CER Decision Paper

Prepayment Metering in the Electricity & Gas Markets

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CER – Information Page

Abstract:

The CER has decided that electricity and gas market industry systems/processes will be amended to facilitate the repayment of debt by prepayment customers in arrears after a changing of supplier.

Target Audience:

The paper is for the attention of electricity and gas customers, suppliers, network operators, consumer organisations and all other interested parties.

Related Documents:

CER/11/166 – Prepayment Metering in the Electricity & Gas Markets – Consultation

CER/11/106 – Customer Bad Debt in the Electricity & Gas Markets – Decision

CER/11/044 – Customer Bad Debt in the Electricity & Gas Markets – Consultation

CER/10/217 – Guidelines for Code of Practice on Disconnection

CER/09/052 – Guidelines for the Code of Practice on Natural Gas PPM

CER/06/157 – Prepayment Metering Policy in the Gas Industry

CER/05/060 – Management of Customer Payments & Arrears

CER/04/044 – Management of Customer Arrears

For further information on this Decision Paper, please contact **Elizabeth Farrelly (efarrelly@cer.ie) at the CER.**

Executive Summary

In June 2011, the CER issued a decision which introduced a process of debt flagging into the change of supplier processes in the electricity and gas markets. Since the issuance of that decision, a number of suppliers expressed concern with the compatibility of the debt flagging process and the CER's requirement that suppliers must offer a customer a prepayment meter (PPM) as a step before requesting a disconnection.

The concern is that a gaining supplier would have no incentive not to proceed with the switch for a PPM customer who is flagged for having a debt as there would be no risk that such a customer would accrue a debt in the future.

Noting these concerns, the CER published a consultation paper in August which sought comments from industry and consumer organisations on two options:

A. maintain the current arrangements whereby a PPM customer ceases repaying debt to their old supplier in the event that they change supplier. The old supplier can pursue the customer separately for the recovery of the debt, or;

B. allow a PPM customer change supplier but make a change to the market processes such that that they continue to pay off their outstanding arrears after they switch.

After taking into consideration all the submissions received to the consultation, the CER has decided to approve Option B i.e. a change in the market systems/process to facilitate the repayment of debt after a PPM customer in arrears switches supplier.

The consultation paper noted that if the CER approve Option B that there would be additional aspects which would need to be considered; how Option B would be implemented, whether the customer should continue to repay 100% of their arrears after they switch and also the proportion of a customer's top up which would be attributed to debt repayment versus credit for energy consumption.

Based on the responses, the CER is minded to approve that PPM customers should continue to pay the full amount of their arrears when they switch supplier and will engage further with industry regarding this. However, the CER notes that Annex I of the 3rd Package requires that customers are offered a wide choice of payment methods, and that any difference in terms and conditions shall reflect the costs to the supplier. As such, suppliers must ensure that if the customer's choice of payment method reduces the cost to serve, that this is reflected in that customer's tariff. For example, many suppliers offer discount for direct debit options, where the risk of the customer falling into arrears is reduced. The CER will, as part of its retail market monitoring framework be reviewing the choice of payments available to customers and how the cost to serve is reflect in the tariffs, as required by the 3rd Package. As part of this review, the CER will ensure that PPM customers in arrears can also avail of any benefit which may arise from reduced costs to serve PPM customers.

In order to ensure that customers always maintain some proportion of their credit top up for energy consumption, the CER has decided that there will be an upper limit on the percentage of a customer's credit top up which can be allocated for recovery of debt. The CER will decide on the value of this upper limit after further discussion with industry as how the principle of Option B will be technically implemented into the PPM solutions and industry processes.

The CER has not decided on the method for how this principle will be technically implemented into the PPM solutions and market procedures. The consultation acknowledged that the PPM technology solutions in the electricity and gas markets differ in some respects. While the CER acknowledges that this may result in slight differences in how Option B is implemented, in principle there should be a common general approach for implementation in both markets.

The CER will engage with industry over the coming months to ascertain the technical capabilities of both PPM solutions in order to inform how this principle can be implemented in practice.

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1.0 Introduction

1.1 The Commission for Energy Regulation

The Commission for Energy Regulation ('the CER') is the independent body responsible for overseeing the regulation of Ireland's electricity and gas sectors. The CER was initially established and granted regulatory powers over the electricity market under the *Electricity Regulation Act 1999*. The enactment of the *Gas (Interim) (Regulation) Act 2002* expanded the CER's jurisdiction to include regulation of the natural gas market, while the *Energy (Miscellaneous Provisions) Act 2006* granted the CER powers to regulate electrical contractors with respect to safety, to regulate natural gas undertakings involved in the transmission, distribution, storage, supply and shipping of gas and to regulate natural gas installers with respect to safety. The *Electricity Regulation Amendment (SEM) Act 2007* outlined the CER's functions in relation to the Single Electricity Market (SEM) for the island of Ireland. This market is regulated by the CER and the Northern Ireland Authority for Utility Regulation (NIAUR). The CER is working to ensure that consumers benefit from regulation and the introduction of competition in the energy sector.

