwards with its own programme of randomised control trials in relation to customer communications, in line with the CMA's recommendations. Ofgem need to carefully consider how it intends to make use of any results in a more principles-based regulatory environment.

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<sup>24</sup> Black, J, Hooper, M and Bond, C (2007), 'Making a Success of Principles Based Regulation', Law and Financial Markets Review 1 (3): 191-206

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## Section 7: Recommendations

### 7.1 Key Recommendations

The move to PBR offers an opportunity to modify the regulatory framework, promote innovation and engagement, and protect domestic consumers. The volume and pace of technological and industry change has created the conditions for a potentially transformative improvement in customer communications. In order for this potential to be fully realised, we believe that the following key recommendations should inform Ofgem's decision-making:

1. **Ofgem should be bold in removing prescription.** The current level of prescription is too high. The impact of this is that suppliers are restricted in their ability to tailor messages to customers and to ensure that key messages are clearly understood. Significant sections of the supply licence could be removed or redrafted while maintaining consumer protections. This would give suppliers the freedom to enhance their customer communication and innovate with new approaches to deliver prioritised outcomes.
2. **There is no need for further broad principles.** The amended SoC and Informed Choices principles provide a broad framework that equips Ofgem with regulatory oversight of the six areas identified as being fundamental to customer communications.
3. **There may be scope for some new narrow principles or light-touch prescription.** This could be used both to ensure a common baseline of service for customers and to provide clarity in those areas where Ofgem can point to a clear need for a specific outcome. Of the six prioritised areas, this would apply to the following: know where to seek assistance in relation to their energy; know how to complain if something goes wrong; know what to do in an emergency; and, are aware of and understand contractual obligations, changes & events.
4. **The supply licence should not stipulate specific forms of communication such as a Bill or Statement of Account or specific frequency/timing.** An outcomes-focused approach would stimulate innovation among suppliers in order to meet the range of preferences across a diverse customer base. Industry changes and technological improvements mean that the nature of an effective communications solution is not static. The regulatory framework needs to be flexible and future-proofed in order for supplier behaviour to be able to continuously adapt in order to meet customers' changing preferences.
5. **Ofgem should work with the Government to seek to reduce the reliance on supplier-led customer communications as a means of promoting information beyond the six priority areas (as identified in Section 3).** Our report has identified six areas of "need-to-know" information based on customer need. In order for communication to be clearly understood by customers, information needs to be simple and direct. It is important to recognise that requirement for suppliers to communicate significant volumes of information beyond the six prioritised areas has the potential to inhibit effective innovation.

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## Annex A: Literature review

Some of our literature review consists of private research undertaken by our members. This cannot be shared publicly but if Ofgem is interested in particular assertions in this paper and how assertions are backed up we are happy to approach the relevant member and ask if they are comfortable with their research being shared on a confidential basis.

Here is a list of the other (non-confidential) documents which formed part of our literature review:

Missing the Mark, Consumer Focus, 2011

[Too many hurdles: information and advice barriers in the energy market, centre for consumers and essential services , 2011](#)

[Consumer research and collaborative engagement on the proposed Standards of Conduct \(Domestic Customers\) - report by Insight Exchange, Ofgem, 2012](#)

[Ofgem Consumer First Panel - Year 4: Second workshops \(held in March 2012\). Consumer engagement with the energy market, information needs and perceptions of Ofgem, Ofgem, 2012](#)

[Options for cheapest tariff messaging on customer communications, Ofgem, 2012](#)

[Prompting engagement with and retention of written customer communications, Ofgem, 2012](#)

[The Retail Market Review – Updated domestic proposals, Ofgem, 2012](#)

[A review of consumer information remedies, Ofcom, 2013](#)

Consumer Bills and Communications Roundtable Group (CBCRG) Report, CBCRG, 2013 (not published)

[Implementation of the domestic Standards of Conduct –decision to make licence modifications, Ofgem, 2013](#)

[The Retail Market Review – Implementation of Simpler Tariff Choices and Clearer Information, Ofgem, 2013](#)

[Retail Market Review – final proposals, Ofgem, 2013](#)

Submissions to the CMA by various suppliers and stakeholders, 2014

[Ofgem Consumer First Panel - Year 5: Third workshops. Research to inform Ofgem's Retail Market Review Consumer Engagement Campaign, Ofgem, 2014](#)

[Effective Billing Workshop, Ofgem, 2015](#)

Ofgem engagement tracking surveys 2011-2015

[Consumer engagement in the energy market since the Retail Market Review: 2016 survey findings, Ofgem, 2016](#)

[Final report of the CMA, CMA, 2016](#)

[Delivering effective customer communications in the energy sector, Huntswood – Insight, 2017](#)