REVIEW OF THE SUPPLIER’S HANDBOOK

DECISION AND FURTHER CONSULTATION

Reference: CER/16/287
Date Published: 14/10/2016
Closing Date: 25/11/2016

Regulating Water, Energy and Energy Safety in the Public Interest

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Executive Summary

The CER is responsible for ensuring a high standard of protection for energy customers. We deliver on this mandate through developing of requirements and guidelines for energy suppliers and network companies. This is reflected in several documents including Standard Terms and Conditions of Supply, Codes of Practice and Customer Charters, gas and electricity supply licences, market design rules and the Supplier’s Handbook.

The Supplier’s Handbook covers key areas of the relationship between energy customers and energy suppliers. It requires suppliers to ensure minimum levels of service for customers in the areas of:

- Marketing and sign
- Billing
- Disconnections
- Vulnerable customers
- Complaint handling, and
- Pay as you go meters and budget controllers

Competitive energy markets are evolving rapidly. It is important to ensure that the customer protection framework also evolves in line with the new competitive environment. The CER, therefore, commenced the first stage of the consultation process to review the Supplier’s Handbook earlier this year. This Decision and Further Consultation Paper represents the second stage in this process. It includes key decisions on measures to improve the standard of protection for energy customers and encourage them to be more active in competitive energy markets.
The key decisions are summarised below and discussed in detail in Section 3.0 of this paper, under relevant codes of practice.

- **Introducing measures aimed at making energy offers easier to understand and compare and increasing customer engagement with the energy markets**
  - Providing energy customers with a simple and easy to understand tool to compare energy offers (the Estimated Annual Bill)
  - Ensuring that energy customers receive a 30 days notice prior to the expiry of a fixed term contract (30 Days Notice)
  - Ensuring that energy customers who have not engaged with the market for minimum 3 years receive a notification from their current supplier (the Annual Prompt)

- **Strengthening the protections for vulnerable customers**
  - Setting up minimum standards for the identification of vulnerable customers, at sign up and post sign up
  - Introducing a suite of measures to increase the protection of vulnerable customers who wish to avail of a PAYG meter

- **Enhancing the current protection framework for PAYG customers**
  - Align energy statements to the requirements of the Energy Efficiency Directive 2012/27/EC, thus ensuring that PAYG customers receive the same billing information with the same frequency as bill pay customers
  - Measures to ensure that PAYG customers enjoy the same easy and seamless switching process as bill pay customers

- In tandem with these measures, the CER is introducing specific requirements to increase transparency of billing information (dual fuel
customers) and improve the process for refund of monies owed to customers by their supplier

- Introducing amendments to current requirements to provide further regulatory clarity

Supporting these decisions is a large body of information and evidence gathered through:

- Ongoing stakeholder engagement
- Input from the CER Customer Care Team
- CER’s market monitoring activities
- Results of Consumer Surveys conducted by the CER
- Findings of compliance audits conducted by the CER
- Experiments conducted on our behalf by the ESRI PriceLab research programme, and
- Responses to the consultation paper

The CER is further consulting on a range of detailed implementation options aimed at giving effect to some of the decisions outlined in this paper. The main issues for further consultation are summarised below and discussed in detail in Section 4.0 of this paper:

- Options for the calculation and display of the Estimated Annual Bill on marketing and advertising material
- The content of the 30 Days Notice and the Annual Prompt
- Principles for taking customers’ ability to pay into consideration when setting debt repayment arrangements
- Measures to strengthen the protection of business customers
Comments are also invited on the revised version of the Supplier’s Handbook, which is published alongside this paper. The CER is inviting feedback on the detailed drafting of aimed at implementing these decisions.

The proposed timelines for implementation of decisions are outlined in Appendix D. After the publication of the final Decision Paper and the final version of the Supplier’s Handbook, the CER will engage with energy suppliers to finalise the implementation plan and necessary amendments to the Codes of Practice. The CER will endeavour to provide suppliers with sufficient information and time to plan their own resources and necessary changes to their internal systems and processes.

The period of consultation for the last stage of the review is 6 weeks (closing date 25 November 2016). The CER welcomes energy customers’ comments on the proposals put forward in this paper by close of business on 25 November 2016. These comments may be sent to Dana Paraschiv, Senior Analyst, Retail Energy Markets, Commission for Energy Regulation, dparaschiv@cer.ie.
Customer Impact Statement

CER introduces New Measures to Protect and Empower Energy Customers

The CER regulates the activities of suppliers in the electricity and gas markets with a view to ensuring that suppliers treat customers in a fair and equitable way and that customers enjoy a high standard of service in their dealings with suppliers.

This decision on the content of the Supplier Handbook sets standards to which all suppliers must adhere to in their dealings with customers. The Supplier’s Handbook consists of requirements grouped under individual codes of practice which cover key areas of the relationship between energy customers (domestic customers and small and medium businesses) and energy suppliers. These areas include marketing, sign up, billing, disconnections, vulnerable customers, complaint handling, pay as you go meters and budget controllers.

While the supplier handbook is focussed on actions that suppliers must take in their interactions with customers, there are a number of outcomes that the CER expects to happen that will provide benefits to consumers.

The requirement for suppliers to provide prompts to customers at the end of fixed-term periods, or if they have remained on the same tariff for more than three years should provide customers with the information they need to keep getting the benefits of competition in the electricity and gas markets. This will encourage them to engage with their supplier or to shop around to avail of the best offers in the market. The CER expects that suppliers will respond to this initiative by making competitive offers available to both their existing customer base as well as focussing on attracting new customers.
To help customers be confident that they are choosing the best offer available to them, the CER is requiring suppliers to include a new piece of information in their advertising material – the estimated annual bill (EAB). The EAB is designed to provide customers with an easy to understand, transparent metric by which they can compare offers from different suppliers, and therefore make the decision to move to a more advantageous offering, confident that they have made the right choice for their circumstances. This requirement, combined with the obligations to prompt passive customers, should lead to increased competition in the market and the benefits of competition going to more consumers.

The CER is also introducing stronger protections for vulnerable customers, including setting minimum standards for the identification of vulnerable customers when they sign up with a new energy supplier, and to ensure that vulnerable customers are aware of what protections are available to them when they opt to avail of a pay-as-you-go service.

The CER is introducing these measures in response to learnings from our ongoing monitoring of the retail markets. These include customer surveys, market monitoring, audits of supplier activities, ad-hoc compliance activities and independent research.

The CER is committed to ongoing monitoring of the market to ensure that these measures bring strong benefits to consumers through improved competition in the electricity and gas markets.

**Future action aimed at the protection and empowerment of energy customers**

The CER is committed to further developing consumer communications to advise and inform consumers on the benefits of active engagement with suppliers in energy market place in terms of delivering value to customers and bringing
competitive pressure on supplier prices and offers. To support this, the CER will deliver a consumer focused communications campaign in 2017 targeted at encouraging greater engagement by consumers with the retail market, focusing on switching levels, supplier engagement, price comparisons and consumer information. It is intended that this campaign will include the delivery of specialised marketing materials, public relations activity and a digital marketing strategy. The theme and concept for this campaign will be developed over the coming months.
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## Glossary of Terms and Abbreviations

This is intended as an explanation of the terms which appear in this document and is aimed at aiding readers’ understanding of this document. This is not a legal / regulatory definition.

<table>
<thead>
<tr>
<th>#</th>
<th>TERM</th>
<th>EXPLANATION</th>
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<tbody>
<tr>
<td>1.</td>
<td>Customer representatives / third parties</td>
<td>Any person or company authorised or contracted by the customer to represent them in their dealings with energy suppliers. This includes but is not limited to private individuals, Money Advice and Budgeting Service, recognised charities, representatives of the Department of Social Protection.</td>
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<tr>
<td>2.</td>
<td>Energy tariff</td>
<td>Currently, the energy tariff consists of either two or three components, as follows:</td>
</tr>
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<td></td>
<td></td>
<td>• a variable component (currently known as the unit rate). This component varies with consumption and may be a standard unit rate or a discounted unit rate. Typically, discounts are offered based on the method of payment or billing format</td>
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<tr>
<td></td>
<td></td>
<td>• a fixed component (currently</td>
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known as the standing charge). This component is a fixed amount per annum and does not vary with consumption

- an additional fixed component (currently known as the prepayment charge). This component currently applies for PAYG lifestyle choice meters. It is also a fixed amount per annum and does not vary with consumption

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<tr>
<td>3.</td>
<td>Energy offer / deal</td>
</tr>
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<td></td>
<td>In addition to the two or three tariff components, energy offers also include additional features such as cash-back, loyalty points or vouchers with third parties (such as supermarkets), free or discounted products or services (such as boiler services, energy efficiency products). The terms energy “offer” and “deal” are used interchangeably throughout this document.</td>
</tr>
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<th>4.</th>
<th>PAYG customer</th>
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<tr>
<td></td>
<td>A customer who pays for their energy in advance, by purchasing top ups</td>
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<td></td>
<td>Glossary of Terms</td>
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<td>---</td>
<td>----------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>5</td>
<td>PAYG service / prepayment service</td>
</tr>
<tr>
<td>6</td>
<td>PAYG meter / budget controller / prepayment meter</td>
</tr>
</tbody>
</table>
| 7 | PAYG for financial hardship                                                       | Currently, gas and electricity customers may avail of a PAYG meter in one of the following situations:  
   (i) Financial hardship, where a customer cannot pay the energy bills due to financial difficulties. In this case, suppliers are required under obligations set out in the Code of Practice on Billing and Disconnection to offer a PAYG meter as a budgeting method to assist these customers with managing their arrears. These PAYG meters are owned and managed by the networks companies (ESB Networks and Gas Networks Ireland) |
8. **PAYG life style choice**  
(ii) **Lifestyle choice**, where a customer opts for a PAYG meter as a personal choice. The cost of installation of these meters is born by the customer. In electricity, these meters are owned and managed by suppliers; in gas, Gas Networks Ireland owns and administers these PAYG meters.

9. **Prepayment meter / service**  
**PAYG meter / service**

10. **Suppliers’ representatives / third parties**  
Any person or company directly or indirectly authorised or contracted by suppliers to represent them in their dealings with customers. This includes but is not limited to price comparison websites, group switching websites, persons or companies offering energy efficiency advice or products / services, debt collection companies, marketing and advertising companies.

11. **Vulnerable Customers**  
A vulnerable customer is defined in SI 463 of 2011 as "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". |
CER – Information Page

This section contains, inter alia, useful information about submitting responses to this paper.

**Target Audience:**
This paper is for the attention of members of the public, the energy industry, customers, customer representatives and all interested parties

**Related Legislation:**

- Electricity Regulation Act 1999 as amended
- Gas (Interim) (Regulation) Act 2002 as amended
- **S.I. No. 452 of 2004**
- EU Third Energy Package ([Directives 2009/72/EC and 2009/73/EC](#))
- **S.I. No. 60 of 2005**
- **S.I. No. 463 of 2011**
- **S.I. No. 630 of 2011**
- **S.I. No. 426 of 2014**
- **S.I. 603 of 2015**

**Relevant Papers:**

- Review of the Electricity and Gas Supplier’s Handbook Consultation Paper [CER/16/031](#)
- Electricity and Gas Supplier’s Handbook [CER/12/081](#)
• Audit of Compliance with the Code of Practice on Disconnections and Code of Practice on Marketing and Sign Up for the Domestic Sector (CER/15/087)
• Audit of Compliance with the Code of Practice on Disconnections for the Domestic Sector (CER/13/248)
• CER Consumer Survey 2013
• CER Consumer Survey 2014
• CER Consumer Survey 2015
• CER Consumer Survey 2016

Comments received to the consultation paper
An overview of main proposals and summary of key themes emerging from the responses to the Review of the Supplier’s Handbook Consultation Paper is included in Appendix A. The submissions received have been published on the CER’s website, together with this paper and the associated Cover Note.

Responding to this paper
In this paper, the CER has made a series of policy decisions and put forward a number of options to give effect to these decisions. The format and timelines for implementation are subject to further consultation and engagement with the energy suppliers.

CER invites all interested parties, members of the public, the energy industry, and customer representatives, to comment on the following:

1. **The proposed decisions and options put forward in Section 4.0** of this paper. These responses will inform a Decision paper planned for publication in Q1 2017
2. **The revised version of the Supplier’s Handbook.** In commenting on the revised version of the Supplier’s Handbook, respondents are asked to take the following into consideration:
i. Some proposed requirements (for example, the requirement to display the Estimated Annual Bill on all marketing and advertising material) have already been reflected in the Supplier’s Handbook, with a footnote explaining that aspects of the proposal may still be subject to consultation. The Supplier’s Handbook will be updated to reflect the final decisions taken following this round of consultation and a final version will be published with the Final Decision Paper in Q1 2017.

ii. The decisions outlined in Section 3.0 (which were taken after the first stage of the consultation process) are not open to further consultation. For example: the CER has already made a decision to obligate suppliers to issue a 30 Days Notice prior to the expiry of a fixed term contract and an Annual Prompt to all customers who have been on the same energy tariff for minimum of 3 years. These decisions are not open to further consultation. The proposed content of these notices, however, as outlined in Sections 4.0, is subject to further consultation.

ii. In commenting on the revised version of the Supplier’s Handbook, respondents are invited to express views on the manner in which the spirit and intent of these decisions are reflected in requirements. Is the formulation of these requirements sufficiently accurate, clear and easy to understand? Does the current formulation of all requirements (current, amended and new) contained therein provide regulatory clarity? Can some requirements be reformulated to better express the underpinning regulatory intent or provide further clarity as to what is expected from licensed energy suppliers in terms of achieving compliance with these requirements?

The proposed timelines for implementation of decisions are outlined in Appendix D. After the publication of the final Decision Paper and the final version of the Supplier’s Handbook, the CER will engage with energy suppliers with a view to finalising the implementation plan and necessary amendments to the Codes of
Practice. In doing such, the CER will endeavour to provide suppliers with sufficient information and time to plan their own resources and necessary changes to their internal systems and processes.

Responses to aspects of this document that are subject to consultation should be returned by email to Dana Paraschiv dparaschiv@cer.ie or post and marked for the attention of Dana Paraschiv, Senior Policy Analyst, Retail Markets, Commission for Energy Regulation, The Exchange, Belgard Square North, Tallaght, Dublin 24.

The CER intends to publish all submissions received. Respondents who do not wish part of their submission to be published should mark this area clearly and separately or enclose it in an appendix, stating the rationale for not publishing this part of their comments.

The CER will publish responses in full on the CER website. Respondents should include any confidential information in a separate appendix, stating the rationale for not publishing this part of their comments.

Consultation period closes on 25 November 2016.
1.0 Introduction

1.1 The Commission for Energy Regulation
The Commission for Energy Regulation (CER) is the independent body responsible for overseeing the regulation of electricity and gas sectors in Ireland. 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 Commission’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 Utility Regulator (UR). The Commission is working to ensure that consumers benefit from regulation and the introduction of competition in the energy sector.

1.2 The purpose of this paper
This Decision and Further Consultation Paper represents the second stage of consultation in respect of the review of the Supplier’s Handbook and follows up on the consultation paper CER/16/031A published in February 2016. It sets out the CER’s decisions on most of the policy issues consulted on in the review of the Supplier’s Handbook and invites further views on a number of options to give effect to the decisions set out in Section 3.0, as well as on the revised version of the Supplier’s Handbook, which is published with this paper. The CER strongly recommends that respondents examine both documents thoroughly before submitting final comments.
1.3 Structure of this paper

This paper is structured as follows:

Section 2.0 provides background information on the review of the Supplier’s Handbook.

Sections 3.0 summarises the proposals and questions presented in the consultation paper and sets out the CER’s decisions together with supporting reasoning. It covers the Introductory Section of the Supplier’s Handbook and the Codes of Practice for Household Customers.

