



Commission for Energy Regulation

An Coimisiún um Rialáil Fuinnimh

**CER Decision Paper
Debt Management
Debt Transfer & Debt Flagging**

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Abstract: This decision paper is further to the CER's consultation on Debt Management, Debt Transfer & Debt Flagging (CER/14/119). It also further considers [CER/11/823](#), a previous decision by the CER in 2011 that debt transfer would apply to customers who had received a free Pay As You Go meter for financial hardship reasons. That decision was made before the wider availability of lifestyle choice Pay As You Go offerings in the market.

The consultation paper CER/14/119 asked whether debt transfer should apply to customers switching to a lifestyle choice Pay As You Go service and / or credit services. Debt transfer is where an indebted customer switching supplier would remain responsible for repaying their outstanding debt via their new supplier.

The consultation paper also proposed potential designs for debt transfer and asked whether the current debt flagging process was effective. Debt flagging is where an incoming supplier is notified that the customer they are seeking to take on is in debt (specific level not provided). This notification only occurs when the customer has a debt exceeding a certain amount, eg a €225 for domestic customers. The supplier then has an opportunity to cancel the switch.

All these questions were posed under the ongoing work by industry, wider stakeholders and the CER to 1) assist suppliers to provide better arrear plans to customers that have difficulty paying their bills 2) address the issue of "debt hopping" where customers switch supplier, to avoid paying their debt. The CER has considered all comments and undertook a review of the question relating to mandating debt transfer and debt blocking (a proposed change by industry to the debt flagging process) in the energy retail market.

The CER would point to the existing legal remedies that are available to the industry to recover outstanding debts and those that may be introduced via legislation. Mindful of these provisions, the CER does not see a direct link between any potential wider competition or consumer benefits that debt transfer could bring and CER's regulatory and legislative duties.

The CER has decided, through this paper, not to mandate debt transfer or to introduce debt blocking into the market. This is following consideration of the comments received as well as the review of the questions raised during consultation. The debt flagging process will also not be changed at this stage. The CER is of the view that this will ensure a continued level playing field for suppliers, prevent a potential distortion in the market, while maintaining an appropriate switching model; structured around the gaining suppliers and avoiding any inappropriate powers to veto or delay a customer switch. This decision supersedes [CER/11/823](#).

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/11/106](#) – Customer Bad Debt in Electricity & Gas Markets

[CER/11/823](#) – Prepayment Metering in the Electricity & Gas Markets – Decision Paper

[CER/14/119](#) - Debt Management Debt Transfer & Debt Flagging - Consultation Paper

For further information on this Decision Paper, please contact Seán mac an Bhaird ([**smacanbhaird@cer.ie**](mailto:smacanbhaird@cer.ie)) at the CER.

Executive Summary

The CER decided in [CER/11/823](#), that the electricity and gas market industry systems/processes would be amended to facilitate the repayment of debt by prepayment customers in arrears after a change of supplier. The decision was warranted given:

“that the debt flagging procedure is not as effective for PPM [Pay As You Go meter] 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 [Pay As You Go meter] 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.”

Since decision [CER/11/823](#) was made, the competitive landscape in the domestic electricity and gas retail markets has changed significantly. Both the electricity and gas markets are now fully deregulated and competition has delivered greater levels of choice for the customer. This includes the further emergence of lifestyle choice Pay As You Go products. For example, in the domestic electricity markets two suppliers have emerged that exclusively offer Pay As You Go products. These suppliers were not active in the market when the decision on debt transfer was made and now between them they have over 100,000 domestic customers. With these developments there are now more electricity customers who have switched to a lifestyle choice Pay As You Go product than have received a free Pay As You Go meter because they were having difficulty paying their bills. On the gas side, the Pay As You Go population has more than doubled since the publication of CER/11/823 in October 2011. Not only have these developments seen the shape of the competitive landscape change, it has also changed the CER’s governance and oversight of Pay As You Go offerings, particularly in the electricity market where lifestyle choice Pay As You Go offerings are not supported by an ESB Networks’ solution. In electricity, there is no longer one electricity supplier with their own lifestyle choice Pay As You Go solution but multiple systems used by multiple suppliers. The extent of oversight and governance that the CER currently has on these lifestyle systems is limited to the customer impact they may have – for example insuring that they do not affect the CoS process. This would introduce oversight and governance complexities to the implementation of a centrally mandated debt transfer system.

As described above, this decision was taken at a time where lifestyle choice Pay As You Go offerings were relatively limited. With the ever greater number of lifestyle choice Pay As You Go offerings emerging on the market, concerns were raised that debt flagging was similarly not effective for customers moving to them. As such, it

was argued that debt transfer should also be extended to lifestyle choice Pay As You Go offerings.

These concerns were raised in the disconnection taskforce meetings held in 2014, where the CER worked in conjunction with the industry to establish if further actions could be taken to assist customers in managing their bills and avoiding disconnection. Cognisant of these concerns and the recent developments in the market, the CER decided that it was timely to review the debt transfer decision made in 2011 and, in May 2014, published a consultation paper on the matter (CER/14/119). The consultation also asked whether the current debt flagging process was effective.

Debt Transfer

Debt transfer is where an indebted customer switching supplier would be charged for their outstanding debt by their new supplier.

Taking into account all comments to the consultation, the CER has considered the application of debt transfer in the retail gas and electricity markets. As part of these considerations, the CER reviewed the legal issues with debt transfer, as well as the impact on customers, switching, competition and regulatory stakeholders. It included a review of CER's previous debt transfer decision; as detailed in [CER/11/823](#).

CER is required under S.I. No. 450 of 2010¹ and S.I. No. 630 of 2011² “to monitor the level and effectiveness of market opening and the development of competition in the supply of electricity and gas to final customers” and is required, on foot of this monitoring, to take any action deemed necessary to “(i) prevent a distortion or restriction of competition in the supply of electricity to final customers, or (ii) ensure that final customers are benefiting from competition in the supply of electricity”.