1.2 Purpose of this paper

The purpose of this paper is to set out the CER's decision with regard to ***the treatment of Pre Payment Meter (PPM) Customers repaying a debt within the change of supplier processes operated in the electricity & gas markets.*** The CER has carried out a full public consultation on this topic between the 25th August and the 15th September 2011 and has considered fully the comments and submissions received. Issues raised throughout the consultation process will be addressed in this paper, as well as outlining the final decision.

1.3 Comments Received

The CER received 12 submissions in response to the consultation paper (CER/11/166). Submissions were received from the following organisations:

- Airtricity
- Bord Gáis Energy
- ESB Networks
- Electric Ireland
- Endesa Ireland
- Energia

- Flogas Natural Gas Ltd
- Gaslink and Bord Gáis Networks
- Money Advice & Budgeting Service (MABS)
- PrePayPower.ie
- Society of St Vincent de Paul (SVP)
- Vayu

All non confidential responses will be published on the CER website in conjunction with this decision paper.

1.4 Background Information

PPMs in the Gas Market

In the past PPM could only be provided by Bord Gáis Energy to its customers in the Dublin and Eastern region, however in December 2008 new PPM technology was implemented so that customers, regardless of their geographical location or supplier, could be served by PPMs.

Bord Gáis Energy is currently the only supplier in the domestic PPM market. As of the 1st September 2011, there were 43,637 PPMs installed in the gas market, which equates to 7% of the total domestic population.

Earlier this year the CER required that all domestic suppliers who are not yet providing PPMs make the necessary arrangements with Bord Gáis Networks (BGN) to enter this market as soon as feasibly possible.

PPMs in the Electricity Market

To date, budget controllers have been used by domestic customers in the electricity market. They are not the meters which record the electricity consumption but a device that is installed in series with a customer’s meter. Budget controllers use a more outdated token meter technology which is less sophisticated than the current PPM technology implemented in the gas market and in the gas and electricity markets in the Great Britain (G.B) and Northern Ireland. While the budget controller solution can be provided by all domestic electricity suppliers, to date Electric Ireland is the only supplier that has installed budget controllers for its customers.

The CER has approved the implementation of a more robust PPM solution for all domestic electricity suppliers in time for the winter period 2011. ESB Networks (ESBN) has procured a key pad PPM technology similar to that operated in the Northern Ireland market.

Financial Hardship in the Electricity & Gas Market

It is CER policy that where a supplier considers that a domestic customer is experiencing genuine financial hardship that the supplier should offer the customer a PPM (or a budget controller in advance of the rollout of the new PPM solution in the electricity market) prior to moving to disconnection. The cost of the meters which are installed under the financial hardship provision are socialised across all customers through the networks charges and hence there is no cost to suppliers or the customer receiving the PPM for same.

At the beginning of September of this year, approximately 13,000 PPMs had been installed in the gas market under the financial hardship provision since December 2008, 80% of which have been installed since January 2011.

In the gas market, customers (including developers) who are not in financial hardship can choose to have a PPM installed to suit personal preference if they pay the differential cost of a PPM versus standard credit meter. As per the BGN Siteworks Charges for 2011, this charge is currently €373 including VAT.

With regard to the electricity market, the CER has approved that the cost of 100,000 of the new PPMs can be provided under the financial hardship provision.

2.0 Consultation Paper

2.1 PPMs & Bad Debt Consultation Paper

The energy market has experienced a lot of change over the past number of years, one of the most notable of which is the impact of the current economic climate and the effects this is having on customers and indeed the energy industry.

Over the past 12 months the CER has thought it necessary to amend some of its retail policies to provide additional protection for gas and electricity customers. Two of these recent policy decisions are related to the operation of PPMs in both the electricity and gas markets.

1. Disconnection Code of Practice

   In November 2010, the CER amended its Code of Practice on Disconnection Guidelines to include the requirement that where possible, suppliers must offer customers the option of having a PPM installed as an additional step before moving to request a disconnection.

2. Debt Flagging

   More recently in June 2011, the CER approved that a debt flagging facility be introduced into the change of supplier processes in the electricity and gas markets. Debt flagging allows the losing supplier to indicate to the gaining supplier that the customer they are switching owes a debt in line with the industry thresholds. The gaining supplier can then decide to proceed with or cancel the change of supplier request based on this information.

2.1.1 Concern with PPMs & Debt Flagging

Since the issuance of the debt flagging decision, some suppliers have expressed concern about the compatibility of requiring suppliers to offer a PPM to customers prior to disconnection and the current debt flagging processes in the case of PPM customers who are in arrears.