Section 4.0 invites further views on a number of options to give effect to specific decisions set out in Section 3.0, mainly aimed at increasing customers’ engagement with energy markets. The second set of proposals are aimed at strengthening the protection framework for non-domestic customers.

Section 5.0 outlines the next steps and provides a preliminary view on the implementation of decisions.

Appendix A provides an overview of the main proposals, together with a summary of the key responses emerging from the responses received to the consultation paper.

Appendix B describes the timelines related to the release of the deactivation code.
Appendix C outlines the regulatory impact analysis on policy proposals aimed at increasing customers’ engagement with the market and improving customers’ ability to compare energy offers.

Appendix D sets out the proposed timelines for the implementation of decisions.

The revised version of the Supplier’s Handbook, published together with this paper, includes some proposed requirements (for example, the requirement to display the Estimated Annual Bill on all marketing and advertising material, or the proposed guidelines for taking customers’ ability to pay into consideration), together with footnotes explaining that aspects of the proposal may still be subject to consultation. The Supplier’s Handbook will be updated to reflect the final decisions taken following this round of consultation and a final version will be published with the Final Decision Paper in Q1 2017.
2.0 Background Information

In February 2016, the CER consulted on the review of requirements included in the Supplier’s Handbook (CER/16/031 Review of the Electricity and Gas Supplier’s Handbook). The Supplier’s Handbook consists of requirements grouped under individual codes of practice which cover key areas pertaining to the supplier. These include customer relationship, such as marketing, sign up, billing, disconnections, vulnerable customers and pre-paid metering. The requirements included in the Supplier’s Handbook represent minimum levels of service that energy suppliers are required to adhere to in their dealings with customers. These rules are in place to ensure that customers enjoy a high standard of protection when interacting with energy suppliers.

A summary of the main policy issues consulted on in the review is presented below, under the relevant code of practice. Appendix A includes an overview of the main proposals put forward in the consultation paper, together with a summary of the key themes emerging from responses received to the consultation paper.

Following extensive engagement with relevant industry stakeholders, assessment of the results of several reports (ESRI PriceLab research programme, consumer surveys, market monitoring reports) and careful considerations of responses submitted to the consultation paper, the CER is now in a position to decide on a number of issues consulted on in the review of the Handbook. The decisions outlined in this paper are designed to enhance customer protection, particularly for vulnerable customers and customers in financial hardship. The CER considers these measures prudent and strike the right balance in ensuring consumers are protected while promoting competition and a level playing field for energy suppliers.
In addition, these measures are intended to motivate customers to engage with the energy markets and make it easier for customers to compare energy offers and shop around to find the deal that is best for them. These new measures are reflected in the revised version on the Supplier’s Handbook, published together with this paper. A summary of these decisions is provided below:

**Code of Practice on Marketing and Sign Up**

- Further clarity and consistency on requirements relating to presentation of information on energy tariffs and energy offers
- Additional regulatory measures to aid customers in comparing energy offers
- Measures to improve customers’ engagement with the market and protect customers who do not engage with the market
- Ensure accessibility and availability of information on energy tariffs
- Increase level of protection for energy customers in general and vulnerable customers in particular who are signed up by door to door or telesales agents
- Ensure the same level of protection for energy customers in cases where they engage with suppliers’ representatives

**Code of Practice on Billing and Disconnection**

- Reflecting suppliers’ legislative obligations arising from the Energy Efficiency Directive
- Additional regulatory measures to increase transparency in respect of allocation of payments and transfer of debt between dual fuel accounts
- Further clarity on suppliers’ obligations in respect of closing customer’s bills and refund of credit
- Measures to strengthen the protection of customers in financial hardship
Code of Practice on Vulnerable Customers
- Ensure identification of vulnerable customers and registration on the appropriate register
- Suitability of PAYG meters for vulnerable customers
- Measures to reduce the possibility of self-disconnection in respect of vulnerable customers on PAYG meters

Code of Practice on PAYG Metering
- Strengthen the regulatory framework for PAYG customers
- Potential barriers to switching caused by technical specifications of PAYG meters
- Compliance of energy statements with the requirements of the Energy Efficiency Directive 27/2012/EC for energy bills and billing information

Terms and Conditions of Supply
- Ensure that suppliers’ terms and conditions of supply do not cause delays to the switching process

The overarching objective of the review is the delivery of an adequate regulatory framework which, on one hand protects customers who engage with the market as well as those who do not, and also provides a fair and level playing field for energy suppliers while retaining the scope and incentive to innovate and compete.

Codes of Practice for non-household customers
The review did not include proposals in respect of the Codes of Practice for non-household customers. In light of responses received to the consultation paper, we have put forward a number of proposals for this category of customers. These proposals are reflected in Section 4.3 of this paper.
We are asking readers to note that amendments have been brought to requirements for suppliers to non-household customers. These amendments are reflected directly in the revised version of the Supplier's Handbook, published together with this paper.

**Further consultation**

The CER is further consulting on options to give effect to specific decisions which represent significant change for the retail market and consumers. The CER is seeking additional input on the proposed content of new measures such as the Estimated Annual Bill, the 30 Days Notice and the Annual Prompt. In addition, specific proposals for the protection of business customers are also subject to further consultation.

Respondents’ feedback on the proposals and consultation questions included in Section 4.0 will serve to inform the final decision of the CER and ensure the best outcome for the energy consumer and the retail market.
3.0 Decisions and Supporting Reasoning

This section summarises the proposals and questions presented in the consultation paper and details the CER’s decisions together with supporting reasoning. It covers the Introductory Section of the Supplier’s Handbook, which includes generic requirements with application to both domestic and non-dominic customers, the Customer’s Charter and the Codes of Practice for household customers.
3.1 The Introductory Section

3.1.1 Introduction
The introductory section of the Supplier’s Handbook comprises of generic requirements, including accessibility and availability of Codes of Practice and Customer Charter and obligations under the Principles of Universal Design. The majority of these requirements apply to both domestic and business customers. Having reviewed this section, the CER made proposals in respect of two policy issues: (i) the relationship between the Supplier’s Handbook and other retail market requirements and (ii) suppliers’ representatives. A summary of the proposals made and the CER’s decisions, together with the supporting reasoning, are presented below.

3.1.2 Overarching principles
Summary of proposals
It is virtually impossible for the Supplier’s Handbook to encompass every aspect of the interaction between energy suppliers and energy customers. Therefore, the CER proposed the introduction of a set of overarching principles aimed at guiding the behaviour of licenced energy suppliers when interacting with customers, whether directly or indirectly. It is important to point out that the proposed principles should not be viewed as a ‘catch-all’ mechanism but intended to complement the existing requirements and deliver an enhanced customer protection framework.

In making this proposal, the CER sought to balance the requirements of the Supplier’s Handbook with a set of principle that would place responsibility as well as freedom on suppliers to deliver better services and outcomes for customers. The proposed principles are not related to a specific code of practice, but rather have a general application to all facets of the supplier-customer relationship.
It was further proposed that these principles would apply to both domestic and business customers.

Decisions

The CER’s Decision in respect of the introduction of a set of overarching principles in the Supplier’s Handbook is as detailed below. The proposed principles that will be included are a subset of those that were consulted on and are as follows:

**Decision 1**
The CER will introduce a set of overarching principles in the Supplier’s Handbook. The principles will have a general application to all aspects of the supplier-customer interaction and will apply to both household and non-household customers.

The principles will apply where the requirements of the Supplier’s Handbook are not sufficient to address a specific situation or aspect of the supplier-customer relationship.

**Decision 2**
**Principle 3**
The CER will introduce the Principle in the consultation paper (3 “Fair, honest, transparent, reasonable and professional behaviour”) in an amended format, as follows:

“Suppliers and their representatives, make every effort to treat energy customers in a fair, honest, appropriate and professional manner”.
Decision 3
Principle 4
The CER will introduce the following Principle 4 in the consultation paper (“Consistency of terminology”) in an amended format, as follows
“Suppliers strive to ensure consistency, accuracy, clarity and transparency of information across all means of written and oral communications with customers”

Decision 4
Principle 5
The CER will introduce the following Principle 5 in the consultation paper (“Internal systems, processes and procedures”) in an amended format, as follows:
“Suppliers’ internal systems (such as IT systems, accounting systems), policies (such as credit control, staff training) and processes should:
   i. Enable compliance with legislative and regulatory requirements and market design rules
   ii. Facilitate and support the switching process”

Decision 5
Principle 7
The CER will introduce Principle 7 “Customer’s nominated representative” in an amended format:
“When representing customers, suppliers and their representatives:
   i. treat customers fairly, honestly and transparently
   ii. act in the best interest of the customer
   iii. do not exploit the a customer’s vulnerability, confidence or inexperience”
Supporting reasoning
The context for and reasoning behind the CER’s Decisions are as follows:

- There may be instances pertaining to the customer-supplier interaction where the requirements of the Supplier’s Handbook may not fully prescribe every specific instance of a desired outcome. The introduction of a set of principles with general application will provide an added level of protection to energy customers in cases where there are no specific requirements relevant to a supplier's behaviour or specific actions.
- It is our view that the principles are clear, achievable, not time or technology dependent and not unduly onerous.
- Overall, the CER is attempting to achieve an overarching protection framework for consumers that encompasses all aspects of their interaction with their energy supplier.

Decision 6
Principle 1
The CER will not introduce Principle 1 “Compliance with market rules and market monitoring requirements”.

Decision 7
Principle 2
The CER will not introduce Principle 2 “Compliance with customer protection legislation”.

Decision 8
Principle 6
The CER will not introduce Principle 6 “Minimise the extent of disconnections”. The CER will retain the following current requirements:
“Disconnection of a customer due to non-payment must only be carried out as a last resort”. (Section 6.9.1 of the Supplier's Handbook version CER/12/081) and

“A supplier should conduct its business in such a manner that minimises the number of customers that are disconnected. Suppliers must work with the relevant state agencies or state sponsored bodies/recognised charities to assist household customers with arrears or a payment plan in the event that difficulties are experienced” (Section 6.9.2 of the Supplier’s Handbook version CER/12/081) in the reviewed version of the Code of Practice for Billing and Disconnections.

Supporting reasoning

Principle 1

- The Supplier’s Handbook is mainly a customer-facing document which includes requirements that govern the supplier-customer relationship and set out a minimum level of service that suppliers are required to adhere to in their dealings with customers. The main function of the Supplier’s Handbook is to ensure that the obligations placed on licensed energy suppliers provide adequate safeguards to all customers.

- The Supplier’s Handbook is a key component of a broader regulatory framework developed and implemented by the CER for the protection of energy customers. This framework consists of rules and regulations compiled in various documents including current legislation, electricity and gas supply licences, market monitoring decisions, retail market design procedures.

- Suppliers are required to comply with all legislative and regulatory requirements in place, regardless of whether they are reflected or
referenced in the Supplier’s Handbook. This obligation is underpinned by a licence condition\(^1\), which obligates energy suppliers to comply with all “applicable laws”\(^2\). The decision not to introduce this principle in the Supplier’s Handbook must not be interpreted that suppliers are exempt from compliance with legislative and regulatory requirements which are not reflected in the Supplier’s Handbook. Rather, the CER agrees with respondents that it did not add additional protections over and above the requirements currently in place and may have, in fact, resulted in less clarity for consumers and suppliers.

- Under legislation, the CER has at its disposal a range of options to deal with breaches of regulatory and legislative obligations which fall under its remit, depending on the nature and severity of the breach.

**Principle 2**

- The protection of energy customers is under the legislative remit of the CER. Notwithstanding this, some aspects of customer protection, which are not solely related to the supply of energy, may also come under the remit of other customer protection organisations, such as the Competition and Customer Protection Commission. For example, the cooling off period (covered in the S.I. 484 of 2013) and the terms and conditions of supply (covered in the S.I. 27 of 1995).
- Suppliers are expected to comply with all customer protection legislation, regardless of whether the CER has direct remit over such legislation. As stated above, this is a licence condition. The decision not to introduce this

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1 Compliance with Laws and Directions, Condition 15 in the Electricity Supply Licence and Condition 16 in the Gas Supply Licence

2 The term “applicable laws” is defined as “means any requirement imposed by or under any applicable law, including by or under legislation, case law, common law or any order, direction, licence, decision, instruction or rule given or granted by any competent authority together with any guidelines or industry codes applicable to the Supply Business,
principle in the Supplier’s Handbook must not be interpreted that suppliers are exempt from compliance with legislation which is not under the direct remit of the CER. Rather, the inclusion could cause confusion for no added benefit.

- Under licence conditions energy suppliers are required to comply with all “applicable laws”. The term “applicable laws” includes laws and regulations which are not under the direct remit of the CER.
- The CER will continue to cooperate with and refer potential breaches to relevant customer protection organisations for investigation (such as the Competition and Customer Protection Commission and the Broadcasting Authority of Ireland).

**Principle 6**

- The CER considers prudent to retain the current requirement as set out in Section 6.9.1 of the Code of Practice on Disconnections.

**3.1.3 Suppliers’ representatives**

The CER considers that the consumers’ confidence in energy suppliers and the retail markets is beneficial for energy customers, energy suppliers and the CER alike.

It is common practice for energy suppliers to outsource some functions of the supply business to third parties (such as marketing and sales, billing, credit control, customer care). This, invariably, brings customers in direct contact with these parties. In this case, we consider these parties to be, in fact, the supplier on behalf of whom they deal with the customer, and, as such, subject to all legislative and regulatory requirements placed on licensed energy suppliers.
The results of the audit of compliance with the Code of Practice on marketing and Sign Up conducted in 2014 indicated that the degree of oversight of third parties’ compliance with the requirements of the Supplier’s Handbook (door to door sale agents, companies contracted to conduct marketing and advertising activities) varies from supplier to supplier and that some suppliers place a greater importance on certain aspects of this relationship (i.e. training and observance of relevant requirements of the Marketing and Sign Up Code of Practice).

Summary of proposals

While acknowledging that suppliers are free to enter into commercial agreement with various parties, it is the CER’s strong view that energy customers should be afforded the same level of protection in all interactions with energy suppliers, regardless of whether they engage with suppliers’ staff members directly or with third parties acting on behalf of suppliers.

It follows from here that the onus is on energy suppliers to ensure that third parties representing them in dealings with customers are compliant with the relevant requirements of the Supplier’s Handbook. The CER proposed the introduction of a specific requirement to ensure this view is clearly reflected in the Supplier’s Handbook.

Decisions

The CER’s Decision in respect of the introduction of a specific requirement related to suppliers’ representatives is as follows:

<table>
<thead>
<tr>
<th>Decision 9</th>
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<tbody>
<tr>
<td><strong>Supplier’s representative/s</strong></td>
</tr>
<tr>
<td>i. A supplier’s representative means any person or company directly or indirectly authorised or contracted to represent the supplier in its dealings with customers for the provision of regulated products and</td>
</tr>
</tbody>
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services

ii. Where suppliers’ representatives interact with energy customers (including but not limited to activities such as: marketing and advertising, customer acquisition, debt collection, complaints handling, energy efficiency advice, a registered electricity contractor or registered gas installer installing, modifying or removing a PAYG meter on behalf of the supplier)), suppliers must ensure that their representatives adhere to the relevant requirements of the Supplier’s Handbook. Any breaches of the Supplier’s Handbook by a supplier’s representative will be considered a breach by the relevant supplier.

iii. Suppliers must put in place and follow procedures which are appropriate for the selection and oversight of suppliers’ representatives

iv. Suppliers must provide or procure appropriate training for their representatives, such that representatives are compliant with the Supplier’s Handbook, relevant CER decisions and current legislation.