Noting the existing legal remedies that are available to the industry and those that may be introduced, the CER does not see a direct link between any potential wider competition or consumer benefits that debt transfer could bring and CER's regulatory and legislative duties. The CER also considers that the application of debt transfer to a particular product or customer group could introduce a distortion in the market; as it may drive suppliers to a specific product / customer over others due to the debt collection benefits debt transfer could bring. An example of such distortion could be where debt transfer was applied only to level pay plans¹. If such a scenario arose, suppliers may begin to focus more on level pay plans than other products due to the perceived benefits that debt transfer would bring. This in turn would draw their focus away from other products; to their determinant. This could not only have an impact on the competitiveness of offers in terms of tariffs but also the customer experience.

In addition, the review of debt transfer has determined that legislation does not provide a clear mandate for the CER to intervene and mandate debt transfer in the retail markets. The CER would also note the complexities from a general implementation perspective, where, *inter alia*, data protection, differing Pay As You

¹ level pay is where a customer's bills are spread across a year and the customer pays the same amount each month

Go solutions and debt following a customer over multiple switches would have to be considered.

Based on the above, the CER has through this decision paper decided not to mandate debt transfer for any customer group or products. The CER considers that supplier innovation, driven by a level playing field for all suppliers, will further develop not only the products but the services provided (including debt management) to customers. By fostering the further development of competition, and with strong supplier and consumer relationship, early intervention, manageable arrears plan and competitive prices the issues of debt should be reduced over time.

Traditional debt collections methods will still be open to all suppliers and the CER also notes the new provisions are intended in the Civil Debt (Procedures) Act, 2015. The above also does not prevent suppliers from implementing their own voluntary debt transfer processes. However, such processes / agreements cannot restrict the change of supplier process for customer, regardless of their supplier. These processes would also have to adhere to all laws and all elements of the Supplier Handbook.

Debt Flagging

Debt flagging is where an incoming supplier is notified that the customer they are seeking to take on is in debt (specific level not provided). This notification only occurs when the customer has a debt exceeding a certain amount, eg a €225 for domestic customers. The supplier then has an opportunity to cancel the switch.

Taking into account all comments, the CER has concluded no change is warranted in the current debt flagging process. The CER considered and rejected debt blocking; process whereby a customer seeking to change suppliers would be prevented from doing such if they had a debt above a specified amount. This is to maintain a retail market model that is structured around a customer dealing exclusively with the supplier they wish to switch to and a retail market model that ensures that the losing supplier does not have any inappropriate powers to veto or delay a customer switch away from them. A review of debt transfer, has also determined that legislation does not provide a clear mandate for the CER to intervene and mandate debt transfer in the retail markets.

CER has also decided through this paper not to change the structure or the values associated with debt flagging. The CER may in future consider the need for the introduction of a second higher threshold for debt flagging.

Decision 1 – The CER has decided that it is not appropriate to mandate debt transfer for any products or group of customers in the retail markets. For clarity, this decision supersedes [CER/11/823](#) and debt transfer will not be mandated for any customer regardless of whether they have received a free Pay As You Go meter for financial hardship reasons or not. This decision does not prevent suppliers from implementing their own voluntary debt transfer processes. However, such processes / agreements should in no way stymie the change of supplier process for any customer, regardless of their supplier. These processes would also have to adhere to all elements of the Supplier Handbook.

Decision 2 – Having considered all comments received, the CER has decided through this paper that the debt flagging process will not be changed at this time. The CER may consider further the need for the introduction of a second higher threshold for debt flagging at an appropriate time. Mindful of the review mentioned earlier in this Decision, the CER has decided not to introduce debt blocking.

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1 Introduction

1.1 The Commission for Energy Regulation

The Commission for Energy Regulation (CER) is Ireland's independent energy and water regulator. The CER was established in 1999 and now has a wide range of economic, customer protection and safety responsibilities in energy. The CER is also the regulator of Ireland's public water and wastewater system.

The CER's primary economic responsibilities in energy cover electricity generation, electricity and gas networks, and electricity and gas supply activities. As part of its role, the CER jointly regulates the all-island wholesale Single Electricity Market (SEM) with the Utility Regulator in Belfast. The SEM is governed by a decision-making body known as the SEM Committee, consisting of the CER, the Utility Regulator and an independent member. The overall aim of the CER's economic role is to protect the interests of energy customers. The CER has an important related function in customer protection by resolving complaints that customers have with energy companies.

The CER's core focus in safety is to protect lives and property across a range of areas in the energy sector. This includes safety regulation of electrical contractors, gas installers and gas pipelines. In addition the CER is the safety regulator of upstream petroleum safety extraction and exploration activities, including on-shore and off-shore gas and oil.

In 2014 the CER was appointed as Ireland's economic regulator of the Irish public water and wastewater sector.

Further information on the CER's role and relevant legislation can be found on the CER's website at www.cer.ie.

1.2 Purpose of this Paper

The purpose of this paper is to set out the CER's decision on debt management in the electricity and gas retail markets.

1.3 Comments Received

The CER received 12 submissions to the Consultation Paper (CER/14/174). Submissions were received from the following organisations or individuals:

Electric Ireland

ESB Networks

Gas Networks Ireland

PrePayPower

Pinergy

Bord Gáis Energy

SSE Airtricity

Flogas

Vayu

St Vincent de Paul

The Money Advice and Budgeting Service

The Electricity Association of Ireland

1.4 Structure of this Paper

This paper is structured in the following manner:

- **Section 2** sets out the background to this decision paper and provides an overview of the consultation process.
- **Section 3**, outlines the detail of the substantive issues which the CER sought views on and is now making its decision on.
- **Section 4**, details the CER's conclusions.

1.5 Responding to this Paper

Queries on this paper should be submitted, preferably in electronic format, to Seán Mac an Bhaird (smacanbhaird@cer.ie).

2 Background Information

In Winter 2010, the CER amended the Code of Practice on Billing and Disconnections. That amendment saw a new requirement being introduced where suppliers would have to offer domestic customers in genuine financial hardship a free Pay As You Go meter before moving to request a disconnection for non payment of account. Where a Pay As You Go meter was not suitable for the customer, an appropriate alternative would have to be offered.