The current debt flagging arrangements are such that that if the incoming supplier was agreeable, a customer with a PPM who was repaying a debt could switch supplier before their outstanding arrears have been repaid.
The view was put to the CER by suppliers that the debt flagging solution does not work for PPM customers as unlike for credit meter customers, the gaining

supplier has no incentive not to proceed to switch a PPM customer who has been flagged as having an outstanding debt. This renders the debt flag redundant. This is because by virtue of being a PPM customer, there is no risk that future debt will build up. In these cases the losing supplier, who requested the installation of a PPM, is left with the debt. The key reason for this is that the new supplier has the ability to ascertain whether a customer transferring to it is a PPM customer – if the supplier was not aware of this, then the potential problem could be considerably lessened.

Suppliers have stated that this arrangement creates a disincentive to compliance with the Code of Practice requirement to offer a PPM, as the supplier may have a greater probability of receiving payment from a customer following a disconnection than after installing a PPM.

2.1.2 Review of Change of Supplier Process for PPM Customers in Debt.

Both the natural gas and electricity industries are currently working to implement systems and processes such that eligible domestic customers regardless of their supplier can be provided with a PPM (for circumstances of financial hardship) for the forthcoming Winter period.

The CER issued a consultation which examined how PPM customers repaying a debt are treated within the debt flagging and change of supplier processes, and asked for comment on an alternative arrangement which the CER considered may also be better for customers.

The consultation asked for views from industry and consumer organisations on the following options:

A. maintain the current arrangements whereby a PPM customer ceases repaying debt to their old supplier (via billing arrangements) in the event that they change supplier. The old supplier can pursue the customer separately for the recovery of the debt, or;

B. allow a PPM customer change supplier but make a change to the market processes such that that they continue to pay off their outstanding arrears after they switch.

3.0 Decision

3.1 Option A or Option B

In acknowledging that the debt flagging process is not as effective for PPM customers as it is for credit meter customers, the CER consulted on two options in order to address these concerns.

3.1.1 Review of Proposals

Option A - Maintain Status Quo

Uphold the current arrangements for PPM customers repaying a debt in the change of supplier and debt flagging processes. Under this option, PPM customers with a debt would be treated the same as credit meter customers. This means that if a PPM customer with debt initiates the change of supplier process and is flagged by the outgoing supplier as having a debt, it remains as a sole decision for the incoming supplier as to whether to proceed with the change of supplier request or not. If the incoming supplier proceeds with switching the customer, the debt ceases to be repaid to the old supplier and old supplier resorts to other methods to recover the arrears left outstanding similar to those utilised in the case of credit meter customers, through Court action for example.

Option B - Amend current switching processes for PPM Customers Repaying a Debt

Given the requirements placed on suppliers to ensure that the number of customers being disconnected from supply are kept to a minimum and accepting that the debt flagging arrangements approved by the CER may not be as effective for PPM customers as for credit meter customers, the CER noted that it was minded to introduce an arrangement where a PPM customer repaying a debt can switch supplier but must continue to pay off their outstanding arrears after they switch.

The CER stated that it may be appropriate to approve Option B as this option will allow PPM customers with a debt to switch but as their debt effectively continues to be repaid after the switch, the losing supplier is not left with outstanding arrears after facilitating the installation of a PPM instead of disconnecting the customer.

The CER noted that Option B may be beneficial from the customer point of view as under the current arrangement if a PPM customer switches they will receive a lump sum bill from their old supplier with request for immediate payment. This would then be followed up with debt collection. If the customer’s debt continues to be repaid after they switch, the customer can continue to make payments in smaller more manageable amounts.

The CER indicated that it would review its position on Option B after the consultation period, noting that it wished to hear from consumer representatives in particular on this matter.

3.1.2 Respondents' Comments

Twelve respondents submitted their comments to the CER in response to this consultation.

Nine of the respondents indicated that they were in support of Option B. One respondent indicated that they were supportive of Option A. One respondent did not indicate whether they were in favour of either Option A or Option B.

The last respondent indicated that rather than Option A or B that it considered that a PPM customer repaying a debt should not be allowed switch supplier until the debt has been repaid. This position was also put forward by another respondent who noted that Option B was their second preference.

The respondent who indicated that they were supportive of Option A and not Option B did so on the basis of their belief that Option B allows suppliers with the poorest credit management to benefit the most, places transaction costs on the gaining supplier, necessitates complex debt collection agreements between suppliers and also raises issues and questions in terms of arbitration, the costs of recovery, data protection and the status and repayment of this debt.