Supporting reasoning

- Energy customers should be afforded the same level of protection when interacting with energy suppliers, regardless of whether they engage with suppliers directly (i.e. via persons directly employed by energy suppliers), or indirectly (i.e. via third parties acting on behalf of suppliers)
- In acknowledging suppliers’ entitlement to engage with various third parties for the operation of the energy supply business, suppliers are required to ensure that these third parties comply with the requirements of the Supplier’s Handbook, where applicable
3.1.4 Suppliers’ obligation to bring the Codes of Practice to the attention of energy customers annually

Energy suppliers are currently obligated to provide information on the Codes of Practice to consumers once a year. However, analysis undertaken by the CER has shown that suppliers are discharging this obligation through a number of disparate mechanisms which does not offer consistency for customers.

Summary of proposals

The CER proposed to introduce minimum standards across suppliers as to the methods used by suppliers to fulfil this obligation.

Decisions

The CER's Decision in respect of the introduction of a specific requirement related to suppliers’ representatives is as follows:

**Decision 10**

"1.7 Copies of the Codes of Practice must be available to any person who requests them in an appropriate format and information about how to access them must be brought to the attention of customers via written or electronic communication sent to customers at least once a year and on sign up”.

Supporting reasoning

- The intent of the amendment brought to the existing requirement is to ensure that energy customers receive unprompted information once per year as to the existence and location of suppliers’ Codes of Practice
3.2 The Customer’s Charter

Introduction
This section of the Supplier’s Handbook requires suppliers to develop a Customer Charter for domestic customers offering at least 5 service guarantees arising from their Code of Practice.

Having reviewed this section, the CER considered that the requirements contained herein are fully reflective of legislative obligations stemming from S.I. 463 of 2011 and sufficient for the purpose of this section.

Summary of proposals
In light of the above, the CER made no proposals in respect of this section.

Decisions
The CER’s Decision in respect of the review of the requirements included in the Customer Charter section is as follows:

Decision 11
The CER will not amend current requirements pertaining to the Customer Charter section at this time.

Supporting reasoning
The context for and reasoning behind the CER’s Decision is as follows:

- The objective of this section is to reflect legislative obligations placed on suppliers under S.I. 463 of 2011. In our view, the current requirements are fully reflective of suppliers’ obligations under this statutory instrument
3.3 Codes of Practice for Household Customers

The following sections summarise the proposals and questions presented in the consultation paper and details the CER’s decisions together with supporting reasoning in respect of Codes of Practice for Household Customers.
3.4 Code of Practice on Marketing and Sign Up

3.4.1 Introduction
The Code of Practice on Marketing and Sign Up consists of requirements related to 2 major areas of the customer-supplier relationship: (1) marketing and advertising activities and (2) customer sign up process.

Suppliers’ marketing and advertising activities play a key role in customers’ engagement with the market and the choices they make in relation to their energy needs. In deregulated markets, competition has the potential to deliver real benefits to customers by driving further tariff and service innovation. However, if products and services are marketed in a misleading or confusing format, this will only serve to confuse consumers and may lead them to make the wrong choice for their energy needs. Evidence available to the CER through consumer surveys show that 26% of domestic electricity customers and 20% of domestic gas customers of customers have a small degree, or no understanding, of energy offers.

The ultimate objective of the requirements contained in this code is three fold: motivate as many customers as possible to engage with the energy markets, ensure that customers are able to understand and compare energy offers and a transparent sign up process.

The CER acknowledges the challenge of finding the right mix of regulatory measures which prompt customers to engage with the market, creates the appropriate environment for suppliers to innovate and develop competitive energy offers and also affords protection to customers who do not engage with the market.

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3 Consumer Survey Report 2016
Having reviewed the requirements contained in the Code of Practice on Marketing and Sign Up, the CER put forward proposals in respect of specific policy issues covering 2 areas: marketing & advertising and customer sign up. A summary of the proposals made and the CER’s decisions together with the supporting reasoning are presented below. It should be noted that the CER put forward specific proposals aimed at improving customers’ ability to understand and compare energy offers and increasing customers’ engagement with the energy markets. These proposals, together with associated decisions and supporting reasoning, are outlined in Section 3.4.8 titled “Proposals to improve customers’ ability to understand and compare energy offers and increasing customers’ engagement with the energy markets”.

### 3.4.2 Quality and accessibility of information

**Summary of proposals**

To ensure easy access to clear and easy to understand information to aid customers in making an informed decision as to which energy offer best suits their needs, the CER put forward 3 proposals, summarised below:

- Additional requirements in relation to the quality of information provided to customers
- Strengthen current requirements in respect of ease of access to suppliers’ tariffs
- Ensure that accredited price comparison websites receive suppliers’ updated tariffs in time to enable timely inclusion in price comparison calculations
Decisions
The CER’s Decisions in respect of quality and accessibility of information are as follows:

Decision 12
The CER will introduce the following requirement under the Code of Practice on Marketing and Sign Up:
“Suppliers must ensure that the information provided to customers either in writing or verbally through marketing and advertising campaigns is:
a. complete, accurate, transparent and not misleading in terms of information that is provided and omitted
b. specifies clearly the offer / product being marketed
c. communicated in plain and accessible language
d. relates to the products or services which are appropriate to the customer to whom it is directed
e. fair in both term of its content and format of presentation”

Supporting reasoning
Complete, accurate, clear and easy to understand information provided to customers via marketing and advertising campaigns is a prerequisite to ensuring that customers understand energy offers.

Decision 13
The CER will amend the current requirement at Section 5.7.2 as follows:
“Suppliers of household customers are required to publish all publically available tariffs for household customers on their website. Suppliers must ensure that the tariff page bears a self-explanatory title such as Tariffs, includes all publically available tariffs and is easily identifiable and accessible from a prominent position on the home page of their website.”
The CER considers good practice where customers can access the tariffs page from the suppliers’ homepage with no more than 2 mouse clicks.

Supporting reasoning

- Results of analysis carried out by the CER through the annual consumer survey in 2014, 2015 and 2016 evidence that between 20% and 26% of domestic energy customers have difficulty understanding and comparing energy offers and therefore may not be in a position to select the appropriate tariff for their energy needs and miss out on the benefits of competition
- Moreover, access to accurate information can prove problematic for consumers – particularly when navigating suppliers’ websites in the search of tariff information
- Engaged customers are an essential component of well-functioning retail markets. Customers who engage with the energy markets in search of a better energy deal would benefit from rapid and easy access to tariff related information. This will shorten the time spent by customers comparing energy tariffs and avoid the situation where customers may become frustrated if they cannot find information about tariffs within a reasonable number of mouse clicks
- The aim is for suppliers to continue to provide customers with a single and easy to access location for information regarding tariffs, which is most important to understand, compare and switch to an offer that best suits their energy needs
Decision 14

The CER will not introduce an obligation on energy suppliers to communicate changes in publically available tariffs and the launch of publically available energy offers to accredited price comparison websites prior to these becoming public knowledge.

Supporting reasoning

- Price comparison websites can offer consumers a convenient, ‘one-stop shop’ to compare energy plans. Further, evidence throughout Europe is beginning to emerge showing the role of price comparison websites is growing in significance and assisting customers when they want to switch tariffs.

- However, the cohort of customers who use PCWs remains low. Therefore, the CER is introducing a measure to strengthen PCWs by ensuring more up to date information is available through the accredited websites.

- The current accreditation framework for price comparison websites does not prevent those websites, who are commercial entities, from entering into exclusive commercial relationships with energy suppliers as long as this does not amount to a breach of the accreditation principles.

- In this context, making notification of forthcoming changes in tariffs to price comparison websites mandatory prior to the changes being made public may provide unfair competitive advantage to some suppliers over others.

- Price comparison websites are obligated under the accreditation framework to ensure that “all tariffs offered by licensed suppliers that are publicly available should be included on the website and where possible new tariffs/suppliers should be added to the price comparison website within two working days of the details and confirmation of the effective date being made public”
• In light of the above, the CER will not introduce a requirement that will obligate suppliers to notify accredited price comparison websites of changes in publically available tariffs or launching of new energy offers prior to these being advertised on the relevant supplier’s website.

3.4.3 Presentation of information on marketing and advertising material

Summary of proposals
The ability of the energy consumer to understand and compare energy offers is key to a well-functioning retail market and keeps customers interested and engaged with energy markets. However, energy offers presented in a misleading, incomplete or ambiguous manner may confuse customers and potentially lead them to make the wrong choice for their needs. Under this heading, the CER consulted on the introduction of a consistent basis for comparisons between energy tariffs / offers and claiming leading positions. It further consulted on the introduction of minimum standards in respect of information that suppliers are required to include on all marketing and advertising material.

The CER proposed to use the Estimated Annual Bill in respect of both proposals: as one of the pieces of information that suppliers are required to include on all marketing and advertising material and as a basis for suppliers to compare energy tariffs / offers and claim leading positions\(^4\). The method for the calculation of this figure was also proposed.

\(^4\) See Section 4.3.1 Code of Practice on Marketing and Sign Up in the Consultation Paper Review of the Supplier’s Handbook CER/16/031, point (ii) – presentation of information on marketing and advertising material
The Estimated Annual Bill was also proposed as a simple and consistent indicator to aid customers with comparing and understanding energy offers.\(^5\)

The decision and supporting reasoning set out below are mainly in respect of the proposal for minimum standards for marketing and advertising material. Key aspects of the Estimated Annual Bill, such as details on the calculation of this figure and the manner in which this figure should be displayed on marketing and advertising material, are subject to further consultation in Section 4.1 of this paper.

**Decision 15**

Suppliers must ensure that the following information is included on all marketing and advertising material except TV and radio advertisements:

a) Reference to all charges applicable to the offer (i.e. unit rate, standing charge, prepayment charge) and where to access these charges

b) The estimated annual bill figure\(^6\)

c) Where the offer involves discounts or savings presented either in percentages or actual amount, the information must disclose how discounts/savings are calculated and how they apply

d) The date when all tariffs presented or referred to in the advertisement were in place and that prices are subject to change

e) The validity period for the offer

f) Duration of fixed term contract (if applicable)

g) Reference to early termination fees, where applicable

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\(^5\) See Section 4.3.1 Code of Practice on Marketing and Sign Up in the Consultation Paper Review of the Supplier’s Handbook CER/16/031, point (iii) – increasing customers’ ability to understand and compare energy offers

\(^6\) The proposed methodology for the calculation of the Estimated Annual Bill is subject to further consultation in Section 4.1 of this paper. The Supplier’s Handbook will be updated when a decision on this matter is issued
h) Reference that T&Cs apply and how to access the T&Cs
The use of footnotes must comply with the Principles of Universal Design.

### Decision 16
Suppliers must ensure that reference to the fact that terms and conditions apply and how customers may access these terms and conditions is included on all TV and radio advertisements:

### Decision 17
Any comparisons between tariffs must be based on the customer’s actual annual consumption or the Estimated Annual Bill and include all other applicable charges (i.e. variable and fixed charges, such as standing charges, prepayment charges, levies, taxes) and energy related discounts (such as cash backs or cash refunds) but exclusive of non-energy related elements (such as loyalty points, vouchers, free or discounted products or services). The calculation of the Estimated Annual Bill must be in line with the requirements set out in Section 2.3.1 (of the Supplier’s Handbook). Any discounts that expire in less than one year should be identified in any comparison.

### Supporting reasoning
The context for and reasoning behind the CER’s Decisions are as follows:

- Analysis undertaken by the CER through consumer surveys show that 24% of electricity customers in 2014 had difficulty understanding energy offers available to them. This was compounded in 2015 when that figure rose to 29%.
- The CER therefore is introducing measures to attempt to arrest this problem by making it easier for consumers to understand and compare offers in the market and be in a better position to avail of the benefits of competition.
• Standard requirements across suppliers in terms of the information required to appear on all marketing and advertising material is of key importance from two perspectives: firstly, customers will receive a minimum level of information when examining energy offers. This, in turn, will improve customers’ understanding of the key elements of each energy offer.  
• Secondly, it provides a consistent basis for the CER to analyse complaints and claims of breaches of requirements related to the quality of information (such as claims of misleading information where more than one supplier claims a leading position)  
• The context for and the reasoning behind the CER’s decision to use the Estimated Annual Bill is discussed in Section 3.4.8 “Proposals to improve customers’ ability to understand and compare offers and increase customers’ engagement with the energy markets”.

3.4.4 Retention and win-back activities

Summary of proposals
The CER proposed the introduction of a set of requirements in respect of suppliers’ win-back and retention activities and invited views on whether specific regulatory measures are required to oversee the number, format and frequency of suppliers’ attempts to contact customers during retention activities. In addition, the CER sought comments on whether PAYG lifestyle suppliers should be prevented from combining the provision of the deactivation code with retention or win-back activities (this question is specific to PAYG life style suppliers in the electricity market).
Decisions

The CER’s decisions in respect of retention and win-back activities are as follows:

Decision 18

The CER will introduce the following requirement under the Code of Practice on Marketing and Sign Up:

“When engaging in win-back or retention activities suppliers must comply with the relevant requirements set out in the Code of Practice on Marketing, the Code of Practice on Sign Up (including requirements regarding customer contact) and all requirements included in the Supplier’s Handbook, as applicable”.

Decision 19

The CER will introduce the following requirement under the Code of Practice on Marketing and Sign Up:

“Upon the completion of a successful win-back, suppliers are required to treat this as a new sign up and adhere to all relevant requirements outlined in the sign up process”.

Supporting reasoning

- The CER considers “retention” to be, typically, where the customer has not yet changed supplier (within the meaning of current industry and market rules and processes) and the current supplier is communicating with the customer with a view to retaining the customer for a further period of time
- The CER considers “win-back” to be, typically, where the customer has changed supplier (within the meaning of market rules) and the supplier is contacting the customer with a view to re-sign them up as customers
• The CER considers both win-back and retention activities as marketing/advertising activities which must comply with relevant regulatory measures covered in the Marketing and Sign Up Code. In this way, customers will be afforded the protection of relevant requirements in the Supplier’s Handbook at any stage of their interaction with energy suppliers.

**Decision 20**
The CER will introduce the following requirement under the Code of Practice on Marketing and Sign Up:

“Suppliers must ensure that the information provided to customers who intend to terminate the contract of supply or have terminated the contract of supply is accurate, not misleading, easy to understand and uses terminology that is consistent with that used at sign up and presented in other relevant documents (such as suppliers’ website, schedules of charges, terms and conditions etc.).”

**Supporting reasoning**

• This requirement is aimed primarily at the information that some suppliers provide to customers who have expressed an interest to switch to another energy supplier. Mainly, this information consists of monies that customers may have to pay should they decide to switch (such as early termination fees where the customer is in a fixed term contract, or PAYG meter removal fees where the supplier cannot retrieve the PAYG lifestyle meter and key pad).

• The CER acknowledges the importance of informing customers of whether they may incur fees should they decide to switch energy suppliers.
The CER further acknowledges that the amount of money that customers may have to pay if they proceed with the switch can influence the customer’s decision in this regard.

- In this context, the manner in which this information is presented and the method used to calculate the total amount of money that may be due by the customer must be accurate, unambiguous and consistent with the information presented at sign up.

**Decision 21**

(this should be read in conjunction with Decision 56)

The CER will include the following requirement under the Code of Practice on Marketing and Sign Up:

“Suppliers must release all necessary information to enable the completion of the switching process (such as the deactivation code) within a specified timeframe as directed by the CER, regardless of whether a successful contact has been established with the customer by this date. This information must be released in writing (by letter or electronic communication) or via telephone call. Auditable records must be retained. The information must provide all necessary details and instructions required to facilitate the swift and timely completion of the switching process”.

“Suppliers are required to release all necessary information required to enable the completion of the switching process (such as the deactivation code) in a separate communication from retention, win-back or other marketing and advertising activities”.
Supporting reasoning

- This requirement relates specifically to electricity lifestyle PAYG meters, where customers require a deactivation code to complete the switch to another electricity supplier. This code is generated by the losing supplier. This is different from credit customers, who do not require a deactivation code to complete the switch.

- Both bill pay and prepay customers must have access to a free and easy switching process. In this context, suppliers’ supply business models and technical specifications of the PAYG device should not hamper the switching process nor create difficulties to customers who choose to avail of a PAYG meter.