With a more modern gas solution only introduced in 2008 and an up to date Pay As You Go solution yet to be implemented in the electricity market, Pay As You Go products were in its relative infancy when the above requirements were introduced and Bord Gáis Energy and Electric Ireland were the only suppliers offering Pay As You Go solutions. The CER then directed all suppliers to make the necessary arrangements to begin offering a Pay As You Go solution as soon as possible. To assist in this, the CER approved the procurement by EBS Networks of a modern Pay As You Go solution for electricity, which was to be in place in time for Winter 2011 and which could be availed of by all suppliers.

In 2011, and prior to the first installation of the new modern Pay As You Go electricity meters that Winter, the CER consulted upon the introduction of debt transfer for customers receiving free Pay As You Go meters under the above requirements. The consultation considered, *inter alia*, concerns that the debt flagging process was not effective for customers with Pay As You Go meters and that this in turn created a disincentive for suppliers to offer such meters before requesting a disconnection. The root concern was that a gaining supplier would be exposed to no debt risk when taking on a new Pay As You Go customer and in turn they would ignore any debt flag. This created a greater risk of “debt hopping” for these Pay As You Go customers and suppliers considered that they may have a greater probability of receiving payment from a customer following a disconnection than after installing such a meter.

Having considered the above landscape, the CER decided in [CER/11/823](#), that the electricity and gas market industry systems/processes would be amended to facilitate the continued repayment of debt by prepayment customers in arrears after a change of supplier. The decision was warranted given:

“that the debt flagging procedure is not as effective for PPM [Pay As You Go meter] 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 [Pay As You Go meter] 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.”

Since decision [CER/11/823](#) was made, the competitive landscape in the domestic retail electricity and gas sectors has changed significantly. Both the electricity and gas markets are now fully deregulated and competition has delivered greater levels of choice for the customer and new entrants. This includes the further emergence of lifestyle choice Pay As You Go products. For example, in the domestic electricity markets two suppliers have emerged that exclusively offer Pay As You Go products. These suppliers were not active in the market when the decision on debt transfer was made and now between them they have over 100,000 domestic customers (at the end of Q2 2015, PrePayPower and Pinergy had 96,499 and 21,238 domestic customers, respectively). With these developments there are now more electricity customers who have switched to a lifestyle choice Pay As You Go product than have received a free Pay As You Go because they were having difficulty paying their bills. On the gas side, at the end of Q2 2015 there were 97,317 customers on either a lifestyle choice or financial hardship Pay As You Go meter. This has seen the Pay As You Go population more than double since the publication of CER/11/823 in October 2011 (just prior to its publication the figures in September 2011 stood at 43,637 Pay As You Go meters).

In disconnection taskforce meetings held in 2014, the CER worked in conjunction with the industry to establish further actions that could be taken to assist customers in managing their bills and avoiding disconnection. Concerns were raised during those discussions that CER/11/283 was too limited in its scope and that debt transfer should not only apply to customers who have had a Pay As You Go meter installed under the financial hardship provisions but also to those switching to avail of a lifestyle choice Pay As You Go product. It was argued that, in either case, the gaining supplier would not be exposed to any debt risk and as such would ignore any debt flag raised. Cognisant of these concerns and the recent developments in the market, the CER decided that it was timely to review the debt transfer decision made in 2011 and in May 2014 published a consultation paper on the matter.

2.1 Overview of consultation questions and consultation process

The consultation paper asked whether debt transfer should apply to customers switching to a lifestyle choice Pay As You Go service and / or credit services. It also proposed potential designs for debt transfer and asked whether the current debt flagging process was effective. All these questions were posed under the ongoing work by industry, wider stakeholders and the CER to 1) assist suppliers to provide better arrear plans to customers that have difficulty paying their bills 2) address the issue of “debt hopping” where customers switch supplier, to avoid paying their debt.

Comments on the consultation paper were due by 18th July 2014. Following receipt of comments, the CER held a workshop with industry. The key purpose of the workshop was:

- to provide an overview of responses to CER/14/119
- to discuss the acquisition of additional feedback from suppliers and networks on practically implementable options
- to discuss the acquisition of additional feedback that should be taken on board as part of engagement/consultation and
- discuss emerging issues based on comments received

Following this workshop the CER received representations from the Electricity Association of Ireland in October 2015. All responses to the consultation paper and the aforementioned representations from the Electricity Association of Ireland have been reviewed and are considered in this document, which details the CER's decision on debt management.

Decision making process

This decision paper follows a consultation process on debt transfer (CER/14/119), which consisted of a consultation paper and workshop. The key purpose of the workshop was:

- > to provide an overview of responses to CER/14/119
- > to discuss the acquisition of additional feedback from suppliers and networks on practically implementable options
- > to discuss the acquisition of additional feedback that should be taken on board as part of engagement/consultation

Network companies, electricity and gas suppliers and their representatives and customer advocacy and support groups engaged in the consultation process and the comments of each is considered in coming to the decisions on debt transfer.

3 Consultation Proposals, Responses and Decisions

This section summarises the proposals presented in the consultation paper and respondents' comments to them. It also, in turn, details the CER's decisions and the reasoning behind them.

3.1 Extension of Debt Transfer to Lifestyle Choice Pay As You Go and Credit Customers

The consultation paper asked whether or not debt transfer should be extended to lifestyle choice Pay As You Go and / or credit products. In asking these questions the CER noted:

- that for credit to credit switches, debt flagging was making suppliers consider the debt risks associated with customers, and;
- that any potential incremental benefits of including credit to credit switches into debt transfer would likely be outweighed by the costs of their inclusion.

The following two questions were posed.

Q1. Respondents are invited to comment on the proposal that debt transfer would be extended to include customers with outstanding arrears switching to avail of a lifestyle choice Pay As You Go service. Do you agree or disagree with this proposal? Outline reasons for agreement or disagreement. Are there alternatives that CER should consider?

Q2. Respondents are invited to comment on the proposal that debt transfer would not extend to credit to credit switches. Do you agree or disagree with this proposal? Outline reasons for agreement or disagreement. Are there alternatives that CER should consider?