In addition to the concerns summarised in section 2.1.2, the respondents who were in support of Option B posed the following amongst their rationale for supporting this option:

- *Option A gives no incentive for the losing supplier to comply with the Code requirements to install a PPM as a step before requesting disconnection as suppliers may rather disconnect the customer as the customer may be more likely to pay or negotiate a payment plan if disconnection was likely to occur.*
- *It is not a realistic option for suppliers to recover arrears for domestic customers through the Courts as outlined under Option A in the consultation. This is a costly and arduous procedure which only results in increased costs for all customers. Where a customer switches and leaves arrears, this is most likely irrecoverable.*
- *Option B ensures that both the customer and the supplier are treated fairly as it allows the customers to obtain the benefits of switching and competition in the market place whilst simultaneously allowing the supplier to recover the arrears it is owed.*

- *Option B provides for an easier method for the repayment by the customer as the customer can continue to repay their arrears in small manageable amounts every time they top up their credit rather than having to pay a lump sum which would be demanded when the customer changed supplier under Option A.*
- *The cost of a PPM installed under the financial hardship provision is socialised and hence paid for by the supplier's general customer base. It is only fair to the broader customer base that a customer in debt continues to use that technology to repay their outstanding debt or else the costs to the general customer will have been in vain.*
- *Option B gives the opportunity of switching supplier (and the potential benefit of lower energy costs) and a mechanism to overcome arrears to a former energy company. In finding a way to deal with such arrears it reduces the psychological stress on the customer of threatened, pending or actual court proceedings.*
- *Allowing a PPM customer who is repaying a debt to change supplier and by consequence cease repaying their arrears only allows customers to remain in denial about their financial situation and end up in a worse condition when they are eventually forced to address it.*

One of the respondent's in support of Option B did note that suppliers should ensure that customers are made aware that if they switch supplier whilst repaying arrears via a PPM that they will be required to continue repaying their arrears after they switch.

3.1.3 Commission's Response

The consultation paper noted that the CER was minded to approve Option B but would consider the views of respondents on the matter before coming to its final decision.

On reviewing the responses, the majority of which strongly supported Option B, the CER has decided to approve Option B such that industry systems/processes are amended to facilitate the principle that a PPM customer repaying a debt continues to repay this debt if they switch to another supplier.

The CER considers that this is warranted given that the debt flagging procedure is not as effective for PPM customers as it is for credit meter customers as a method of preventing customers from using the change of supplier process to avoid paying arrears. On the basis that the CER requires that suppliers offer a PPM to customers instead of issuing a request for disconnection in order to limit the number of customers being disconnected, the CER is of the view that these suppliers should comparably be able to recover the arrears from the customers who have been facilitated in avoiding disconnection in this manner.

The CER notes the views of consumer organisations that are assisting the increasing number of customers experiencing financial difficulties in the current economic climate on this matter.
The Society of St Vincent de Paul (SVP) stated that one of the largest areas of expenditure for SVP is to support low income households in dealing with energy related debt and avoiding disconnection.

The CER is satisfied that its decision to approve Option B is in the best interests of consumers as this Option is supported by both the Money Advice and Budgeting Service (MABS) and SVP who have noted that customers have a responsibility to pay for their energy use and that dealing with arrears in an upfront manner is better for the customer in the long run, both practically and psychologically.

The CER agrees with the respondent who suggested that customers should be made aware at the outset that if they switch supplier whilst repaying a debt via a PPM that they will be required to continue with this repayment after they switch.

With regard to the respondents who suggested that a PPM customer should not be permitted to switch supplier until all their arrears have been paid in full, as noted in the consultation paper, the CER has consulted on the issue of debt blocking and does not agree that customers should be prevented from switching. Conversely, Option B does not prevent PPM customers repaying a debt from switching supplier but allows the customer to continue repaying their debt if the customer is successful in their request to switch.

The CER clarifies that it has approved the principle that a PPM customer in arrears continues to repay their debt after they switch supplier, how this principle is implemented into the market design has yet to be decided and will require further engagement with industry and the PPM technology and service providers.

3.1.4 Commission's Decision

The CER has decided to approve Option B; a change in the market systems/process to facilitate the repayment of debt after a PPM customer in arrears switches supplier.

3.2 Proportion of Debt which continues to be repaid

The consultation paper noted that in the event that the CER approved Option B, the CER would consider whether 100% or a lower proportion of the outstanding debt should travel with the customer after the switch supplier. The CER stated that it would consider this in order to have cognisance of the fact that generally all suppliers face a certain level or risk of bad debt.

3.2.1 Respondents' Comments

Six respondents indicated that they were strongly opposed to a lower proportion of the outstanding debt travelling with the customer when they switch. One respondent, MABS, stated that while it believes that the full amount of the debt should travel, in certain circumstances of severe hardship and on a case by case basis, it should be within the suppliers commercial discretion that that some debt can be written off.

One respondent suggested however that a significant discount should be applied to the debt that is transferred to the new supplier to allow the new supplier to mitigate its own costs of debt recovery.

The respondents who were not supportive of the CER considering a proportion lower than 100% indicated the following points in support of their position in their consultation responses.