- A requirement obligating suppliers to release the necessary information to enable the completion of the switching process (such as the deactivation code) in an auditable format and within a specified timeframe will ensure that customers receive the necessary information to complete the switch in a timely and effective manner. In addition, it will provide the CER with a consistent and objective basis for auditing suppliers on compliance with this requirement.

- The CER has engaged with suppliers extensively on this matter through workshops and industry meetings with a view to identifying the most appropriate timeframe for the release of the deactivation code. Following careful consideration of submissions from energy suppliers and the Retail Market Design Service and the pros and cons for the introduction of such a requirement, the CER has decided to implement a measure to ensure the release of the deactivation code within a specified period of time. This timeframe is outlined in Appendix B.

- The CER will continue to monitor and review the outcomes of the implementation of this measure and issue further guidelines that may be required on this matter from time to time, in consultation with the industry.
- The second part of the requirement, which requires the separation of the release of the deactivation code from retention activities, will ensure that customers will not be placed under undue pressure to consider retention offers while still awaiting the release of the deactivation code.

- The introduction of this requirement does not prevent PAYG suppliers from engaging in retention activities, whether before or after the release of the deactivation code. It merely sets out minimum requirements for the release of the deactivation code, to ensure that PAYG customers have access to a free and easy switching process and are given the opportunity to consider retention offers without the added pressure of waiting for the release of the deactivation code.

3.4.5 Cooling off form

Summary of proposals
The cooling off period is one of the key entitlements of customers signed up to energy offers by door to door or telesales agents, as detailed in Directive 2011/83/EC. The CER sought views on introducing a requirement which sees suppliers being required to leave a Cancellation Form with customers upon a successful sign up.

Decision
The CER’s Decision in respect of the cooling off period is as follows:

Decision 22
Suppliers are required to leave a Cancelation Form with customers upon completion of a successful sale.
Supporting reasoning

The context for and reasoning behind the CER’s Decision is as follows:

- The right of withdrawal in distance and off premises contracts, also known as the “cooling off period”, is detailed in Directive 2011/83/EC, which was transposed into Irish legislation through S.I. 484 of 2013. Under current legislation, the withdrawal period shall expire after 14 days from “in the case of contracts for the supply of water, gas or electricity, where they are not put up for sale in a limited volume or set quantity, of district heating or of digital content which is not supplied on a tangible medium, the day of the conclusion of the contract”. Article 6 of the Directive outlines the information that the “trader” (in this context, the energy supplier) is required to provide to customers before the conclusion of the contract. Furthermore, Article 7 sets out the formal requirements for off-premises contracts in terms of information provided to customers and specifies the format in which this information must be provided.

- We note the Competition and Customer Protection Commission’s requirement to leave a “written cancellation form and a cancellation notice” where the value of the goods purchased exceeds €50

- Therefore, the CER considers that a requirement to leave a cancellation form is the optimum approach in this regard

3.4.6 Customer sign up process

Summary of proposals

Section 5.8.1 of the Supplier’s Handbook places specific obligations on suppliers in relation to the sign up process. Having reviewed these obligations in conjunction with the requirements included in the Doorstep Checklist, the CER proposed amendments with a view to increasing the transparency of information contained therein.
Decision

The CER’s Decisions in respect of the customer sign up process is as follows:

Decision 23

The CER will amend the current requirements outlined in Section 5.8.1 of the Code of Practice on marketing and Sign Up as follows:

5.8.1 In addition to requirements set out above, when signing a customer up the supplier must:

Account opening

a) Ensure that the customer understands which supplier they are opening an account with.

b) Confirm that the person opening the account has the authority to open an account at the premises in question.

c) Confirm that the person opening the account is to be the named account holder or is the nominated representative of the person to be the named account holder. A supplier may not open an account without the consent of the person who is to be the named account holder or their nominated representative.

d) Where an account is opened by a nominated representative, supplier must have the account holder’s consent to the opening of an account in their name. This consent must be retained in an auditable format.

e) Where a joint account is to be opened, the supplier should confirm with any other named person on the account that they wish to be named as soon as possible after the initial account opening.

f) Provide a simple method for customers to add a third party contact to their account.

h) Explain how the customer’s existing account will be closed and the new account will be opened (existing arrears will be dealt with by the previous supplier)

h) If the customer is in receipt of free gas/electricity allowances, provide
information as to the steps they will have to take to ensure they continue to receive the abovementioned allowances

**Information about the product**

i) Go through the energy offer / product that the customer is being signed up to and explain the charges associated with them, including unit rate, standing charge, any recurring charges for the service (where applicable). The information related to these charges must be presented in line with the requirements of the Code of Practice on Marketing and Sign Up (i.e. the standing charge and any recurring charges for the service must be presented as annual amounts).

j) Explain any discount associated with the chosen product and how this will be applied.

k) Explain how the customer will be billed, including billing frequency. For PAYG customers, explain how charges will be deducted from top-ups and that a statement will be issued, including the frequency and informational content.

l) Explain how the customer can make payment against the bill and any budgeting options available. Confirm that the customer understands that they are switching to a specified product with a specified payment method. Any difference in charges due to a specified payment method must be explained and how that affects their bill.

m) Explain how long the contract applies for or whether the contract is evergreen.

n) Explain any deposit or charge associated with the product being chosen, where applicable. Where appropriate, suppliers should make customers aware of any social arrangements available in relation to deposits e.g. through the Community Welfare Officer, etc.

o) Explain any penalty or fees that may apply if the customer does not
meet the terms of the contract (i.e. early termination fees).

**Terms and Conditions of Supply**

p) Provide the customer with a copy of the terms and conditions of supply, contract and the rates that apply to the product they are signing up to. Where a customer is not provided with a copy of these documents at the point of sign up, key terms must be highlighted and explained to the customer and copies of these documents must be sent to the customer in writing (via post or email) in a timeframe that allows the customer to consider their contract and still avail of any cooling off period that applies if they so wish.

**Cooling off period**

q) Provide the customer with details regarding the cooling off period that applies and how to go about cancelling their request to switch supplier within that cooling off period (in line with existing legislation).

r) Inform the customer as to when the cooling off period starts (in line with existing legislation)

s) Provide the customer with a cancellation form

**Vulnerable Customers**

 t) Ascertain whether the customer is eligible to register as a Vulnerable Customer. Where applicable, inform the customer of the following:

- The steps they have to take to register on the appropriate register for Vulnerable Customers
- The opportunity to avail of alternative means of communication
- The opportunity to nominate a third party as a contact point (i.e. relative, family, friend, recognised organisations).

**Other information**

u) Ensure that details of how a customer’s account information may be used with respect to debt flagging is clearly set out on the sign up form and within the sign up process. Explain how a debt flag may be raised
against the customer’s account

v) Indicate to the customer how to access the Terms and Conditions of Supply

Additional sign-up requirements applicable to customers who are signed-up to a PAYG meter, both financial hardship and life-style choice. These requirements are in addition to the requirements outlined above:

a) Review the customer's situation to determine their suitability for a PAYG meter

b) Provide adequate and sufficient information in plain and accessible language on the use of the emergency credit, friendly credit, the period when the supply of energy will not be cut off, what happens at low credit, conditions under which disconnection will occur

Additional sign-up requirements applicable to Vulnerable Customers who are signed up to a PAYG meter, both financial hardship and life-style choice. These requirements are in addition to all the requirements outlined in the sign up process above

a) inform the customer about the regulatory measures that the CER has put in place to ensure protection of vulnerable customers from disconnection for non-payment of account

b) ask the customer to confirm that they understand that they are no longer protected by these measures after the installation of a PAYG meter. The customer’s consent must be obtained and retained in an auditable format.
Supporting reasoning

- The sign-up process is a key part of the customer-supplier relationship. Recent studies carried out by the CER indicate that the majority of energy consumers are contacted by phone or a home visit by suppliers.\(^7\)

  This is the stage where the customer has the opportunity to be provided with the main terms and conditions of supply for the energy offer/product that they have chosen. Therefore, the information provided to customers at this stage must be comprehensive, transparent and easy to understand so that the customer can make an informed decision as to whether they decide to proceed with the sign up.

- Secondly, it also represents an opportunity for suppliers to garner useful information about the customer whom they are acquiring and confirm that the energy offer/product is suitable for that particular customer.

- In light of this, we are keen to ensure that the requirements associated with this stage of the customer-supplier interaction are fit for purpose and reflective of customers’ circumstances (such as whether they are the account holders or a representative, in receipt of free fuel allowance, eligible to register as vulnerable customers) and the characteristics of the energy offer/product (such as whether a deposit is required, or a specific method of payment, or, in case of PAYG meters, whether the product is suitable for use by the customer).

- The amendments to the sign up process seek to ensure that the requirements associated with the sign up process provide adequate safeguards and useful information to customers before signing up to a specific energy offer/product and, on the other hand, give suppliers the opportunity to gather sufficient information about their future customers and confirm that the customer is signed up to a suitable energy offer/product.

\(^7\) Consumer Survey 2016: 56% (electricity) and 55% (gas).
3.4.7 Doorstep Checklist

Summary of proposals

Upon completing a successful sale, door to door sale agents are required to actively confirm that the customer understood the items specified on the Doorstep Checklist and also leave the Doorstep Checklist with the customer. Having reviewed the Doorstep Checklist in conjunction with the requirements for the sign up process, the CER proposed amendments with a view to increasing the transparency of information contained therein.

Decisions

The CER’s Decisions in respect of the requirements of the Doorstep Checklist is as follows:

DECISION 24

REVISED DOORSTEP CHECKLIST FORMAT FOR HOUSEHOLD CUSTOMERS ONLY - BILL PAY ENERGY

Suppliers are free to brand the checklist, however the checklist should state the following as is:

Bill Pay Energy Door to Door Sales Checklist

The Commission for Energy Regulation requires all suppliers to give you a copy of this checklist before you sign up.

Please read each question

Did the sales agent:

a) Explain the energy offer / product you are being signed up to?

b) Provide you with information about all charges that apply to this offer / product, including: standard unit rate and standing charge?

c) Provide you with a copy of the energy rates which apply with this energy
Offer?

1) Explain how any discounts will apply?

2) Explain how you will be billed, such as paper bill or electronic bill?

3) Tell you how to pay the bill, such as payment over the counter, by direct debit or level pay?

4) If you need to pay a deposit and how much the deposit may be?

5) Tell you how long the contract applies for?

6) Explain to you what penalty charges apply if you terminate the contract prior to the expiry date?

7) Explain to you how that you have a specific number of days cancellation period and how to cancel the contract if you change your mind?

8) Give you a copy of the Terms and Conditions of Supply or explain how these will be sent to you? The Terms and Conditions of Supply must be sent to you in writing, either by post or by email

9) Enquire whether you are eligible to register as a Vulnerable Customer and provide you with relevant information regarding registration as Vulnerable Customer?

If you believe our agent has acted inappropriately or you would like to confirm any aspect of your new account you can contact our customer services team: INSERT SUPPLIER CONTACT DETAILS

If you are dissatisfied with the manner in which our sales agent has presented the energy offer/product or treated you during the sales pitch you can contact our customer service team: INSERT SUPPLIER CONTACT DETAILS
DECISION 25

REVISED DOORSTEP CHECKLIST FORMAT FOR HOUSEHOLD CUSTOMERS ONLY - PREPAY ENERGY

Suppliers are free to brand the checklist, however the checklist should state the following as is:

Energy Door to Door Sales Checklist – Prepay Energy

The Commission for Energy regulation requires all suppliers to give you a copy of this checklist before you sign up.

Please read each question carefully. If you do not feel comfortable answering YES to all the questions below please ask the door to door sales person to provide you with the relevant information again.

Did the agent:

a) Explain the energy offer / product you are being signed up to?

b) Provide you with information about all charges that apply to this offer / product, including unit rate, standing charge and prepayment charge?

c) Provide you with a copy of the energy rates which apply with this offer / product?

d) Explain how any discounts will apply?

e) If you need to pay a deposit and how much the deposit will be?

f) Tell you how long the contract applies for?

g) Explain what penalty charges apply if you terminate the contract prior to the expiry date (such as early termination fee)?

h) Explain that you have a set number of days cancellation period and how to cancel the contract of you change your mind?

i) Give you a copy of the Terms and Conditions of Supply or explain how these will be sent to you? The Terms and Conditions of Supply must be sent to you in writing, via post or email.
j) Assess whether the PAYG meter is suitable for use in your household?

k) Explain how you will be charged for energy and how to ensure that there is sufficient credit in the PAYG meter so that the electricity/gas supply is not cut off?

l) Tell you that the electricity/gas supply will be cut off if you run out of credit?

m) Explain to you how to access Emergency Credit?

n) Enquire as to whether you are eligible to register as a vulnerable customer?
   - If you are eligible to register as a Vulnerable Customer and wish to have a PAYG meter installed, did the sales agent inform you of the specific measures that the CER has put in place to protect Vulnerable Customers?
   - Did the sales agent ask you to confirm in writing that you understand that you may not be covered by specific protection measures put in place by the CER for Vulnerable Customers?

If you like to confirm any aspect of your new account you can contact our customer service team: INSERT SUPPLIER CONTACT DETAILS

If you are dissatisfied with the manner in which our sales agent has presented the energy offer/product or treated you during the sales pitch you can contact our customer service team: INSERT CONTACT DETAILS

**Supporting reasoning**

The context for and reasoning behind the CER’s Decision is as follows:

- The Doorstep Checklist is a key document in the customer sign up process and a means to ensure that customers acquired via door to door sales are given the opportunity to go through and actively confirm their understanding of the most important aspects of the energy offer that they are signed up to

- It is important that the requirements associated with the Doorstep checklist reflect the key characteristics of the energy offer/product and also highlight
some of the most important rights that customers have (such as to register as vulnerable customer, if eligible, to change their mind, to receive a copy of the terms and conditions of supply)

3.4.8 Proposals to improve customers’ ability to understand and compare offers and increase customers’ engagement with the energy markets”.

Summary of proposals

Engaged consumers making informed choices are intrinsic to a well-functioning retail market. The Irish energy market continues to perform relatively well, by European standards, when it comes to switching, however a sizeable cohort of Irish consumers still do not engage in the market in a variety of ways and therefore are missing out on the benefits of competition.

For example, 60% of electricity customers and 57% of gas consumers who have signed up to a fixed term contract with a supplier let their contract ‘roll-over’ on an ever green contract after the expiry date\(^8\) (the latter contract being based on that supplier’s standard unit rate). In many instances, this results in the customer paying more on their new contract because the standard unit rate is typically higher than the discounted unit rate for the fixed term contract. These customers also miss the opportunity to engage with the market to find a better deal with another supplier.

Moreover, problems continue to persist with so-called ‘sticky’ customers. Analysis conducted by the CER show that a large cohort of both electricity and gas customers have never switched supplier.

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\(^8\) Consumer Survey 2016
The CER, in line with its statutory responsibility to promote competition and to ensure consumers are benefitting from competition, consider it prudent to introduce measures targeting customers who have never switched or who have been on the same tariff for more than 3 years.

Therefore, the CER put forward a set of proposals in the Review of the Supplier Handbook (CER/16/031) aimed at improving customers’ ability to understand and compare energy offers and increase customers’ participation in the energy markets.

A summary of the proposals put forward in relation to improving customers’ ability to understand and compare energy offers is presented below:

i. To provide customers with a clear and easy to understand basis to compare energy offers. The CER proposed the Estimated Annual Bill as such basis, to be included on all marketing and advertising material. A methodology for the calculation of this figure was also proposed.

ii. To simplify energy tariffs

iii. To offer customers comparisons with their current energy plan

In respect of increasing customers’ participation in the market, the CER put forward the following proposals:

i. A proposal to require suppliers to send customers a written notification 30 days prior to the expiry of a fixed term contract. The CER further proposed the content for such notice.

ii. A proposal to require suppliers to issue a written notification on an annual basis to those customers who have been on the same tariff or a non-discounted tariff for more than 3 years. The CER further proposed the content for such notice.
iii. A proposal to require suppliers to make energy offers available to existing customers. Under this option, all energy deals offered by suppliers will be available equally to potential customers as well as existing customers.

iv. A proposal to require suppliers to pass on discounts associated with specific customer behaviour (such as paying by direct debit and receiving electronic bills) after the expiry of a fixed term contract to customers where there are no changes in behaviour.