3.1.1 Summary of Respondent's Comments

Electric Ireland, SSE Airtricity, Flogas and Bord Gáis Energy agreed with the extension of debt transfer to lifestyle choice Pay As You Go products. This position was reflected by the Electricity Association of Ireland, who represents the aforementioned suppliers. In contrast, Pinergy and PrePayPower both expressed strong opposition to such an extension. When it came to the extension of debt transfer to credit products, suppliers' positions were more mixed. While Bord Gáis Energy and Electric Ireland were in favour of such an extension, the Electricity Association of Ireland, SSE Airtricity and Flogas requested more consideration to be given to it.

The Money Advice and Budgeting Service was supportive of the proposed extension of debt transfer and the Society of Saint Vincent de Paul had no objections to it but considered debt transfer to “*primarily benefit suppliers by shoring up areas where bad debt is occurring*”.

The following is a high level summary of the comments made.

Competition and Distortion of Competition

The respondents made the following comments with regard to competition and the distortion of competition.

- Debt transfer would protect suppliers who “*engage badly*” with their customers to manage their debt (which could stymie competition).
- The cost of “*debt hopping*” is ultimately borne by the customer and debt transfer should hopefully reduce this.

- Applying debt transfer to lifestyle choice Pay As You Go suppliers alone, would be discriminatory as it would not provide them with the same level of recourse as others – for example if their customers chose to switch to another supplier's credit offering the debt would not travel.
- Debt transfer is being "*driven through competitive concerns from other suppliers*".
- Debt transfer would introduce costs and market switching inefficiencies that would outweigh any debt collection benefits.
- Debt transfer would drive less efficient debt practices, more debt being accrued, less competition and ultimately lead to higher prices for consumers.
- Suppliers offering lifestyle choice Pay As You Go products are like any other supplier or indeed any other provider of goods and services; they should be responsible for collecting debts for their own services and not for collecting debts amassed by their competitors.
- Debt transfer would create barriers to entry as new entrants would face others' debts.
- Debt transfer would be against CER's duties of "*no unfair discrimination and protecting the final customer within the context of promoting competition*".
- Debt transfer to credit offerings may place unwarranted volumes of debt on suppliers.

Customer Experience

The respondents made the following comments with regard to customer experience.

- Debt transfer may provide customers with better outcomes in relation to credit terms for managing arrears and in turn may reduce the number of disconnections.
- All customers should be treated equally regardless of meter type. Debt transfer should be extended to all Pay As You Go customers so that they are all treated in the same way.
- Debt transfer will not provide a measurable benefit to vulnerable customers and may even result in confusion and stress if not communicated effectively.
- Debt transfer being applied to suppliers that employ a payment method which, by and large sees customers avoiding future debts, is punitive and nonsensical.

- Debt transfer would discourage customers from switching and amount to effective debt blocking.
- Very low levels of switching have been experienced under a similar system in the UK.
- By impacting on the number of customers switching to Pay As You Go products, debt transfer will lead to increased disconnections.
- Where debt transfer is not implemented it could lead to customers moving from supplier to supplier, leaving debt behind them each time, and coming to the situation that no supplier will accept them.
- Debts are effectively unrecoverable where a customer switches to a Pay As You Go product. Debt transfer should tackle this.
- Debt transfer is not needed for the collection of debt as when a customer switches only one avenue of debt collection (disconnection) is lost.
- Suppliers should have regulated payment plans.
- Debt transfer would allow a customer to deal with their debt via one supplier and may avoid the pursuit of outstanding debts by legal action.

Consultation Process

The respondents made the following comments with regard to the consultation process.

- The consultation paper should have presented an open question rather than a definitive proposal.
- There has been no discussion or consideration of the proposals with industry.
- The consultation does not provide in-depth consideration of the matter and deals with the *“very serious issues that arise at a quite superficial level”*.
- Any decision should be based on evidence and the consultation paper does not provide any data in relation to the magnitude of the issue or its costs.
- More consideration is required on the extension of debt transfer to credit offerings, including compiling data on costs.

Other Comments

The respondents made the following other comments.

- The costs of any debt transfer system should not be borne by suppliers.
- Under debt transfer, suppliers should have the ultimate say on whether they take on an indebted customer or not.

- Any process adopted now would have to be revisited come smart metering.
- The original decision on debt transfer (CER/11/823) was made for other reasons than what is pointed to in this consultation, which mainly refers to debt flagged customers moving to lifestyle Pay As You Go suppliers.
- The cost of extending debt transfer to credit offerings may outweigh its benefits but these costs need to be established.
- Debt transfer could allow for potential gaming of the process.
- There are constitutional and issues of European law that debt transfer would face.
- Current “*market structures and regulatory rules have (effectively) encouraged customers to leave debt behind*” and has led to instances where customers have amassed multiple debts and no supplier is willing to take them on.
- Quite straightforward systems could be adopted for the transfer of debt between suppliers for credit to credit switches, which would keep costs to a minimum.
- Not extending debt transfer would go against previous decisions on debt transfer before lifestyle choice Pay As You Go options emerged in the market.
- The cost of debt transfer would outweigh its benefits.
- The levels of debt in the market should reduce over time with the innovation and further development of debt management processes by industry
- Gas suppliers were informed that debt transfer could be managed by the backend Pay As You Go systems and this was a consideration in their entry into the Pay As You Go market.
- Any process put in place to facilitate debt transfer for credit to credit switches “*would lead to a step increase in workload for the MRSO and an increase in resource requirements*”.
- Given the likely volumes, an automated solution would be required to support debt transfer in the gas market for credit to credit switches.
- The network companies should not have sight of debt amounts.

3.1.2 CER’s Decision

Having reviewed the responses, the CER’s decision in respect to the extension of debt transfer to either lifestyle choice Pay As You Go offerings and / or credit customers in arrears is as follows:

Decision 1 – The CER has decided that it is not appropriate to mandate debt transfer for any products or group of customers in the retail markets. For clarity, this decision supersedes [CER/11/823](#) and debt transfer will not be mandated for any customer regardless of whether they have received a free Pay As You Go meter for financial hardship reasons or not. This decision does not prevent suppliers from implementing their own voluntary debt transfer processes. However, such processes / agreements should in no way stymie the change of supplier process for any customer, regardless of their supplier. These processes would also have to adhere to all elements of the Supplier Handbook.