- *This approach is at odds with the structure within the SEM where generators are secured against supplier default.*
- *This removes the possibility of bad debt and makes it a certainty. This is an artificial levy on suppliers.*
- *The customer could keep switching in order to reduce its outstanding balance, if only 90% was carried upon switching, by the time the customer had moved to the fourth supplier they would be repaying 66% of the original debt. This is an artificial incentive for the customer at the expense of the supplier.*
- *Allowing less than 100% would give the indication that the industry tolerates a certain level of debt or debt hopping.*
- *Reducing the customer's arrears for no reason facilitates customers remaining in denial about their financial situation.*
- *Switching PPM customers will inadvertently gain by having part of their debt written off which is a benefit a credit meter customer in the same situation could not enjoy.*
- *The proportion of the debt which is not transferred then becomes a burden on a supplier's general body of customers who generally do not default on payments.*
- *Even if 100% of the debt travels the supplier will still encounter risks associated with bad debt, e.g. where a customer repaying a debt via a PPM leaves the premises or the loss of the time value of money where the customer does not vend for prolonged periods.*

3.2.2 Commission's Response

The consultation considered the proposal on debt transfer where a PPM customer, (currently in arrears) switched supplier and continued to repay their arrears at a lower proportion than 100% of the debt which was originally owed. This was to take account of the fact that all suppliers all suppliers face a certain level or risk of bad debt and questioned why suppliers should effectively be indemnified against that risk in this case, where PPMs significantly reduce the credit risk associated with the customer. The CER acknowledges that suppliers still face a small degree of risk in the Option B scenario given that the customer could leave the premise and hence discontinue making payments. The CER maintains however that this risk is sufficiently smaller than the risk associated with credit meter customers.

The CER agrees with the comments from the consumer organisations that customers have a responsibility to pay for the energy they consume and that the switching process should be used as a means to access a cheaper tariff and not to avoid the repayment of debt. However, the CER would not wish to see PPM customers being treated more staunchly than credit meter customers, who in line with the current industry thresholds are only flagged for having a debt if they owe greater than €250 if it remains owing for longer than 60 days after the amount has fallen due.

The CER acknowledges however that if a credit meter customer had their request to switch cancelled on the basis of a debt flag, that they would have to revert to their current supplier to arrange payment for their full arrears, whether it be by lump sum payment or a payment plan. Similarly where a credit meter customer who was not debt flagged switched supplier and owed a debt (outside of the industry thresholds), the losing supplier would issue a closing bill for the full amount of the arrears.

Based on the responses, the CER is minded to approve that PPM customers should continue to pay the full amount of their arrears if they switch supplier and will engage further with industry on this. The CER notes that Annex I of the 3rd Package requires that customers are offered a wide choice of payment methods, and that any difference in terms and conditions shall reflect the costs to the supplier. As such, suppliers must ensure that if the customer's choice of payment method reduces the cost to serve, that this is reflected in that customer's tariff. For example, many suppliers offer discount for direct debit options, where the risk of the customer falling into arrears is reduced. The CER will, as part of the retail market monitoring framework be reviewing the choice of payments available to customers and how the costs to serve are reflect in the tariffs, as required by the 3rd Package. As part of this review, the CER will ensure that PPM customers in arrears can also avail of any benefit which may arise from reduced costs to serve PPM customers. Finally, the CER fully agrees with the suggestion by MABS that it is within a supplier's discretion to write off some of the outstanding debt in certain circumstances of severe hardship or on a case by case basis.

3.2.3 Commission's Decision

The CER is minded to approve that PPM customers should continue to pay the full amount of their arrears if they switch supplier and will engage with industry further on this. In line with the requirements of Annex 1 of the Third Package, suppliers must ensure that if the customer's choice of payment method reduces the cost to serve, that this is reflected in that customer's tariff.

Furthermore, it is noted that it is within the suppliers' commercial discretion however to reduce the amount of the arrears to be repaid on a case by case basis.

3.3 Consumption V Debt Repayment Ratio

The consultation paper stated that the CER would consider what the minimum proportion of a customer's pre payment (credit) should be retained for energy consumption and what proportion should be allocated to paying off the outstanding debt when the customer tops up. This ratio will have an impact on the duration of time it takes a customer to repay their arrears.

The CER noted that as per the current Gas PPM Code of Practice Guidelines[1], where a customer has used the emergency credit on their meter and then tops up their credit, that a minimum of 30% of any credit payment must be allocated to available credit for gas usage, with a maximum of 70% being allowed for the recovery of the cost of emergency credit used.

The CER indicated that it is minded to approve a different ratio for the recoupment of general debt as the CER considers that a maximum of 70% to be allocated to general customer debt as is the case for emergency credit (regardless of whether the customer has switched or not) would be too high.

In this regard, the CER sought views on limiting the proportion of a customer's credit which is allocated for supplier debt repayment every time the customer 'tops up' to a maximum of 30%. This would leave a minimum of 70% of a customer's credit top up to be used for actual energy consumption.

3.3.1 Respondents' Comments

[1] CER/09/052

The majority of respondents suggested that suppliers should be afforded some flexibility in the proportion of debt which is recovered every time the customer a customer tops up.