**Decisions**

The CER’s Decisions in respect of increasing customers’ participation in the market and improving customers’ ability to compare energy offers are as follows:

**Decision 26**

The CER will not implement regulatory measures that would result in the simplification of energy tariffs.

**Supporting reasoning**

- Limiting the tariff structure may hamper innovation and development of energy offers which, in turn, will limit customer choice and reduce suppliers’ flexibility as to the tariffs that they can offer.

- In the case of PAYG life style choice meters, simplifying the tariff structure to 2 components (one variable and one fixed) may result in the prepayment charge and standing charge being amalgamated in one fixed charge, thus reducing transparency of tariff structure.

- Turning to other jurisdictions, we note the case of GB, where Ofgem launched the Retail Market Review – Implementation of Simpler Tariff Choices and Clearer Information in 2013. The stated purpose of this review was to promote customer engagement with the market. The review included, inter alia, a set of measures aimed at simplifying energy tariffs, including: i) a ban on complex tariffs, ii) a maximum limit on the number of tariffs that suppliers can offer and iii) simplification of cash discounts.
2014, Ofgem made a reference to the Competition and Markets Authority for an investigation into the energy markets. The final findings report issued by Competition and Markets Authority (Energy Markets Investigation – Summary of provisional findings investigation) found, inter alia, that “the ‘simpler choices’ component of the RMR rules, (including the ban on complex tariffs, the maximum limit on the number of tariffs that suppliers are able to offer at any point in time, and the simplification of cash discounts) is a feature giving rise to an AEC in the retail supply of electricity and gas to domestic customers, through reducing retail suppliers’ ability to innovate in designing tariff structures to meet customer demand, in particular, over the long term”

- We further note citation 14 of the European Parliament resolution on delivering a new deal for energy customers 2016, which recommends, inter alia, that both fixed charges and taxes and levies should be clearly identified as such in the bills, allowing the customer to distinguish them easily from the variable, consumption-related cost
- In addition, we are cognisant of the forthcoming launch of the National Smart Metering System, which offers suppliers an enhanced platform for tariff innovation for the benefit of energy customers
- We are addressing this through a set of measures included in this paper, of which the most relevant is the mandatory display of the estimated annual bill on all marketing and advertising material. The findings of future Consumer Surveys will be monitored to ascertain whether these measures lead to an increase in customers’ ability to understand energy offers and therefore increase engagement with the market.

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9 Adverse effect on competition
Decision 27
The CER will not implement regulatory measures that would require suppliers to provide customers with comparisons based on the customer’s own current tariffs when signing up customers.

Supporting reasoning
- The introduction of this requirement poses several practicality challenges - the sales agents will have to maintain and update a database of all suppliers’ current energy offers and tariffs to enable accurate comparison with a customer’s current energy plan. This may be difficult on a practical level given the multitude of energy offers and tariffs currently on the market and announcements in tariff reductions
- An accurate comparison would rely on accurate information provided by customers as to their current energy plan, which, in some cases, may not be possible to obtain.

Decisions
The CER’s decisions in respect of the proposed measures put forward to improve customers’ ability to compare energy offers and increase customer participation in the energy markets are as follows:

Decision 28
The CER will introduce a requirement to obligate suppliers to include the Estimated Annual Bill on marketing and advertising material. The method of calculation and options regarding the manner in which this figure should be displayed on marketing and advertising material is subject to further consultation in Section 4.1 of this paper.
Decision 29
The CER will introduce a requirement to oblige suppliers to send customers a written notification 30 days prior to the expiry of a fixed term contract. The content of this notice is subject to further consultation in Section 4.1 of this paper.

Decision 30
The CER will implement a requirement to oblige suppliers to issue a written notification on an annual basis to those customers who have been on the same tariff or a standard tariff for at least 3 years. The content of this notice is subject to further consultation in Section 4.1 of this paper.

Decision 31
The CER will not introduce regulatory measures to obligate suppliers to make all energy offers available to current and new customers at this time.

Decision 32
The CER will not introduce regulatory measures to obligate suppliers to pass on discounts associated with specific behaviour (i.e. e-billing, direct debit) at this time.

Supporting reasoning
The context for and reasoning behind the CER’s decisions are detailed in Appendix C, together with the assessment of potential impacts that the implementation of these proposals may have on stakeholders.
3.5 Code of Practice on Customer Billing and Disconnections

3.5.1 Introduction
The energy bill remains one of the primary points of contact between the customer and their supplier. The bill also has a vital role to play in providing information to customers regarding the amount of energy they’re consuming and the costs associated with same. Therefore, it is important for the CER that measures are introduced which ensures customers are presented with bills that are transparent, consistent and easy to understand.

The Code of Practice on Customer Billing and Disconnections consists of requirements related to 2 areas of the customer-supplier interaction: billing and disconnections. Specifically, the Code of Practice on Billing places obligations on suppliers in relation to the frequency and content of energy bills, presenting information on bills and closing of energy accounts. In addition, suppliers are required to adhere to specific legislative obligations in respect of the minimum information to be included in the energy bill and provision of information on energy consumption.

Under the Code of Practice on Disconnections, suppliers are required to offer customers assistance in managing their account and treat disconnections as a last resort. In addition, suppliers are required to follow strict rules in terms of number and format of notices prior to disconnection for non-payment of account. It is vital therefore for the CER that customers are provided with adequate protection and are provided with the appropriate information regarding the disconnection process. The CER considered it prudent to review the current measures in place under the Code of Practice on Disconnections under the Review in line with the CER’s responsibility to protect energy consumers.
Having reviewed the requirements contained in this code, the CER put forward proposals in respect of specific policy issues in respect of both billing and disconnections. A summary of the proposals made and the CER’s decisions, together with the supporting reasoning are presented below.

### 3.5.2 Obligations arising from the Energy Efficiency Directive 27/2012/EU

#### Summary of proposals

The CER sought respondents’ views on how to reflect the legislative obligations related to minimum information on energy bills arising from the Energy Efficiency Directive in relevant requirements within the Code of Practice on Billing.

#### Decision

The CER’s Decision in respect of the obligations arising from the Energy Efficiency Directive is as follows:

**Decision 33**

Suppliers are required to ensure that final customers receive their bills, energy statements and billing information free of charge and that final customers also have access to their consumption data in an appropriate way and free of charge.

**Decision 34**

Suppliers must provide a choice of billing format to customers, which must include paper billing. Suppliers must provide a choice of payment methods, which must include cash payment.

#### Supporting reasoning

The context for and reasoning behind the CER’s Decision are as follows:

- Licensed energy suppliers are required to comply with all requirements stipulated in the Energy Efficiency Directive 27/2012/EC, which was
transposed into Irish legislation by S.I. 426 of 2014, regardless of whether these requirements are reflected in the Supplier’s Handbook.

- The CER is mindful of the fact that not all customers have access to broadband and/or banking facilities (in order to sign up to e-billing or direct debit), or may choose not to use such this methods of payment or billing format. In addition, under electricity and gas supply licence conditions, energy suppliers have a duty to offer supply which covers domestic and specific small and medium businesses. In this context, we consider that the choice of billing format and payment methods must include paper billing and payment over the counter, respectively.

**Decision 35**

6.6.3 A supplier may request a closing meter read from a customer in order to close their account. A supplier may not keep a customer's account open billing the customer indefinitely for continued consumption where the customer has made contact to close their account but has been unable to provide a meter reading.

6.6.4 Suppliers must put in place a process to deal with situations where the customer has notified the supplier that they wish to close their account but were unable to provide meter reads.

6.6.5 This process may include following the normal procedure for properties with no registered occupant or actively engaging with the customer until a satisfactory outcome is reached before closing the account.

6.6.6 A supplier shall not levy any charges or penalties where the customer is unable to provide meter readings.

6.6.7 Where a customer has switched supplier or closed their account, the final closing bill or statement will be issued not later than six weeks from the effective date of the change of supplier or account close taking place.

6.6.8 The final bill/statement shall include information about any credit due to
the customer and how this can be refunded. Suppliers are further required to bring this information to the attention of the customer at the point where the customer notifies his/her supplier that they intend to close their account.

6.6.9 Any credit due to the customer should be refunded no later than 2 months from the date when the account was closed by the customer. The refund method must be reasonable, transparent and free of charge. Where a replacement meter reading is issued to the supplier after the final bill has been issued, this will be dealt with as an exception to this requirement.

6.6.10 Suppliers are required to take reasonable steps to notify customers who are owed a refund after the closing of their account of this fact and the actions the customers need to take to be refunded.

Supporting reasoning

The context for and reasoning behind the CER’s Decision are as follows:

- The amendments are aimed at providing safeguards to customers in 2 specific situations: one, where the customer notifies the supplier of their decision to close the account but is not able to provide meter reads. The second refers to the situation where customers are owed a refund after their account has been closed

- We are cognisant of cases where access to meters is outside customers’ control. In addition, suppliers may close the account on an estimated meter read and subsequently reconcile this with actual meter reads provided by the network companies. In light of this, we are of the view that suppliers should not impose any charges or penalties where customers cannot provide meter reads upon notifying suppliers of their decision to close the account

- As regards refunds owed to customers after the account has been closed, we are of the view that the requirements are necessary to ensure that
customers receive clear and timely notification of any credit due and how this can be refunded

**Decision 36**
(This Decision should be read in conjunction with Decision 57 and 58)
Suppliers are required to ensure that energy bills and energy statements are compliant with and aligned to the intent of legislative requirements as stipulated in relevant current legislation (i.e. the Energy Efficiency Directive and the transposing S.I. No. 426 of 2014),

**Supporting reasoning**
The context for and reasoning behind the CER’s Decision is as follows:

- Both the Energy Efficiency Directive 27/20123/EC and the transposing SI (S.I. No. 426 of 2014) refer to final customers without any further breakdown into consumer category. Therefore there does not appear to be any basis for discrimination among classes of consumers. SI 426 of 2014 refers to final customers which are defined as - “final customer” means a person purchasing energy for his or her own use;

- Billing information appears quite distinct from an actual bill or payment for electricity. This is reflected, for example, in Article 10 of the Directive, that refers to billing information in addition to and distinct from bills.

Both the Energy Efficiency Directive and the transposing SI refer to bills and billing information separately which implies that billing information is a separate statement to the actual bill

- Para 32 of EU working document on the interpretation of the Energy Efficiency Directive : SWD_2013_448_742785_EN_DOCUMENDETETRAVAIL_1_f_1.docx states: “Article 10(1) requires that billing information is provided at the
frequency specified in Annex VII, point 1.1 of the EED regardless of the type of the non-smart meter and the billing regime”

- Therefore, billing information regardless of the type of meter must comply with Article 1.1 of the Directive. Annex VII of the Directive provides that: “[ ] billing information should be made available at least quarterly, on request or where the consumers have opted to receive electronic billing or else twice yearly.”

- SI 426 of 2014 under section 19 (6) provides that “irrespective of whether smart meters have been installed or not, the CER shall place licence conditions upon energy suppliers to ensure that” - (c) provides “appropriate information is made available with the bill to provide final customers with a comprehensive account of current energy costs, in accordance with Annex VII and as required in the CER’s code of practice;”

- In light of the above, it is the CER’s view that the Energy Efficiency Directive applies to all energy customers, regardless of whether they are supplied on the bill pay or the prepay model. Therefore, all customers, both bill pay and prepay, are entitled to receive the same quality and quantity of information (including frequency), as required by the Energy Efficiency Directive, regardless of whether they receive an energy bill or an energy statement
3.5.3 Obligations arising from CER decision papers that impact on the content of the information on the bill

Summary of proposals
The CER proposed to introduce a requirement to reflect the decision outlined in CER/15/205 and SEM/11/095, which requires energy suppliers to publish their fuel mix figures on customer bills on an aggregate basis.

Decisions
The CER’s Decision in respect of obligations arising from CER decision papers that impact on the content of the bill is as follows:

Decision 37
Suppliers are required to ensure that energy bills and energy statements (which are sent to PAYG financial hardship and lifestyle customers), comply with and align to the intent of the obligations arising from CER decision paper that impact on the content of the energy bill and energy statement.

Supporting reasoning
The context for and reasoning behind the CER’s Decision are as follows:

- From time to time the CER issues decision papers setting out new regulatory measures which require suppliers to communicate specific information to customers, as well as the means for how to communicate this information
- For example, in Decision Papers CER/15/205 Regulation of Green Source Products in the Electricity Markets and SEM/11/095, published in conjunction with the Northern Ireland Utility Regulator, it was decided, inter alia, that all suppliers would have to include specific information related to green products and fuel mix on the energy bill
- In stating the above, the CER acknowledges the importance of updating the relevant sections of the Supplier’s Handbook to reflect such decisions as soon as reasonably possible
3.5.4 Energy and non-energy related charges

**Summary of proposals**
The CER invited views on whether additional requirements or guidelines are necessary in respect of the amount of deposit or early termination fees charged by energy suppliers.

**Decisions**
The CER’s Decision in respect of energy and non-energy related charges is as follows:

**Decision 38**
Suppliers are required to have a fair, transparent and reasonable policy to determine the amount requested from customers as deposit.
The policy must be available to any person who requests it in an appropriate format.
Where appropriate, suppliers are required to provide customers with information on any social arrangements available in relation to deposits through recognised third parties (i.e. Community Welfare Office, MABS, recognised charities).

**Decision 39**
Where suppliers choose to apply penalties for breach of contract (such as early termination fees), suppliers are required to comply with relevant customer protection legislation.
Suppliers are required to ensure that penalties for breach of contract are not disproportionate and unduly onerous.
Supporting reasoning

The context for and reasoning behind the CER’s Decision are as follows:

- Suppliers are required to ensure that the term and conditions of supply are compliant with relevant customer protection legislation, some of which may be under the remit of other organisations, such as the Competition and Consumer Protection Commission.

- Schedule 3 of S.I. 27 of 1995 Unfair Terms in Consumer Contracts Regulations outlines the terms that are considered unfair in consumer contracts. We note that, inter alia, “requiring any consumer who fails to fulfil his obligation to pay a disproportionately high sum in compensation” is considered an unfair term. We consider this to be relevant in relation to early termination fees.

- Suppliers may choose to introduce security deposits to mitigate the risk of customers failing to pay their bills. Suppliers’ policies on security deposits vary depending on several factors, such as each supplier’s credit control policy, each customer’s credit history, the chosen method of bill payment, the type of energy supply (bill pay or prepay).

- The CER has already introduced regulatory measures in respect of refund of deposits to energy customers (Section 6.3.4 and 6.3.5 of the Code of Practice on Billing and Disconnection). In this context, we consider appropriate that minimum requirements are introduced in respect of the amount requested by suppliers as security deposit. This will provide an added level of protection to customers and increase the level of transparency of suppliers’ practices and policies.

- Given that each customer’s circumstances are different (such as tenant/home owner, method of payment, credit history, entitlement to assistance from the Department of Social Protection or recognised charities), it is our view that principle based regulatory measures in this regard provide flexibility for suppliers to deal with each customer on a
case-by-case basis and ensure that the level of deposit required reflects each customer's circumstances

### 3.5.5 Consistency, completeness and transparency of information presented on energy bills

#### Summary of proposals

The CER proposed to amend an existing requirement in respect of consistency of terminology on energy bills, statement, tariff schedules and strengthen requirements in respect of transparency of information for dual fuel accounts. In addition, the CER proposed to amend current requirements in order to increase the level of transparency of information that suppliers provide to dual fuel customers.