3.1.3 [CER's Supporting Reasoning](#)

The context for and reasoning behind the CER's decision is as follows:

Competition and Distortion of Competition

- In the fully deregulated electricity and gas retail markets, new entrants continue to grow their market share and suppliers continue to innovate in terms of their product offerings. Competition between suppliers has facilitated this. The CER has a legislative duty to ensure that this competition continues to develop to the benefit of all customers and to ensure that the market place does not become distorted. The CER recognises the importance of a level playing field, for all suppliers, to achieve these outcomes and continues to monitor the market to ensure that it is delivering for the customer. The CER consulted on debt transfer to explore further options to assist suppliers in 1) providing better arrear plans to customers that have difficulty paying their bills and 2) addressing the issue of “*debt hopping*” where customers switch supplier, to avoid paying their debt.
- The CER notes the development of lifestyle Choice Pay As You Go products. The CER recognises that a supplier's exposure to debt may be limited by the customer having a Pay As You Go meter installed and in turn the supplier may have little incentive to cancel a debt flagged switch. The customer could have this meter installed already or have it installed after the switch. Although there may be a degree of greater risk in installing the meter after the switch (eg the customer could refuse access), where the meter is installed and all other things are equal, the debt exposure to the supplier is the same. As such, the treatment of customers who either already have a Pay As You Go meter installed and those who have agreed to have one installed after the switch should tend to be similar under the debt flagging process.
- The CER also considered the application of debt transfer to particular products. Specifically it considered the application of debt transfer to financial hardship Pay As You Go, lifestyle choice Pay As You Go and credit products. The CER notes that as long as suppliers adhere to the customer protection provisions of the Supplier Handbook (and all applicable laws), suppliers are

free to innovate in terms of the products that they offer. Such innovation has led to suppliers increasing their range of products, with some choosing to focus on one particular area (eg lifestyle choice), while others are offering a more diversified product range. As noted earlier, the CER has a duty to ensure that competition continues to develop to the benefit of all customers and to prevent distortion of the market place. Under this duty, the CER does not consider it appropriate to impose debt transfer on a particular product (be it financial hardship Pay As You Go, lifestyle choice Pay As You Go or credit products). This is in the interest of maintaining a level playing field and to prevent the potential for debt transfer to distort the market to a particular product – as it may drive suppliers to a specific product over others due to the debt collection benefits debt transfer would bring. This could not only have an impact on the competitiveness of offers in terms of tariffs but also the customer experience.

- The CER also considered whether debt transfer should be applied to a class or classes of customers. A distinct category of customers identified in legislation is vulnerable customers. Vulnerable customers are defined in section 2 of S.I. No. 463 of 2011 as:

“vulnerable customer” means a household customer who is— (a) critically dependent on electrically powered equipment, which shall include but is not limited to life protecting devices, assistive technologies to support independent living and medical equipment, or (b) particularly vulnerable to disconnection during winter months for reasons of advanced age or physical, sensory, intellectual or mental health.

- The CER does not consider there to be any direct link between this categorisation and debt. As such, the CER does not deem it prudent to apply debt transfer to Vulnerable Customers alone. More generally, and in the interest of maintaining a level playing field and preventing a potential distortion in the market, the CER does not consider it appropriate to apply debt transfer to any particular group(s) of customers.
- The CER has further considered debt transfer (including the legal issues associated with it) and concluded that the CER does not have the legislative powers to mandate debt blocking. The above does not stop suppliers from implementing their own voluntary debt transfer processes. However, such processes / agreements can in no way stymie the change of supplier process for any customer, regardless of their supplier. These processes would also have to adhere to all laws and all elements of the Supplier Handbook.
- Traditional debt collections methods will still be open to all suppliers and the CER also notes the new provisions intended by the Civil Debt (Procedures)

Act, 2015, which may provide an additional process for suppliers to seek outstanding debt amounts.

Customer Experience

- Without the implementation of debt transfer, the CER considers that a level playing field should further drive competition in the electricity and gas retail markets; ultimately to the benefit of customers. With suppliers competing on all aspects of their business, this should not only extend to the tariffs that are being offered but all aspects of a supplier's businesses – including debt collection / credit control.
- The CER notes the low level of switching under the Debt Assignment Protocol (see [OFGEM](#)); a form of debt transfer for indebted Pay As You Go customers in the UK. Although the market designs are different and the Debt Assignment Protocol has been reviewed to improve the customer experience, the CER has concerns if a similar experience developed here.

Consultation Process

- In relation to consultation with industry on debt transfer, the CER would note (and as detailed in the consultation paper) that the topic was raised by industry during the disconnection taskforce meetings, which all suppliers were freely able to take part in and contribute to. In addition, the CER would point to section 2.1 which details the further engagement that the CER has had with industry on the matter. The CER considers that the consultation process was robust and provided ample time and opportunity for comment by all and any parties interested in doing such.
- As to the assertion that the consultation paper did not present an open question about debt transfer, the CER notes that the questions included in the consultation asked whether the reader agreed or disagreed with the proposals presented and also sought any alternatives that the reader may have. As with all its consultations, the CER accepts and considers all comments received, regardless of their content. In addition, the consultation process consisted of a workshop with industry that allowed for open discussion.

Other Comments

- The CER notes the practical complexities and challenges that would be associated with any form of debt transfer. Pay As You Go financial hardship meters are installed by ESB Networks. In contrast, ESB Networks does not provide a lifestyle choice offering for suppliers to avail of. Therefore, electricity suppliers seeking to offer lifestyle choice Pay As You Go solutions must

develop these themselves and they are free to use whatever systems they want – they must however demonstrate that their processes in no way frustrate the approved market design. The CER was not in a position to design an automated solution for debt transfer for these lifestyle choice Pay As You Go solutions, as, even on a basic level, a new supplier could enter the market and adopt a new IT system for which a developed design was not compatible. The potential options were therefore that a manual solution applied to all or an automated solution was developed for the financial hardship Pay As You Go meters with a manual solution running in parallel for the lifestyle choice Pay As You Go. On the gas side the case was somewhat different, as Gas Networks Ireland provides both financial hardship and lifestyle choice PAYG offerings to the market (all suppliers can avail of such). The CER could oversee the development of an automated solution for both. Notwithstanding this, the CER notes the complexities in design that would be required in either gas or electricity to prevent the network companies having sight of debt amounts. Maintaining data privacy is a fundamental requirement and robust and inevitably complex processes would likely be necessary to deliver this – for example if an indebted customer switches multiple times more and more parties become involved in the debt transfer process, requiring multiple safeguards for the customer's data.