Many respondents agreed that there should be an upper limit on the percentage of debt which goes towards general debt but a majority of respondents indicated that suppliers should have the ability to set their own levels up to this maximum amount. It was also suggested that customers should be facilitated in making a lump sum payment against their debt outside of repayment via purchasing credit.

Three respondents indicated that they agreed with the consultation proposal that a maximum of 30% of a customer's top should be allocated towards the recovery of general debt.

Two respondents suggested that there should not be a fixed threshold to limit the amount of general debt which can be recouped when the customer tops up. One of these respondents suggested that the customer should be able to choose from a range of debt repayment levels at each transaction with a minimum of 5% for the winter months and a maximum of 100%. The other supplier suggested that the energy company and customer should negotiate a percentage that ensures that the customer has sufficient funds to meet their ongoing energy needs on a case by case basis. This respondent noted that neither the customer nor the supplier should set a rate that acts as a disincentive for actual energy use. A further respondent raised their concern that there might be competition issues associated with setting debt recovery rates across the industry.

One supplier suggested that the rate for recoupment of general debt should be the same as that for emergency credit on gas PPM i.e. 70% - this supplier stated that a lower percentage would mean that it would take an average of 3 years for arrears to be paid off which in their opinion is excessive and would warrant suppliers pursuing the arrears though legal channels.

One supplier suggested that a range of between 25-35% of a customer's top up value be allocated to debt recovery. A further two suppliers requested that the maximum threshold be increased from the proposed to 30% to 35%. One of these suppliers suggested that marginally increasing the upper threshold would allow the customer's previous supplier repayment relationship to reach finality sooner. This would also reduce the impact of a potential change of tenancy in the future where a customer could move out of the premise where the PPM is installed and hence cease repaying their arrears. This supplier reiterated the view previously mentioned that suppliers could take repayments at a rate lower than the upper threshold to suit customers' needs.

In terms of practical implementation of debt recovery ratios in the gas market, BGN and Gaslink clarified that as there is currently only one configuration option for the debt repayment to consumption ratio available on the PPM technology that it is not possible to maintain the current 70:30 recoupment ratio for emergency credit whilst also allowing that a maximum of 30% of a customer's top up be allocated for the recoupment of general debt. Whilst BGN and Gaslink indicated that it is possible to reconfigure the percentage ratio that will apply for the recoupment of emergency credit and general debt, it was strongly advised that any proposed ratio should be given careful consideration with particular cognisance given to the risks of encouraging fraudulent behaviour or gaming of the system such that a limited amount of arrears are repaid.

One electricity supplier who exclusively uses a prepay model using a key pad meter technology, indicated that it would have technical difficulty implementing the policy that a minimum of 70% of credit be allocated for consumption on the actual budget controller technology it utilises.

3.3.2 Commission's Response

The CER notes that the proposal to have a limit on the proportion of a customer's top up which can be attributable to recouping the customer's general debt applies for all PPM customers who are repaying a debt and not just those who are repaying a debt after they switch supplier.

The CER agrees with the comment from one respondent who recommended that any ratio set should not act as a disincentive for essential energy use. The CER considers that it is extremely important that in all cases an adequate proportion of a customer's credit top up is retained for energy consumption. However, this is not to be confused with the need for suppliers to promote the efficient use of energy.

The CER does not agree with the respondent who suggested that the ratio for general debt to credit for consumption should be the same as the current ratio for recoupment of emergency credit which is operated in the gas market. The CER believes that 70% of a customer's top up being allocated for debt recoupment is too high and would not leave the customer with sufficient credit for energy consumption.

The CER agrees in principle with the suggestions that there should be some degree of flexibility for suppliers and customers on the rate at which arrears are recouped. On this basis the CER agrees that it may be more beneficial if there is not a defined percentage which must be used by all suppliers for all customers but instead an upper limit on the percentage of a customer's top up which can be allocated for debt recoupment. On this basis suppliers would have the option to allocate a lower percentage of a customer credit top up to debt recovery than the maximum level/percentage approved by the CER.

Whilst the CER agrees that there should be a degree of flexibility for suppliers and customers on the rate of debt recovery, in line with the reasoning outlined above, the CER does not agree that such flexibility should extend to allowing in some cases for a 100% of a customer's top up being allocated to debt as suggested by one respondent.

As outlined in the following section, it has still to be decided as to how the principle of Option B will be implemented into the actual PPM solutions and technical processes and procedures used in the electricity and gas markets.
The method of implementation agreed may have an impact on the ratio of debt recovery to credit for consumption and as such the CER will decide on the value of the maximum ratio after the technicalities involved in Option B have been further progressed.