#### Decisions

The CER’s Decision in respect of consistency and transparency of information presented on energy bills is as follows:

**Decision 40**

Suppliers are required to ensure that all charges relevant to the supply of energy, applicable during and at the termination of the energy supply contract (including unit rate, standing charge, prepayment charge, PAYG meter installation / removal charge, call out charges etc.), are brought to the attention of the customer in writing, by post or email, at sign up.

These charges must be presented in a manner consistent with other relevant documents (such as energy bills / statement, schedule of charges, terms and conditions of supply).
Supporting reasoning

The context for and reasoning behind the CER’s Decision is as follows:

- The requirements outlined above strengthen current requirements which obligate suppliers to ensure that all charges relevant to the supply of energy, including non-energy related charges such as removal of PAYG meters, are included in the terms and conditions of supply.

- It is our view that suppliers must maintain consistency in the terms used to denote specific charges and use the same terms in all relevant documents. Consistency, clarity and transparency of information support customers in making an informed decision with regard to whether a specific energy offer/product suits their energy needs.

**Decision 41**

"6.5.4 Where a supplier offers a dual fuel account, it must be clear to the customer how payment is allocated against the account for gas and/or electricity. The supplier must make it clear to the customer how their account will be managed in the event that the customer does not pay their bill in full. This will, as a minimum, include

i. How any part-payments will be allocated and, specifically whether they will be allocated against a specific fuel or against an overall balance on the account. How payments are allocated should be set out clearly on sign up and shown on the customer’s account statement.

ii. If applicable, how any transfer of arrears between accounts will be carried out

6.5.5 Where the supplier has commenced the disconnection process, all relevant requirements set out in the Code of Practice on Customer Billing and Disconnection must be followed.

6.5.6 Where the account is operated based on a single balance rather than
separate accounts, with separate disconnection processes, and the supplier has commenced the disconnection process, the customer must be given the opportunity to nominate the fuel against which they are to be disconnected first. This should be in writing and should be included at the minimum in the number of attempts that suppliers are required to make in writing in order to contact the customer during the disconnection process, in line with Section 6.11.2 (a) of the Code of Practice on Customer Billing and Disconnection.

**Supporting reasoning**

The context for and reasoning behind the CER’s Decision is as follows:

- The requirement refers specifically to the information provided by suppliers to customers in relation to the treatment of dual fuel accounts. The proposals support further clarity of information and increase the level of protection of customers at risk of being disconnected.
3.6 Code of Practice on Complaint Handling

3.6.1 Introduction
The CER has a statutory responsibility to provide electricity, gas and water customers with a dispute resolution service. Moreover, the CER acts as a vital source of information for customers regarding the dispute and complaint handling process. Even though the number of complaints handled by the CER declined over the course of 2015, it’s important for the CER to build on this progress by improving the process even further. To that end, the CER is introducing a measure aimed at streamlining the dispute resolution process.

3.6.2 Monitoring of implementation of CER adjudications of complaints

Summary of proposals
Having reviewed the current requirements, the CER proposed the introduction of a timeframe for the implementation of CER decision to complaint resolutions.

Decision
The CER’s Decision in respect of the proposed timeframe for the implementation of decisions to complaint resolutions is as follows:

Decision 42
Suppliers are required to respond to the CER’s Final Decision to a complaint resolution within three weeks from the date of the Final Decision, confirming that the CER’s Final Decision has been implemented.

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10 CER Customer Care Team Annual Report (2015)
http://www.cer.ie/docs/001080/CER16145%20Customer%20Care%20Team%20Annual%20Report%202015.pdf
Supporting reasoning
The context for and reasoning behind the CER’s Decision are as follows:

- The CER has a legislative obligation to provide customers with a dispute resolution process to resolve complaints where the customer is dissatisfied with the resolution provided by their supplier. This obligation is set out in S.I. 463 of 2011
- The CER communicates the outcome of complaint resolutions to customer and suppliers, together with an instruction to implement the decision and associated timelines
- The requirement sees suppliers having to confirm in writing, within 3 weeks of the date of the decision, that the Final Decision has been implemented
- This proposal enhances the process of monitoring suppliers’ compliance with CER’s complaints resolution decisions
3.7 Code of Practice on Vulnerable Customers

3.7.1 Introduction

S.I. 463 of 2011 defines the term “vulnerable customer”\(^\text{11}\) and sets out the regulatory basis for the protection framework for this category of customers. Under these obligations, suppliers are required, inter alia, “to take reasonable steps to identify household customers who should be included on a Priority Services or Special Services Register”.

In addition to legislative obligations, the Code of Practice for Vulnerable Customers sets out specific requirements that suppliers must adhere to in their dealings with vulnerable customers.

Following a thorough assessment of current requirements included in the Code of Practice for Vulnerable Customers, and taking into account the findings of the audit of compliance with this code conducted in 2015, the CER made proposals covering several policy issues, which are listed below:

- Identification of vulnerable customers at sign up
- Additional requirements for sign up of vulnerable customers
- Registration forms
- Change in the type of vulnerability
- Vulnerable customers on PAYG meters

The main objective of these requirements is to set out appropriate minimum standards across suppliers in relation to the “reasonable steps” that suppliers are required to take to identify vulnerable customers.

\(^{11}\) “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.
3.7.2 Identification of vulnerable customers at sign up

Summary of proposals

The CER proposed the introduction of minimum requirements in respect of identification of vulnerable customers at sign up stage, together with a proposed requirement for suppliers to reference the Code of Practice on Vulnerable Customers on or with each energy bill and/or statement.

Decisions

The CER’s Decisions in respect of the identification of vulnerable customers are detailed below.

Decision 43

Suppliers are required to take reasonable steps to identify customers who are eligible to register as vulnerable customers. This, at the minimum, should include the following:

i. Ensure that appropriate and relevant questions and information to identify vulnerable customers are included on all written and oral communications provided to customers at sign up. This includes but is not limited to sign up / registration forms, sales scripts, online sign up facilities, welcome packages, customer agreement forms etc.

ii. Ensure that the information mentioned at (i) above
   - includes reference to the measures that the CER has put in place to protect Vulnerable Customers against disconnections
   - includes reference to the Code of Practice on Vulnerable Customers and how to access it

iii. Ensure that the information and questions provided to customers in relation to eligibility for registration as vulnerable customers is in accordance with relevant legislative requirements and instructions issued by the CER.
Decision 44
The Code of Practice for Vulnerable Customers must be brought to the attention of customers via written or electronic communication sent to customers at least once a year and on sign up.”

3.7.3 Registration forms

Summary of proposals
The CER invited comments on the appropriate format of the registration forms and proposed requirements aimed at ensuring that vulnerable customers avail of an easy and free of charge process for registration on the appropriate register.

Decisions
The CER’s Decisions in respect of registration forms and registration process for vulnerable customers are as follows:

Decision 45
Suppliers may use one form for registering customers on each register or may use separate forms.
Suppliers must ensure that the registration form/s used for the registration and identification of vulnerable customers comply with relevant legislative requirements and CER instructions.
The CER recommends that registration forms related to registration on the Priority Services Register do not limit customers’ ability to add a type of electrically powered equipment that they may be dependent on.
Decision 46
The CER will not to standardise the format of the registration forms at this time.

Decision 47
Suppliers are required to provide customers with an easy and free of charge process for registration as vulnerable customers. At the minimum, suppliers must ensure that customers have a free and easy way to access, receive, complete and return registration forms.

Decision 48
Suppliers are required to develop and implement adequate and efficient processes to address cases where customers provide verbal notification of vulnerability but fail to complete or return completed and signed registration forms. These processes should be aimed at reducing the risk of failure to register a vulnerable customer and increasing the possibility of identifying customers who are eligible to be registered as vulnerable.

The supporting reasoning for the decisions detailed above is provided under Decision 49.
3.7.4 Change in type of vulnerability

Summary of proposals
The CER sought respondents' comments on whether specific measures should be introduced to assess changes in the type of vulnerability that would result in a vulnerable customer having to be placed on a different register.

Decisions
The CER’s Decision is as follows:

Decision 49
Suppliers are required to implement adequate and efficient processes to assess whether there have been changes in the status of vulnerable customers registered on their supply. These processes should be aimed at ensuring that vulnerable customers are on the appropriate register. This is in addition to the obligation to bring the Codes of Practice to the attention of customers once per annum and at sign up.

Supporting reasoning
The context for and reasoning behind the CER’s Decisions are as follows:

- Under Section 4(d) of S.I. 463 of 2011, suppliers are required to “take reasonable steps to identify household customers who should be included on a Priority Services or Special Services Register”
- The findings of the audit of compliance with the Code of Practice on Vulnerable Customers indicated that suppliers give different interpretations to “reasonable steps” and, subsequently, adopted different practices to ensure compliance with this obligation
- It is our view that minimum standards established across energy suppliers will enable identification of vulnerable customers in an accurate and timely fashion, together with registration on the appropriate register. These standards should cover, at the minimum, a range of aspects pertaining to
the treatment of vulnerable customers, such as: effective processes for the identification of vulnerable customers at sign up, the use of appropriate registration forms, ensuring that customers in general can access suppliers' codes of practice for vulnerable customers, free and easy process for registration, adequate processes for dealing with unreturned registration forms and changes in the type of vulnerability

- In addition, minimum standards provide consistency and clarity to suppliers in terms of what the CER considers to be “reasonable steps” and represent a consistent basis for future audits of compliance

### 3.7.5 Vulnerable customers on PAYG meters

**Summary of proposals**

Under this category, the CER asked respondents’ views on whether guidelines should be introduce to ensure consistency in the criteria used by suppliers to assess suitability of PAG meters for vulnerable customers.

Also, views were invited on a proposed requirement which saw suppliers having to establish a system of communication with vulnerable customers who do not top-up regularly with a view to minimise the risk of self-disconnections.

**Decisions**

The CER’s decisions in respect of vulnerable customers on PAYG meters is as follows

**Decision 50**

It is suppliers’ responsibility to implement adequate and efficient processes to ascertain the suitability of PAYG meters for vulnerable customers.

The CER is of the view that PAYG meters are not suitable for customers who
are eligible to register on the Priority Services Register.

**Decision 51**

Suppliers are required to implement adequate and efficient processes to ensure that vulnerable customers on PAYG meters are provided with information on what to do if the PAYG meter is no longer suitable for use on grounds of vulnerability. For example, the processes may consist of a written notification (sent via post or electronic communication such as email or SMS text, on the energy statement or on the top up receipt).

**Supporting reasoning**

- In order to ensure a high level of protection for vulnerable customers, including those who avail of a PAYG meter, the CER has introduced a range of specific requirements
- These requirements are outlined in the current version of the Supplier’s Handbook, under the Code of Practice for Vulnerable Customers and Code of Practice on PAYG Metering and Budget Controllers
- For example, under Section 9.3.2 of the Supplier’s Handbook, suppliers are responsible “to assess the suitability of prepayment meters/budget controllers for a given customer (especially customers who may be vulnerable or have an impairment which could impact their ability to use the technology)”. This section further requires suppliers to note that “it is important that customers are capable of using any technology that is provided safely and that they can access the budget controller and access a location to purchase top up for their budget controller”
- Furthermore, S.I. 463 of 2011 obligates suppliers, inter alia, to ensure that vulnerable customers registered on the Priority Services Register are never disconnected for non-payment of account and vulnerable customers
registered on the Special Services Register are not disconnected during winter months for non-payment of account

- In this context, it is the CER’s view that PAYG meters are not suitable for customers eligible to register on the Priority Services Register. In stating this, we acknowledge the right of all customers, both vulnerable and non-vulnerable, to choose the energy offer and type of supply (i.e. bill pay or prepay) that best suit their energy needs

- The CER considers that suppliers are best place to ascertain whether a PAYG meter is suitable for a specific customer, as this assessment is conducted more often than not on a case-by-case basis

**Decision 52**
Suppliers are required to implement fit-for-purpose processes to address cases where it becomes apparent that a PAYG meter is no longer suitable for a vulnerable customer post sign up. These processes should be aimed at minimising the risk of interruption in supply and provide an adequate solution for the customer’s energy needs.

**Decision 53**
Suppliers must not levy penalty fees (including early termination fees, meter removal fees) on PAYG customers who terminate a contract of supply where the PAYG meter is no longer suitable for use due to their vulnerability.

**Supporting reasoning**
- We are mindful that, due to changes in the vulnerability status of energy customers, the PAYG technology and prepaid energy supply (in particular supply of electricity) may become unsuitable for use in time. To ensure the protection of vulnerable customers in this predicament, we have decided to introduce requirements which obligate suppliers to implement adequate
process to deal with such situations. We further decided that suppliers should not levy early termination fees (including meter removal fees or other penalty fees associated with the early termination of the contract) on customers who terminate a supply contract where the PAYG meter is no longer suitable for use on grounds of vulnerability.

**Decision 54**
The CER will not introduce a specific requirement obligating suppliers to ensure continuous assessment of suitability of PAYG meters for vulnerable customers (i.e. post sign up) at this time.

**Supporting reasoning**
The context for and reasoning behind the CER’s Decision are as follows:

- The intent of this requirement was to mitigate the risk that vulnerable customers may disconnect themselves where they do not have sufficient funds to purchase top ups.
- In addition to the reasoning provided in respect of Decision xx, we add the requirement outlined at Decision xx, where suppliers are required to give vulnerable customers the opportunity to nominate a third party on the account for contact purposes (such as a family member, a friend or a recognised charity). This enables a third party (such as family members, friends or recognised charities) to alert the relevant supplier where a vulnerable customer is facing financial difficulties and cannot top up regularly.
- We can safely state that each customer’s circumstances and top-up patterns vary; it is rather challenging to determine with any degree of accuracy that where no top-ups are recorded at a premises (or the top-ups are infrequent) the customer is in financial difficulty and cannot purchase credit for the PAYG meter.
3.8 Code of Practice on Pay As You Go Metering and Budget Controllers

3.8.1 Introduction
The Code of Practice on PAYG Metering and Budget Controllers outlines obligations placed on suppliers in relation to the treatment of energy customers who avail of a PAYG meter, whether for financial hardship or as a life style choice. The key objective is to ensure that the protection framework in place for this category of customers is adequate to the characteristics of the pre-paid model, the technical specifications of the PAYG devices and suppliers' terms and conditions of supply.

Having reviewed the Code of Practice on PAYG Metering and Budget Controllers, the CER put forward proposals in respect of the following policy areas: potential barriers to switching and energy statements.

3.8.2 Potential barriers to switching

Summary of proposals
Under this category, the CER proposed that any details required to effect a switch (such as a deactivation code as is the case currently with PAYG life style customers) are disclosed to the customer at sign up stage and included in suppliers’ Terms and Conditions of Supply. In addition, the CER expressed the intention to impose strict obligations on suppliers to release such details (namely the deactivation code) in an auditable timeframe and format and separate from any retention or marketing activities.

Decisions
The CER’s Decisions in respect of the proposal to require suppliers to include details required to effect a switch (such as the deactivation code) are as follows:
Decision 56
This decision should be read in conjunction with Decision 21
Where customers need to have access to specific information in order to switch away from a supplier (such as the deactivation code in the case of electricity PAYG lifestyle customers), suppliers must include all necessary information to enable the completion of the switching process in their Terms and Conditions of Supply, together with how this information may be obtained.

Supporting reasoning
The context for and reasoning behind the CER’s Decision are as follows:

- The CER has provisionally decided not to obligate suppliers to provide customers with the information referenced in this requirement during the sign up process (i.e. over the phone or by door to door sale agents). This decision was taken mainly to prevent creating confusion for customers who are in the process of signing up with a supplier and being provided with information about how to switch away from the same supplier.