- As to the potential gaming of the system, the CER would note the importance of setting out clear rules for any process and monitoring its effectiveness and parties' adherence with the rules. The CER does not see gaming as a specific issue associated with debt transfer (though the systems should be designed to be as robust as possible) but rather a more general issue with processes across not just electricity and gas retails markets but a variety of industries and regulatory frameworks. On the general comments relating to the potential design of debt transfer, any such design questions would have had to be fully considered in terms of their impact on the market and whether they would have ensured competition continued to benefit all customers.
- As to the point that any system designed now would have to be remodelled for smart metering, the CER would note that the costs of such would have to be considered but smart metering should not, in its own right, stop any changes being implemented.

Conclusions and Next Steps

- The CER will continue to maintain a market design that allows customers to switch, easily, quickly and free of charge. Notwithstanding this, the CER notes that customers have signed up to suppliers' terms and conditions and should comply with their agreements. Where customers are struggling to pay their bills, the CER would encourage them to engage with their suppliers as soon

as possible. Their supplier in turn must treat the matter confidentially and with respect. Suppliers are also required to offer tailored payment plans that take into account the customer's ability to pay and not move to disconnection for non payment of account without offering a free Pay As You Go meter to the customer (or a suitable alternative where such a meter is not compatible with the premises or appropriate for the customer). Disconnection must be treated as a last resort. These obligations are detailed in the Supplier Handbook and the CER audits suppliers' adherence with them. While complying with the Supplier Handbook all suppliers may also ultimately pursue debts through traditional debt collection methods; including through the judicial system. The CER also notes the new provisions intended by the Civil Debt (Procedures) Act, 2015, which may provide an additional process for suppliers to seek outstanding debt amounts.

- The CER continues to monitor the market to ensure that suppliers are adhering to all aspects of the Supplier Handbook including the offering of effective payment plans that take into account the customer's ability to pay. The CER notes the comment calling for regulated payment plans. The CER would highlight that the Supplier Handbook is currently being reviewed and will be shortly consulted upon. These issues maybe raised under that consultation. The CER would, however, note that the current rules re payment plans are structured around placing the responsibility on the supplier to ensure that any payment plan takes into account the customer's ability to pay. The rules were designed as such, as suppliers are at the coal face and were considered to be in the best position to determine a customer's ability to pay. In addition, the CER was cognisant that detailed rules, rather than ones of principle, may not be appropriate in all cases (for example, detailed rules may not cover off all eventualities and leave a gap to be potentially exploited). The CER would also stress that a customer may have a third party represent them when engaging with a supplier and that suppliers must be able to demonstrate to the CER that they have adhered to the requirement to set payment plans in light of a customer's ability to pay. Notwithstanding the above, the CER welcomes suppliers' commitment to never disconnect an engaging customer. This commitment is detailed in the Energy Engage Code, which the majority of suppliers are signed up to.

3.2 Debt Flagging

Given the prior decision not to mandate debt transfer, this section addresses the consultation questions pertaining to debt flagging. All responses are published alongside this document.

The CER reviewed the debt flagging process in 2013. The review showed that switching activity had been far in excess of the number of change of supplier (CoS) requests cancelled due to debt flagging. It led to the reduction of the debt flagging thresholds for both domestic and business customers. These new thresholds were adopted on 1st July 2013. The debt flagging review also led to the formal implementation of debt flagging for unmetered supplies.

In the consultation paper, the CER invited comments on the effectiveness of the debt flagging process as currently designed and whether or not changes to the process (beyond the implementation of debt transfer) were merited. The question was as follows.

Q25. Respondents are invited to comment on whether the current debt flagging process is effective. Outline reasons for agreement or disagreement. Do you see merit in the introduction of a second higher threshold so gaining suppliers can distinguish to a greater degree between customers' debt levels. Views are invited on the amounts for higher threshold. Are there alternatives that CER should consider?

3.2.1 Summary of Respondent's Comments

Most respondents stated that the current debt flagging process was ineffective. In contrast, only one respondent stated that it was effective but could, nonetheless, be improved upon. Some suggested changes to the debt flagging process (in terms of thresholds for monies and / or times) while some called for the introduction of debt blocking. Gaming of the system was also raised as an issue – particularly people mimicking a Change of Legal Entity to avoid a debt flag.

The following is a high level summary of the comments made.

Debt blocking

The respondents made the following comments with regard to debt blocking.

- A robust blocking process, in particular for larger energy users, was called for.
- Debt blocking would, in the first instance, be the most cost effective solution to “debt hopping” and it was suggested that it be introduced for:
 - Customers who have tampered with their meters
 - Customers who are suspected of tampering with their meters until any investigations into the allegations are completed
 - Customers who do not engage with measures to resolve their debt
 - Customers who have a debt over € 500
- In the current landscape, where suppliers have taken additional steps to assist customers in meeting their bills (for example through the Energy Engage Code), it was suggested that the introduction of debt blocking would be appropriate.

- Industry would be open to addressing any specific concerns CER might have with debt blocking, in terms of additional customer protections or safeguards, where appropriate.
- All suppliers should be subject to debt flagging.

Changes to the current debt flagging design

The respondents made the following comments with regard to changes to the current debt flagging design.