The CER agrees in principle with the respondent who suggested that customers should be facilitated in making a lump sum payment against their debt directly to their supplier outside of repayment via purchasing PPM credit. The CER notes that this practice can be facilitated in the current debt recovery tariff arrangements in place in the gas market. Whilst the CER agrees with this in principle, as noted above this will be subject to clarification on the technical capabilities of the electricity and gas PPM solutions in implementing Option B.

3.3.3 Commission's Decision

The CER has decided that there will be an upper limit on the percentage of a customer's credit top up which can be allocated for recovery of debt. The CER will decide on the value of this upper limit after further discussion with industry as how Option B will be implemented in the industry processes.

3.4 Implementation

The CER has engaged in high level discussions with both BGN and Gaslink for the gas market and ESBN for the electricity market to get an understanding as to how a variant of Option B could be implemented in practice.

In the consultation paper, the CER acknowledged that given that the PPM technology solutions in the electricity and gas markets differ, that this means that there may be slight differences in the implementation of the principle of Option B in the gas and electricity markets. Despite any technical variances however, a common approach for implementation should apply to both markets.

3.4.1 Respondents' Comments

<u>Gas Market</u>

BGN and Gaslink indicated in their joint response that Option B is not currently possible in the gas market as debt is recovered by suppliers for PPM customers via a debt recovery tariff. In their response BGN and Gaslink indicated that it would be possible to implement Option B where the debt recovery functionality which is facilitated by the PPM technology but not currently utilised, is switched on i.e. debt is put onto and recovered by the meter itself.

Where the debt functionality on the meter has been switched on, BGN and Gaslink advised that there are several options such that the gas PPM system could be configured to facilitate debt collection or transfer arrangements at the time of the customer switching supplier.

BGN and Gaslink have proposed that, in the absence of the approval for Option B that it would be appropriate to cease the recovery of debt by suppliers from customers registered to them via debt recovery tariffs and instead enable the recovery of debt by suppliers through the PPM itself. It was suggested that enabling the existing debt recovery functionality in the gas PPM would provide transparency for customers by allowing them to monitor their repayment progress more easily i.e. the customer could see how much debt remains owing by looking at the PPM itself – this cannot be facilitated in the current structure where debt tariffs are in place.

BGN and Gaslink have previously suggested one example to industry for how Option B could be implemented. The example used was to configure the PPM system so that, in the event of a change of supplier for a PPM customer in arrears that when the customer tops up after switching, that the proportion of the customers top up allocated for debt recovery could be directly cashed out to the former supplier who is owed the debt by the PPM back office service provider.

Six of the suppliers in the gas market suggested that Option B if approved should be implemented as per the example previously outlined by BGN & Gaslink such that after a switch the debt recovery element of any customer top up should be allocated to the losing supplier by the PPM back office service provider and not by virtue of debt transfer whereby the gaining supplier purchases the debt from the losing supplier and takes over the recoupment of the arrears after the switch (similar to the Debt Assignment Protocol arrangement in operation in G.B.).

Among the rationale provided by the six suppliers in their responses for not being in favour of the gaining supplier purchasing and thus recouping the debt after the switch was that:

- *While debt transfer for PPM is facilitated in G.B. via the Debt Assignment Protocol, it would not be suitable for the Irish market due to the difference in scale of the two markets and given the very tight supply margins in Ireland.*

- *Requiring suppliers to buy debt from each other is unreasonable and against suppliers interests.*
- *Transfer of debt between suppliers would necessitate supplier-supplier transfer and collection agreements.*

Electricity Market

In its response ESBN provided clarification as to how Option B could be implemented for the PPM solution which is due to Go Live in the electricity market in Q4 of this year.

ESBN clarified that the proposed PPM solution for the electricity market is not capable of supporting the transfer of debt or directing payments to previous suppliers after the switch has taken place. ESBN stated that the new system was set up to support the status quo in the market and as such all details pertaining to the losing supplier are closed off and cease to be associated with the customer when they switch to the gaining supplier. ESBN stated that it did not believe that any actual information on debt levels should be included within the framework of the retail market design as a matter of principle.

Were Option B to be approved, ESBN suggested that debt transfer would have to be agreed bilaterally between suppliers and hence changes to support this would primarily be required on suppliers' systems. ESBN proposed that where the gaining supplier agrees to acquire the debt that the new supplier would update the system with the amount to be recovered and the proportion of credit which should be attributed to debt recovery and then receive repayments from the customer upon top up going forward. ESBN noted that there would need to be a separate procedure to enable the new supplier to pay the old supplier for this debt.

3.4.1.1 Change of Supplier Moratorium

Given that it is expected that there would be a lead time to implement a form of Option B into the market operations which would surpass the time at which additional suppliers would enter the PPM markets, two suppliers requested that there be a moratorium on PPM customers being able to change supplier until Option B becomes operational.

3.4.1.2 Data Protection & Other Issues

Three respondents highlighted that any debt transfer process which involves suppliers discussing the amount of a customer's arrears would need to be compatible with the requirements of data protection legislation. Whilst one respondent suggested that Option B would need to be compliant with Financial Regulation requirements, another respondent raised questions around arbitration over debt levels and recovery.