- Notwithstanding the above, we are of the view that, where customers depend on receiving specific information to switch away from a supplier, such as a code, a PIN number, a password etc. customers are entitled to be made aware of this fact and also of how to access this information within the cooling off period.

- In our view, the most appropriate format to communicate this information to customers within the cooling off period is in the Terms and Conditions of Supply, which suppliers are required to bring to the attention of customers in writing, via electronic communication or by post.
3.8.3 Energy statements

Summary of proposals
The CER proposed to align the informational content and frequency of energy statements to the relevant requirements of the Energy Efficiency Directive 27/2012/EC.

Decision
The CER’s Decision in respect of the above proposal is as follows:

Decision 57
(This decision should be read in conjunction with Decision 36)

- Suppliers are required to ensure that energy statements are aligned to the intent of legislative requirements as stipulated in relevant current legislation (i.e. the Energy Efficiency Directive as transposed into Irish legislation)

Decision 58
(This decision should be read in conjunction with Decision 36)
Suppliers are required to ensure that energy statements (which are sent to PAYG financial hardship and lifestyle customers), comply with obligations arising from CER decision paper that impact on the content of the energy bill.

Supporting reasoning
The context for and reasoning behind the CER’s Decisions are as follows:

- We are keenly aware of the findings of the Consumer Survey 2015 and 2016, which show that 22% of domestic electricity customers and 29% of domestic gas customers (2015) and 24% of electricity customers and 30% of domestic gas customers (2016) ‘never’ or ‘sometimes’ look at the bill; In addition, a considerable percentage of domestic energy customers open the bill every time but only look at the total amount due.
In light of the above, the CER is mindful that key information related to energy consumption which may be useful to customers in making decisions regarding energy choices with may be lost due to the medium used to communicate this information (i.e. the energy bill).

The CER is committed to further developing consumer communications to advise and inform consumers on the benefits of active engagement with suppliers in energy market place in terms of delivering value to customers and bringing competitive pressure on supplier prices and offers.

To support this, the CER is committed to further developing consumer communications to advise and inform consumers on the benefits of active engagement with suppliers in energy market place in terms of delivering value to customers and bringing competitive pressure on supplier prices and offers. To support this, the CER will deliver a consumer focused communications campaign in 2017 targeted at encouraging greater engagement by consumers with the retail market, focusing on switching levels, supplier engagement, price comparisons and consumer information. It is intended that this campaign will include the delivery of specialised marketing materials, public relations activity and a digital marketing strategy. The theme and concept for this campaign will be developed over the coming months.
3.9 Terms and Conditions of Supply

3.9.1 Introduction
This section sets out minimum level of information that suppliers must include in their Terms and Conditions of Supply.

Having reviewed the requirements included in the Terms and Conditions of Supply, the CER made proposals under the following policy areas: (i) deemed contracts, (ii) customer notification of changes to Terms and Conditions and (iii) period of notice prior to switching

3.9.2 Deemed contracts

Summary of proposals
The CER proposed a requirement to reflect the suppliers’ obligations from S.I.463 of 2015 and CER Decision Paper on deemed contracts CER/14/779.

Decision
The CER Decision in respect of deemed contracts requirements is as follows:

Decision 59
Suppliers are required to include a separate section dealing with Deemed Contracts in their Terms and Conditions of Supply. At the minimum, this section should include the following information:

a. The definition of deemed contract
b. A statement of the rights and obligations of customers supplied under a deemed contract
c. A statement that customers supplied under a deemed contract are free to enter into a contract of supply with the current supplier or with another supplier
d. The charges applicable under a deemed contract
Supporting reasoning

The context for and reasoning behind the CER’s Decision is as follows:

- Decision Paper CER/14/779 Deemed Contracts in Electricity and Gas Markets sets out CER regulations in respect of deemed contracts
- Subsequently, these regulations were encapsulated in a statutory instrument S.I. 603 of 2015
- These requirements do not represent new obligations but merely reflect the decisions outlined in the paper referred to above

3.9.3 Customer notification of changes to Terms and Conditions of Supply

Summary of proposals

The CER proposed amendments to current requirements in respect of suppliers’ obligations to notify customers 30 days prior to a change in the terms and conditions of supply.

Decision

The CER Decision in respect of the requirement to give customers 30 days’ notice in advance of changes to terms and conditions of supply, including changes in tariffs, is as follows:

**Decision 60**

The CER will introduce minimum requirements as to the means employed by suppliers to give customers 30 days’ notice in advance of changes to terms and conditions of supply, including changes in tariffs. Changes reflecting these minimum standards are highlighted below:

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h) the means by which the customer will be notified of any change in terms and conditions of supply, including 30 days’ notice in advance of those changes taking effect and the existence of the right of withdrawal where there
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is a material change to the terms and conditions";
“i) the means by which the customer will be notified of any change in tariff, including 30 days’ notice in advance of those changes taking effect unless the customer has signed up for a more flexible arrangement”

The means by which suppliers notify customers of changes in terms and conditions of supply and energy tariffs must include, **at minimum, at least three of the following methods:**

1. Website
2. Mass media (i.e. TV, radio, newspaper advertisement)
3. On or with the bill
4. SMS text message, email, letter
5. Notification on the top-up

**Supporting reasoning**

The context for and reasoning behind the CER’s Decision are as follows:

- Under current requirements set out in Section 10.2(h) and (i) of the Supplier’s Handbook, suppliers are required to give customers 30 days’ notice prior to making changes to terms and conditions of supply, including tariffs, and state the means they employ to notify customers of such changes
- As current requirements do not impose minimum requirements in relation to the means of notification referred to above, suppliers have adopted different approaches to achieve compliance with this requirement, consisting of one or more of the following: notification on the website, notification via mass media (i.e. announcement in newspapers), energy bill
- Given the diversity of customers’ backgrounds and lifestyle and consumption of mass media content, it is necessary to ensure that as
many customers as possible receive the notice as quickly as possible within the required timelines

- The introduction of minimum requirements in respect of notification means seeks to ensure consistent compliance standards across suppliers, disseminate the message to as many customers as possible and also give suppliers the freedom to select the notification means that best suit their customers’ profile and operational arrangements

### 3.9.4 Period of notice prior to switching

**Summary of proposals**

In the consultation paper Review of the Supplier’s Handbook, the CER noted that some suppliers require customers to provide them with notice in writing prior to switching, regardless of whether customers are in a fixed term contract or not. The proposal put forward was aimed at preventing suppliers from using terms and conditions that would cause unnecessary delay to the switching process and dissuade the customer from changing energy suppliers.

**Decision**

The CER’s Decision in respect of the period of notice is as follows:

**Decision 61**

Suppliers must ensure that the Terms and Conditions of Supply are compliant with existing customer protection legislation and do not limit or delay the customers’ ability to switch energy suppliers (for example requesting customers to provide a specific number of days notice prior to switching), receive monies owed in refunds from suppliers (for example, requesting payment for processing requests for refunds) or avail of the cooling off period.
Supporting reasoning
The context for and reasoning behind the CER’s Decisions are as follows:

- As stated previously, the protection of energy customers is under the legislative remit of the CER. Notwithstanding this, some aspects of customer protection, which are not related to the supply of energy, may also come under the remit of other customer protection organisations, such as the Competition and Customer Protection Commission (such as the cooling off period or terms in consumers’ contract).

- Suppliers are obligated, under licence conditions, to comply with all customer protection legislation, regardless of whether the CER has direct remit over such legislation.

- Suppliers to domestic customers required CER approval for their Terms and Conditions of Supply and any material changes to same. This approval (or rejection, as the case may be) is issued subject the Terms and Conditions of Supply being in compliance with the requirements of the Supplier’s Handbook only.

- In light of the above, it is the suppliers’ obligation to ensure that their Terms and Conditions of Supply are in compliance with all relevant legislation, regardless of whether this legislation falls under the remit of the CER.

- This requirement does not represent an additional regulatory measure but merely seeks to reinforce existing obligations placed on suppliers in respect of 2 key customer related activities: switching energy suppliers and availing of the cooling off period.

- In the context of this requirement, we consider that requesting customers to provide a notice in writing prior to switching, regardless of whether they are in a fixed term contract, causes undue delay to the switching process and prevents customers’ access to a free and easy switching process.
4.0 Proposals for Further Consultation

This section invites further views on a number of proposed options to give effect to specific decisions set out in Section 3.0. It also includes proposals aimed at strengthening the protection framework for non-domestic customers. The decisions associated with these proposals, which will be published in the final decision paper, will be reflected in the final version of the Supplier’s Handbook. The final decision paper and final version of the Supplier’s Handbook are expected to be published in January 2017.
4.1 Customers’ Engagement with the Energy Markets

Introduction
In Section 3.4.8, the CER set out a number of decisions aimed at improving customers’ ability to understand and compare energy offers and increasing the level of participation in the energy markets. These decisions are listed below:

**Decision**
The CER will introduce a requirement to obligate suppliers to include the Estimated Annual Bill on marketing and advertising material. The method of calculation and options regarding the manner in which this figure should be displayed on marketing and advertising material is subject to further consultation in Section 4.1 of this paper.

**Decision**
The CER will introduce a requirement to obligate suppliers to send customers a written notification 30 days prior to the expiry of a fixed term contract. The content of this notice is subject to further consultation in Section 4.1 of this paper.

**Decision**
The CER will implement a requirement to obligate suppliers to issue a written notification on an annual basis to those customers who have been content of this notice is subject to further consultation in Section 4.1 of this paper.

The rationale and supporting reasoning for these decisions is detailed in Appendix C, together with the assessment of potential impacts that the implementation of these proposals may have on stakeholders.
In the sections below we have put forward a number of options to enable the implementation of these decisions.

4.1.1 The Estimated Annual Bill

Introduction

One of the CER’s key objectives is to ensure that as many customers as possible engage with the energy markets and benefit from competition, by saving money on their energy bills, trialling innovative energy efficiency devices or smart technology supported services, availing of free services or third parties incentives. More empowered and more active customers will incentivise suppliers to further develop energy capable of delivering more value for money.

In general, if customers gain more confidence that they can understand the offers being promoted and have the knowledge necessary to select the offer that best suits their energy needs, they are more likely to engage with the market. In the context of this engagement, marketing and advertising material (such as mass media advertisements delivered on various media platforms, suppliers’ and third parties’ websites, posters, banners, door to door sales etc.), typically constitute the first step in customers’ engagement with the market and have the potential to influence customers’ choice.

Suppliers use a wide range of advertising formats and have developed energy offers with a multitude of features, such as cash back, vouchers or loyalty points in conjunction with third parties, free services/energy efficiency devices/products, discounts off standard unit rates, discounts for the price of other utility services, fixed tariffs.
On the background of increased level of competition and diversification of energy offers, consecutive Consumer Survey reports indicate that a considerable number of customers have little or no understanding of energy offers between 2012 and 2016: 20% of electricity customers and 24% of gas customers (2013, similar to 2012), 24% of electricity customers (2014). This increased to 29% in 2015. Further, results from 2015 Consumer Survey indicated that 20% of customers still find it difficult / very difficult to compare offers. Results from 2016 Consumer Survey indicate this figure has remained approximately unchanged\(^\text{12}\).

In this context, the CER considered the introduction of an easy and simple to understand indicator to simplify energy offers and offer customers a tool to help them with comparing energy offers. The Estimated Annual Bill was proposed as such indicator. The CER considers the role of the Estimated Annual Bill to be two-fold: a beneficial aid for customer choice and a consistent basis for suppliers to base their claims for leading positions. We are reiterating here that the requirements related to the Estimated Annual Bill are related solely to domestic customers.

The introduction of the requirement to display the Estimated Annual Bill on all marketing and advertising material is also supported by recent experiments conducted by the ESRI’s PRICE Lab research program\(^\text{13}\). The experiments were designed to assess the impact of the estimated annual bill on consumers’ choices, their understanding of electricity pricing and the accuracy of their decision-making. In previous research conducted by the ESRI, it has been shown that customers struggle to make consistent choices when products have multiple attributes and that consumers are less likely to choose the cheapest electricity package when it is expressed as a discount off the standard unit rate relative to


\(^{13}\) \textit{Price Transparency in Residential Electricity}, ESRI Price Lab, 2016
the actual per unit rate. The purpose of the studies carried out by the ESRI was to investigate how an estimated annual bill affects consumers’ choices and decision-making as they are currently marketed.

In summary, the results of the experiments indicated that the introduction of the Estimated Annual Bill “is likely to make it easier for consumers to choose cheaper electricity packages from among available offerings” and that that “it is likely to be beneficial for consumers’ decision-making”.

We are cognisant of the caveats highlighted by the findings in relation to the impact of displaying cash back offers on customer choice and have proposed options for further consultation to address this. Furthermore, the CER will continue to monitor the markets after the introduction of this measure and evaluate the outcomes of this measure.

**Consultation questions**

In this section, we put forward a number of options designed to give effect to suppliers’ requirement to include the Estimate Annual Bill on marketing and advertising material. These options focus mainly on 3 aspects of this indicator:

- a) the types of advertisements that this requirement should be applicable to,
- b) the method of calculation for the Estimated Annual Bill
- c) the manner in which the Estimated Annual Bill should be displayed on these advertisements (such as the size, the font), and;

Each option is discussed in turn below.

**a) Types of marketing and advertising material subject to the requirement to include the Estimated Annual Bill**
Suppliers’ advertisements of energy offers vary in terms of format, content, message communicated to the audience and platform for dissemination (such as TV, radio, suppliers’ website home page, brochures, leaflets, advertisements on third parties' websites etc.).

In terms of the message intended to be communicated to the audience, advertisements presented by energy suppliers may take the form of:

- Communication of changes in energy tariffs (such as recent announcements of reduction in energy tariffs), or
- Indications that the energy supplier is involved in activities other than the supply of energy to final customers (such as sponsorship of sport events, involvement in energy efficiency activities), or
- Promotions of specific energy offers (such as fixed term contracts with discounted unit rates, potential savings, either in Euro amount or in percentages) or claim leadership positions, or
- Combinations of the above (such as announcing a reduction in energy tariffs and claiming a leading position, or indicating involvement in sustainable energy or energy efficiency and promoting discounts for energy tariffs)

Firstly, we are inviting respondents to comment on what types of advertisements should be subject to the requirement to display the Estimated Annual Bill.

**Option 1**

The requirement to display the Estimated Annual Bill must apply to all advertisements. If applied, this option would result in the Estimated Annual Bill having to be displayed on all advertisements presented by energy suppliers, including notifications of changes in energy tariffs, advertisements indicating that energy suppliers are involved in activities not necessarily related to supply of energy (such as sponsorship of sport events), etc. (the manner in which this
figure should be calculated and displayed on advertisements is discussed in the following paragraphs).

The advantages of this option include:

- Consistency across all suppliers and all types of advertisements, including announcements in price changes and advertisements indicative of involvement in activities other than supply of energy
- Increased awareness and familiarity amongst customers in relation to the Estimated Annual Bill appearing on marketing and advertising material, which may, in turn motivate further engagement with their current energy supplier, or a new energy supplier

As regards disadvantages, an argument may be made that some advertisements are not aimed at promoting a specific energy offer but are presented by energy suppliers in a different capacity (such as sponsors of sport events or investors and supporters of sustainable energy), therefore this type of advertisements should not be subject to this requirement. It is also possible that suppliers may present advertisements targeting business customers, in which case displaying the Estimated Annual Bill calculated on a domestic energy tariff is not relevant and may also cause confusion amongst customers.

**Option 2**
The requirement to display the Estimated Annual Bill should apply solely to advertisements specifically promoting energy offers for domestic customers, excluding notifications of changes in prices and advertisements which are not directly related to the supply of energy to final customers.