- The debt flagging threshold should be reduced to € 150 and that the time element should be reduced from 60 to 30 days.
- Debt flagging should consider debts that are lower than the current thresholds but are outstanding for longer than 60 days.
- While suggesting that the majority of customers in debt are choosing to remain with their suppliers, it was recommended that two thresholds should be adopted for debt flagging – one set at € 225 and another set at € 451.
- To be an effective change, any additional thresholds should be multiples of the existing ones.
- Three debt flags should be adopted; two associated with differing levels of debt and a third associated with tampering.
- Instead of introducing any additional thresholds, the current thresholds should be reduced.
- Additional thresholds would not place any debt risk on the gaining supplier.
- Debt transfer should address the structural issues associated with debt flagging of customers switching to avail of Pay As You Go services.
- Debt flagging should take into account returned payments, final invoices and adjustments to amounts owing after a switch.
- The debt flagging process is an appropriate and effective process. Nonetheless it could be supplemented (or even replaced) by more granular debt reporting arrangements between suppliers; without the involvement of network companies.
- Work has commenced on automating the debt flagging process in the electricity retail markets. Changing the debt flagging process now, could extend the time required to implement an automated solution.
- Any changes to the debt flagging process on the gas side would have systems impacts and impart costs on all industry participants.

- Where debt blocking is not applied to large customers, at the very least, debt flagging should be extended to these customers.

Gaming the system

The respondents made the following comments with regard to gaming the debt flagging process.

- Customers are gaming the debt flagging process by mimicking a Change of Legal Entity when they switch.
- Change of Legal Entities are causing significant structural defects with the debt flagging process.
- The Change of Legal Entity process does not take effective account of instances where a business goes into examinership, receivership or liquidation.
- Company registration numbers should be used to identify whether a Change of Legal Entity has occurred or not.
- The debt flagging process should take into account changes in a company's GPRN or MPRN. Where these do not change, a debt flag should be raised.

3.2.2 CER's Decision

The CER's decision in respect to debt flagging is as follows.

Decision 2 –Having considered all comments received, the CER has decided through this paper that the debt flagging process will not be changed at this time. The CER may consider further the need for the introduction of a second higher threshold for debt flagging at an appropriate time. Mindful of the review mentioned earlier in this Decision, the CER has decided not to introduce debt blocking.

3.2.3 CER's Supporting Reasoning

The context for and reasoning behind the CER's decision is as follows:

Debt blocking

- Debt blocking is where a customer seeking to change suppliers would be prevented from doing such if they had a debt above a specified amount.
- The CER recognises the additional customer protections steps suppliers have taken through the Energy Engage Code but still considers debt flagging to be more consistent with the open market design than debt blocking.

- Both electricity and gas markets operate on a supplier-centric model that sees the customer as the initiator in any switch. The retail market model is structured so that customers deal exclusively with the supplier they wish to switch to and ensures that the losing supplier does not have any inappropriate powers to veto or delay a customer switch away from them. The implementation of a block by a losing supplier runs contrary to this principle and would potentially act as a barrier to market entry; as such, and having weighed a variety of factors in coming to its decision, the CER does not consider it an appropriate solution for the further development of competition in the retail markets. The CER has however considered this point further (including the legal issues associated with it) and concluded that the CER does not have the legislative powers to mandate debt blocking.

Changes to the current debt flagging design

- The CER does not consider it appropriate to further reduce the debt flagging thresholds. To reduce the thresholds would lead to more debt flags raised. This is to ensure that the thresholds in place remain close to but above the average bimonthly bill of a customer. The following tables show the average bills per customers who are not purchasing gas and electricity from the same supplier. Note that the presented average bills do not take into account fluctuations in demand over the year and bills may be more than the average, for example during the Christmas period where people are heating their homes. For comparison the current debt flagging threshold is € 225 for domestic customers.

Domestic Urban 24 hr, Average Electricity Bills				
	Discounted plans		Standard plans	
	Annual Bills	Bi-monthly Bills	Annual Bills	Bi-monthly Bills
Electric Ireland	€1,037	€172.83	€1,182	€197.00
Energia	€1,038	€173.00	€1,235	€205.83
BGE	€1,074	€179.00	€1,169	€194.83
SSE Airtricity	€1,038	€173.00	€1,252	€208.67
Panda Power	€1,046	€174.33	€1,234	€205.67
PAYG Lifestyle choice offers				
Electric Ireland			€1,288.20	€214.70
PrePayPower			€1,310.77	€218.46
Pinergy			€1,343.25	€223.88

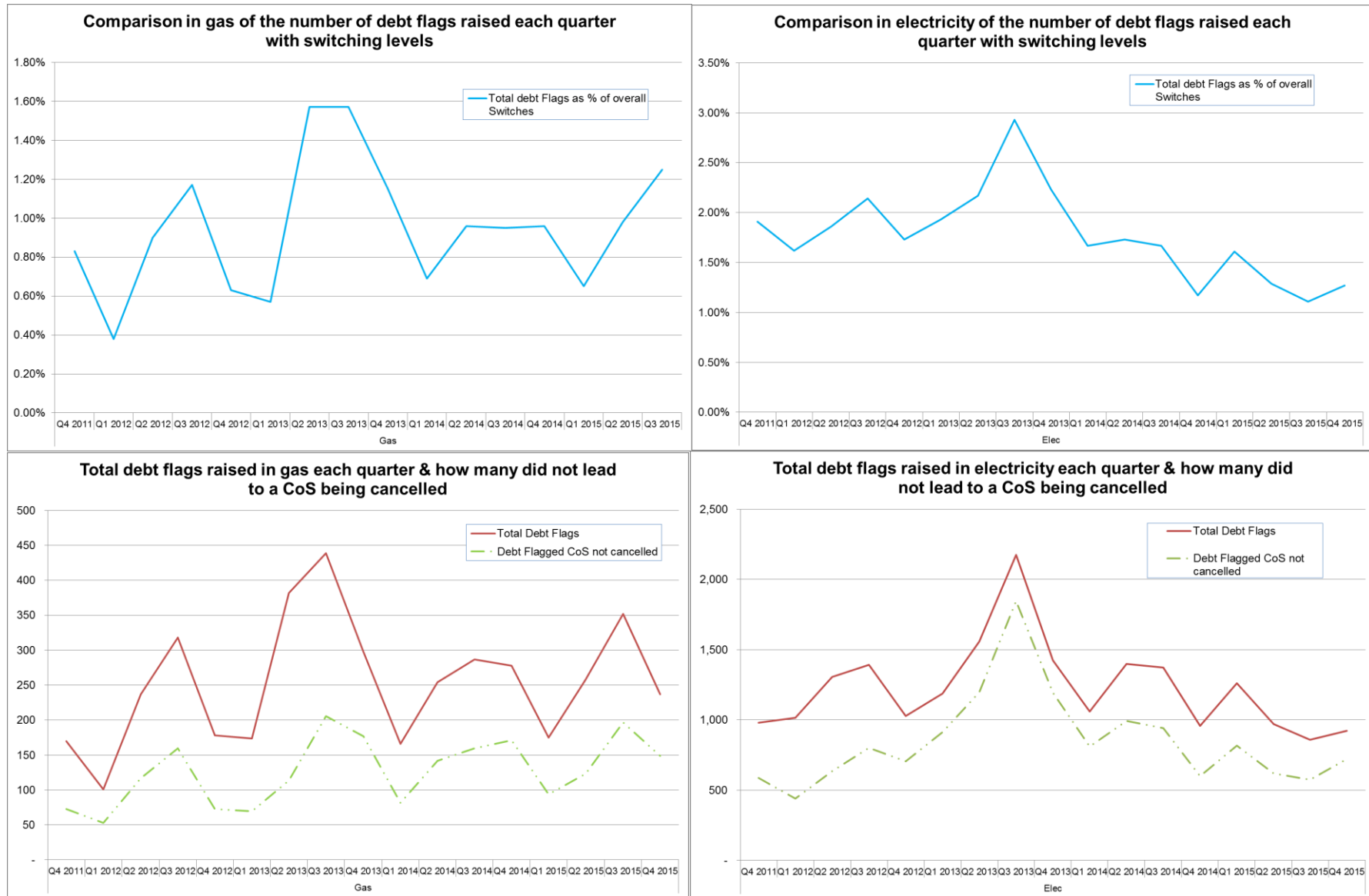
Table 1 Annual average electricity bills (excluding current cashback or limited offers) based on 5,300 kWh average consumption (**Source:** Bonker.ie, November 2015).