3.4.2 Commission's Response

The CER has approved Option B, which will see market systems/processes amended to facilitate the ongoing payment of arrears by a PPM customer when they switch supplier.

The consultation noted that the PPM technology solutions in the electricity and gas markets differ in some respects. While this may result in slight differences in how Option B is implemented, the CER wishes to see a common approach to implementation in both markets, as far as is practicable.

As outlined above, there appear to be a number of differing approaches for how Option B could be implemented.

Two alternative approaches have been discussed at a high level to date:

1) Allocation of money for debt recovery to former supplier.

One possible approach, which is favoured by suppliers, is that the proportion of a customer's credit purchased which should be allocated for recovery of arrears is directly cashed out to the former supplier – through central market systems/processes. This would mean that after the switch, the former supplier would be directly allocated the payments attributable to arrears repayment and the gaining supplier would continue to receive payments attributable to actual energy consumption.

While it was indicated that this is a potential approach for implementation of Option B in the gas market, in their response ESBN outlined that it may not be feasible for this approach to be implemented into the impending PPM solution in the electricity market.

2) Acquisition & recoupment of arrears by gaining supplier

This approach would be similar to the Debt Assignment Protocol which is operated in the G.B. market. Under this approach, the gaining supplier would purchase the debt from the losing supplier and take over the recoupment of the arrears directly from the customer.

This approach would require bilateral agreement between the gaining and losing supplier to ascertain the level of arrears outstanding and to agree the conditions of the transfer of the arrears.

The CER believes that it will be necessary to further engage with the industry regarding the technical capabilities of the PPM solution employed in the electricity and gas markets before deciding on the general approach for implementation of Option B.

In advance of making a decision on the approach for Option B implementation, the CER has decided to approve the proposal by BGN & Gaslink to enable the debt recovery functionality on the gas prepayment meters and to cease the recovery of debt by suppliers via PPM debt recovery tariffs. The CER agrees that this is a sensible approach as it would allow customers to more easily monitor the progress of the repayment of their arrears and also as this is a less complex means for suppliers to recover arrears than via debt recovery tariffs. Furthermore the CER understands that this change will facilitate a number of Options for the implementation of Option B in the gas market.

At this time the CER does not agree that a moratorium on PPM customers changing supplier is necessary until such a time as the approach for Option B has been implemented. While there will be a lead time in implementing Option B, customers are entitled to switch supplier and the CER is very reluctant to prevent customers from availing of that right, even on a temporary basis.

The CER agrees that whatever approach for implementation of the principle of Option B is taken, that full compliance with all relevant legal and legislative requirements including data protection will have to be ensured.

3.4.3 Commission's Decision

The CER has decided that Option B will be implemented in the electricity and gas markets.

The CER notes that the PPM technologies utilised in the gas and electricity markets differ in some respects, and while this may result in slight differences in how Option B is implemented, in principle there will be a common general approach for implementation in both markets, as far as is practicable.

The CER will engage with industry to ascertain the technical capabilities of both PPM solutions in order to inform how this principle will be implemented in practice.

4.0 Conclusions and Next Steps

4.1 Summary

The CER has made the following decisions with regard to the treatment of PPM customers in arrears within the debt flagging and change of supplier processes operated in the electricity and gas markets.

- The CER has decided to approve Option B such that industry systems/processes are amended to facilitate the principle that a PPM customer repaying a debt can switch supplier but must continue to pay off their outstanding arrears after they switch.

- The CER is minded to approve that PPM customers should continue to pay the full amount of their arrears when they switch supplier. Suppliers must ensure that if the customer's choice of payment method reduces the cost to serve, that this is reflected in that customer's tariff. The CER will, as part of its retail market monitoring framework be reviewing the choice of payments available to customers and how the cost to serve is reflect in the tariffs, as required by the 3rd Package. As part of this review, the CER will ensure that PPM customers in arrears can also avail of any benefit which may arise from reduced costs to serve PPM customers. It should be noted however, that it is always within the suppliers' commercial discretion to reduce the amount of the arrears to be repaid on a case by case basis.

- The CER has decided that there will be an upper limit on the percentage of a customer's credit top up which can be allocated for recovery of debt. The CER will decide on the value of this upper limit after further discussion with industry as how the principle of Option B will be technically implemented into the PPM solutions and industry processes.

- The CER will engage with industry to ascertain the technical capabilities of both PPM solutions in order to inform how the principle of Option B can be implemented in practice. The CER acknowledges that the PPM technologies used in the gas and electricity markets differ in some respects. The CER notes that while this may result in slight differences in how Option B is implemented, in principle there will be a common general approach for implementation in both markets.

4.2 Next Steps

The CER will engage with industry over the coming months to ascertain the technical capabilities of the PPM solutions to inform how Option B will be implemented in practice.