Domestic , Average Gas Bills				
	Discounted plans		Standard plans	
	Annual Bills	Bi-monthly Bills	Annual Bills	Bi-monthly Bills
Electric Ireland	€910	€151.67	€963	€160.50
Energia	€854	€142.33	€966	€161.00
BGE	€880	€146.67	€944	€157.33
Flogas	€798	€133.00	€960	€160.00

Table 2 Annual average gas bills (excluding current cashback or limited offers) based on 13,800 kWh average consumption (**Source:** Bonker.ie, November 2015).

- The CER notes the low level of switching under the Debt Assignment Protocol (see [OFGEM](#)); a form of debt transfer for indebted Pay As You Go customers in the UK. Although the market designs are different and the Debt Assignment Protocol has been reviewed to improve the customer experience, the CER would have concerns if a similar experience developed here.
- At this point in time the CER also does not consider it timely to change the structure of the debt flagging process. The CER has detailed rules in place for debt flagging, which is currently a manual process in both electricity and gas markets. The CER notes that a project is currently underway to release an automated debt flagging process in 2016 in the electricity retail markets. At this stage, any changes to the structure of the debt flagging process could not be accommodated into that project without driving substantive delays, which would in turn impact other releases being delivered under the project. Having considered all comments received, the CER has decided that the debt flagging process will not be changed at this time. The CER may consider further the need for the introduction of a second higher threshold for debt flagging at an appropriate time.
- The following tables show the total number of debt flagged customers in each quarter from Q3 2013 to Q4 2015. It can be seen that the number of debt flags raised each quarter is a small proportion of the number of customers switching. It can be seen that the number of debt flags raised each quarter is a small proportion of the number of overall customer switches. Since 2011 it has never exceeded 3% of overall switches in electricity and 1.6 % in gas. Of these raised debt flags, only a proportion of them lead to a cancelled switch.

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Gaming the system

- As to the gaming of the system, by people mimicking a Change of Legal Entity, the CER would note that the debt flagging process is subject to data protection law (and all other laws), which prevents a debt flag being raised in the case of a Change of Legal Entity. When designing the debt flagging process the CER engaged with the office of the data protection commissioner. The process as designed is fully compliant with data protection legislation and this cannot change. The CER would also note that suppliers are free to seek verification of a customer's name. Any such checks should not be onerous or impact on the switching process.

Conclusions and Next Steps

- Taking into account all comments, the CER has concluded no change is warranted in the current debt flagging process. The CER considered and rejected debt blocking; process whereby a customer seeking to change suppliers would be prevented from doing such if they had a debt above a specified amount. This is to maintain a retail market model that is structured around a customer dealing exclusively with the supplier they wish to switch to and a retail market model that ensures that the losing supplier does not have any inappropriate powers to veto or delay a customer switch away from them. A review of debt transfer, has also determined that legislation does not provide a clear mandate for the CER to intervene and mandate debt transfer in the retail markets.
- CER has also decided through this paper not to change the structure or the values associated with debt flagging. The CER may in future consider the need for the introduction of a second higher threshold for debt flagging.

4 Conclusions

Having reviewed all comments received and having undertaken a review of debt transfer and debt blocking (a proposed change by industry to the debt flagging process), the CER has decided not to mandate debt transfer or to introduce debt blocking into the market. The CER is of the view that this will ensure a continued level playing field for suppliers, while maintaining an appropriate switching model; structured around the gaining suppliers and avoiding any inappropriate powers to veto or delay a customer switch. The CER considers that the above will also continue to foster a market where all customers continue to benefit from competition and distortions in the market are prevented.

Decision 1 – The CER has decided that it is not appropriate to mandate debt transfer for any products or group of customers in the retail markets. For clarity, this decision supersedes [CER/11/823](#) and debt transfer will not be mandated for any customer regardless of whether they have received a free Pay As You Go meter for financial hardship reasons or not. This decision does not prevent suppliers from implementing their own voluntary debt transfer processes. However, such processes / agreements should in no way stymie the change of supplier process for any customer, regardless of their supplier. These processes would also have to adhere to all elements of the Supplier Handbook.

Decision 2 – Having considered all comments received, the CER has decided through this paper that the debt flagging process will not be changed at this time. The CER may consider further the need for the introduction of a second higher threshold for debt flagging at an appropriate time. Mindful of the review mentioned earlier in this Decision, the CER has decided not to introduce debt blocking.