The advantages of this option include:
• Consistency across all suppliers in relation to advertisements promoting specific energy offers to domestic final customers

• Increased awareness and familiarity amongst domestic final customers in relation to the Estimated Annual Bill appearing on marketing and advertising material, which may, in turn, motivate further engagement with their current energy supplier or a new energy supplier

As regards disadvantages, it can be argued that suppliers may choose to combine notifications of price changes (especially reductions in energy tariffs) with promotion of specific energy offers, or claims of leading positions or commitments of continuation of discounts. In this case, it may be difficult to determine whether the requirement to display the Estimated Annual Bill applies in respect of such an advertisement.

**Option 3**

The requirement to display the Estimated Annual Bill should apply to all advertisements which promote a specific energy offer, or include discounts or potential savings or reference to discounts or potential savings (expressed either in Euro amount or in percentages), or claim leading positions, regardless of whether the primary objective of the advertisement does not appear to be the promotion of a specific energy offer.

The advantages of this approach are similar to the advantages associated with Option 2. As regards disadvantages, it may be argued that, in some cases, depending on the format, content and platform of dissemination of the advertisement, displaying the Estimated Annual Bill may pose challenges in terms of the most appropriate location and font.

**Question**
Respondents are invited to comment on the options described above. Do you agree with these options? Outline reasons for agreement and disagreement. What other options should be considered?

TV and radio advertisements, due to cost and duration considerations, may not lend themselves to the same requirements as those published on more durable mediums (i.e. leaflets, brochures, posters, websites etc.)\(^{14}\). Notwithstanding this, TV and radio advertisements have a pervasive nature and may be influential on customers seeking to get a better energy deal. Similar to other types of advertisements, TV and radio ads can also vary in terms of format and content, with some including reference to potential discounts / savings / specific energy tariffs or claiming leading positions, and others which do not include these features or references to these features.

The CER is seeking respondents’ views on whether advertisements promoting energy offers disseminated by means of radio and TV channels should be subject to the requirement to include the Estimated Annual Bill.

**Question**

Respondents are invited to comment on whether the Estimated Annual Bill should be included in all TV and radio advertisements, regardless of the content? Outline reasons for agreement and disagreement.

**b) Method for the calculation of the Estimated Annual Bill**

\(^{14}\) The CER has issued a decision in respect of minimum requirements to be included on all marketing and advertising material except TV and radio advertisements (see Section 2.3.3 of the revised version of the Supplier’s Handbook published with this paper)
In the consultation paper, the CER proposed a method for the calculation of the Estimated Annual Bill. This method is detailed below:

The Estimated Annual Bill figure:

i. Must be based on the estimated average consumption figures approved by the CER. Currently, these figures are 5,300 kWh per annum for electricity and 13,800 kWh per annum for gas\(^\text{15}\)

ii. Must include all energy costs (such as unit rate, standing charge, prepayment charge), together with PSO, carbon tax, VAT and all other applicable charges and levies

iii. Must not include the monetary value attributed to non-energy elements by the supplier, their representatives or third parties (such as loyalty points, non-cash vouchers, free/discounted services or products, consumption savings related to the use of energy efficiency devices which)

iv. May include items such as: tariff discounts associated with the energy offer, cash-back or refund of cash on customer’s bill, cash vouchers

v. Only cash back or cash refund that is disbursed during the year associated with the estimated annual bill may be included

vi. Only cash back or cash refund that the customer receives without having to take any opt-in action (i.e. sign up on line, fill in a form, contact the supplier, redeem the offer etc.) may be included

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**Question**

Respondents are invited to comment on the proposed methodology for the calculation of the Estimated Annual Bill. Do you agree with the proposed methodology? Please outline reasons for agreement and disagreement. Are there other components of the Estimated Annual Bill that we should include in the calculation method?

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\(^{15}\) The CER is currently reviewing the typical domestic electricity and gas consumption values. The outcomes of this review will be published in due course.
As detailed in the calculation method above, the Estimated Annual Bill is proposed to be calculated based on current estimated average consumption figures for domestic customers approved by the CER and the unit rate associated with the energy offer.

Typically, energy offers are constructed based on discounts off the standard unit rates for a fixed period of 12 or 24 months, together with cash back, free services or products, vouchers or loyalty points with third parties.

Insofar as electricity offers are concerned, the standard unit rate may vary between urban and rural customers and between 24 hr rate and Day / Night rate, depending on the class of customers or type of meter. Therefore, it is possible that there are more than one Estimated Annual Bills that associated with one offer, as follows: 2 for the 24 hr standard unit rate (one for urban customers and one for rural customers), and 2 for each Day / Night standard unit rates (one for urban customers and one for rural customers, where applicable).

Displaying more than one Estimated Annual Bill on marketing and advertising material would cause confusion to customers and prove impractical for suppliers. In this context, it is important to identify the most appropriate energy unit rate to support the calculation of the Estimated Annual Bill.

Figures provided to the CER by network companies for 2015 indicate that almost 60% of all domestic electricity customers are urban and are supplied on a 24 hr type meter. The next category in terms of size is rural 24 hr (28.73%).
<table>
<thead>
<tr>
<th>Class of customers</th>
<th>Sites</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>URBAN DOMESTIC 24HR</td>
<td>1,208,326</td>
<td>59.61%</td>
</tr>
<tr>
<td>URBAN DOMESTIC DAY TARIFF</td>
<td>183,417</td>
<td>9.04%</td>
</tr>
<tr>
<td>URBAN DOMESTIC NIGHT TARIFF</td>
<td></td>
<td></td>
</tr>
<tr>
<td>RURAL DOMESTIC 24HR</td>
<td>582,304</td>
<td>28.73%</td>
</tr>
<tr>
<td>RURAL DOMESTIC DAY TARIFF</td>
<td>52,873</td>
<td>2.6%</td>
</tr>
<tr>
<td>RURAL DOMESTIC NIGHT TARIFF</td>
<td></td>
<td></td>
</tr>
<tr>
<td>ALL DOMESTIC</td>
<td>2,026,920</td>
<td>100%</td>
</tr>
</tbody>
</table>

In light of these figures, we are of the view that the Estimated Annual Bill to be displayed on marketing and advertising material promoting electricity offers should be calculated as proposed at point a) above (as in taken into account discounts, cash back etc.), based on the urban domestic 24 hr standard unit rate relevant to each supplier, where the offer is available to this category of customers at the minimum.

Where an electricity offer is available only to a specific category of customers, for example only for Day/Night rural domestic customers, then the Estimated Annual Bill should be calculated as proposed at point a) above (as in taken into account discounts, cash back etc.) based on the standard unit rate relevant to that category of customers to which the offer is available to.

**Question**

Respondents are invited to comment on the following proposed requirements:

i. The Estimated Annual Bill to be displayed on marketing and advertising material promoting electricity offers should be calculated as proposed at point b), section 4.1.1, based on the urban domestic 24 hr standard unit rate relevant to each supplier, where the offer is available to this category of customers at the minimum.
ii. Where an electricity offer is only available to a specific category of customers, then the Estimated Annual Bill should be calculated as proposed at point a) section 4.1.1, based on the standard unit rate relevant to that category of customers.

iii. Where the energy offer is not based on discounts off the supplier’s standard unit rate, the Estimated Annual Bill should be calculated as proposed at point b) section 4.1.1, based on the energy prices associated with that energy offer.

Do you agree with the proposed method for the calculation of the Estimated Annual Bill to be displayed on marketing and advertising material? Please outline reasons for agreement and disagreement. Are there other calculation methods that should be considered?

c) Proposed requirements for the display of the Estimated Annual Bill

The proposals included in this subsection focus on identifying the optimal manner in which the Estimated Annual Bill should be displayed on marketing and advertising material. For example: should the definition and / or the calculation method for the Estimated Annual Bill be displayed on marketing and advertising material? What is the most appropriate font / size or location for the Estimated Annual Bill on marketing and advertising material?

We have developed a set of proposed requirements in relation to these aspects and are inviting respondents’ comments on these proposals.

In addition, we are cognisant of the caveats highlighted by the findings of the ESRI’s PRICE Lab research program in relation to the impact of displaying cash back offers beside the Estimated Annual Bill on customer choice and have proposed options for further consultation to address this.
Proposal 1
The Estimated Annual Bill should be displayed in the main body of the advertising or marketing material and should not be displayed in footnotes.

Proposal 2
The font of the Estimated Annual Bill figure should be no smaller than the second largest font in the main body of the advertising or marketing material.

Proposal 3
Suppliers are required to ensure that the definition of the Estimated Annual Bill is included in the marketing and advertising material. The proposed definition is as follows: “The Estimated Annual Bill is calculated using the average household’s electricity consumption of 5,300kWh (and gas consumption of 13,800 kWh) and is inclusive of all energy related costs, discounts, cash-back and refunds. Discounts relative to (insert supplier’s name) standard unit rate”.

Proposal 4
Where cash-back offers are displayed in marketing and advertising material, the following text must be displayed immediately underneath and in the same font as the cash-back offer: “this amount is already included in the Estimated Annual Bill figure”. Alternatively, the following text should be displayed immediately and in the same font as the Estimated Annual Bill: “this amount includes (insert Euro amount) cash-back offer”.

---

16 The Estimated Annual Bill figure must appear alongside the other minimum requirements outlined in Section 3.4.3 Presentation of information on marketing and advertising material
Question
Respondents are invited to comment on the proposed requirements outlined above. Do you agree with these requirements? Outline reasons for agreement and disagreements. Are there other requirements that should be considered?

4.1.2 Content of the 30 Days Notice

Introduction
Typically, after the expiry of a fixed term contract, customers are rolled-over on to a standard unit rate higher than the unit rate that applied during the fixed term contract. Some suppliers choose to continue to apply discounts for payment by direct debit and paperless billing.

In this context, the content of the 30 Days Notice needs to achieve 2 main objectives: notify customers that they may be charged a higher price for energy consumption after the expiry of the fixed term contract and motivate customers to engage with the energy market (either with their current supplier or another energy supplier) for a competitive energy offer.

Consultation questions
In the Consultation Paper CER/16/031, the CER made proposals in relation to the content of the 30 Days Notice. The CER proposed the following information as examples of what should be included in the 30 Days Notice:

- the date when the fixed term contract is due to expire
- the charges (i.e. unit rate, standing charge etc.) which will apply after the expiry of the fixed term contract
- the estimated difference in Euro amount between the previous average annual bill and the next average annual bill based on past year consumption
- reference to the fact that no early termination fees apply if they wish to switch to another supplier after the expiry date of the fixed term contract
Having reviewed the responses received to the consultation paper, the CER is presenting an amended proposal for the content of the 30 Days Notice:

Suppliers are required to include the following information on the 30 Days Notice

a. Date when the customer’s fixed-term contract is due to expire

b. Charges currently being paid by the customer (unit rate, standing charge, prepayment rate, etc.)

c. Estimated annual bill for the customer’s current energy plan (based on CER approved annual consumption figures)

d. Charges which will be applied after the expiration of the fixed-term contract

e. Estimated annual bill for the customer’s new tariff based on CER approved annual consumption figures

f. This exact text: ‘Paying too much for energy? Consider switching to a cheaper tariff!”

g. Estimated annual bill for alternative offers currently available (based on CER approved annual consumption figures) and details on how to enquire about availing of these offers

h. The amount the customer stands to:
   a) lose if s/he defaults on a tariff at the expiry of the fixed term contract (relevant to the 30 days notice) or chooses to continue to stay with the existing tariff (relevant to the cheapest offer available - annual prompt) **OR**
   b) gain if s/he chooses the cheapest available energy offer (relevant to the 30 days notice) or chooses to switch to the cheapest available tariff – annual prompt

- additional information on the availability of electricity / gas supply offers and how they may obtain information about such offers/plans
i. This exact text: There are no penalties for switching!

j. Information on CER accredited price comparison websites (e.g. Bonkers, Switcher, etc.) and details the customer will require to make the switch

Question
Respondents are invited to comment on the proposed content of the 30 Days Notice. Do you agree with the proposed content? Outline reasons for agreement and disagreement. What information would you consider appropriate to be included in the 30 Days Notice to achieve the 2 main objectives of this notice?

4.1.3 Content of the Annual Prompt

Introduction
Similar to the 30 Days Notice, the introduction of the Annual Prompt is designed to motivate customers to engage with the energy markets and make customers aware that they could avail of more competitive energy plans than their current one. While the 30 Days Notice is aimed at customers who have switched in the last 12 months, the Annual Prompt is designed to target a specific cohort of customers who have had no engagement with the energy markets for minimum 3 years.

Consultation questions
In the Consultation Paper CER/16/031, the CER made proposals in relation to the content of the Annual Prompt\(^\text{18}\).

\(^{18}\)The CER proposed the following information as examples of what should be included in the Annual Prompt:

- information on the availability of electricity / gas supply offers and how they may obtain information about such offers/plans
Having reviewed the responses received to the consultation paper, the CER is presenting an amended proposal for the content of the Annual Prompt:

Suppliers are required to include the following information on the Annual Prompt:

i. Statement that the customer has been on the same energy tariff for the past 3 years

j. Charges currently being paid by the customer (unit rate, standing charge, prepayment rate, etc.)

k. Estimated annual bill for the customer’s current energy plan (based on CER approved annual consumption figures)

l. This exact text: ‘Paying too much for energy? Consider switching to a cheaper tariff!”

m. Estimated annual bill for alternative offers currently available (based on CER approved annual consumption figures) and details on how to enquire about availing of these offers

n. The amount the customer stands to:
   a) lose if s/he defaults on a tariff at the expiry of the fixed term contract (relevant to the 30 days notice) or chooses to continue to stay with the existing tariff (relevant to the cheapest offer available - annual prompt) OR

- the estimated difference in Euro amount between the previous annual bill and next annual bill based on past year consumption and cheapest current energy tariff available from the current supplier
- reference to the fact that no early termination fees apply if they wish to switch to another supplier after the expiry date of the fixed term contract
- Details about the accredited price comparison web sites
- Details the customer will require to make a switch
b) gain if s/he chooses the cheapest available energy offer (relevant to the 30 days notice) or chooses to switch to the cheapest available tariff – annual prompt)

o. This exact text: There are no penalties for switching!

p. Information on CER accredited price comparison websites (e.g. Bonkers, Switcher, etc.) and details the customer will require to make the switch

Question
Respondents are invited to comment on the proposed content of the Annual Prompt. Do you agree with the proposed content? Outline reasons for agreement and disagreement. What information would you consider appropriate to be included in the Annual Prompt to achieve the main objectives of this notice?
4.2 Customers’ Ability to Pay

Customer’s ability to pay – summary of proposals
Section 6.8.2 of the Code of Practice on Billing and Disconnection requires suppliers to take customers’ ability to pay into account when agreeing arrangements for recovery of debt. The CER sought comments on whether the introduction of principles or minimum standards is needed to establish consistency across suppliers when assessing customers’ ability to pay in setting debt repayment arrangements.

Proposed Decisions
The CER’s Proposed Decision in respect of suppliers’ obligation to take customer’s ability to pay into account when setting debt payment arrangements is as follows:

Proposed Decision 1
Suppliers are required to implement a clear, transparent and fair policy to ensure that the customer’s ability to pay is taken into account when setting debt payment arrangements, including the debt recovery rate for PAYG meters.

In developing this policy, suppliers should take into account the following principles:

1. Appropriate credit control policy and trained personnel
   i. Disconnection for non-payment of account is the last resort and keeping the customer on supply is the main objective
   ii. Personnel are appropriately trained to deal with customers in financial difficulty and achieve the objectives of the supplier’s policy
   iii. Deal with customers who experience financial difficulties in paying their energy bills on a case-by-case basis
   iv. Offers of repayment are carefully considered
v. Personnel incentives linked to successful outcomes (such as customers honouring repayment agreements) and not the recovered debt

2. Proactive engagement with customers who are experiencing difficulties in paying their energy bills
   i. Engage with customers who are experiencing difficulties in paying their energy bills at an early stage to avoid the accumulation of debt
   ii. Review measures of proactive engagement on a regular basis to ensure that they are fit for purpose
   iii. Take reasonable steps to gather information about the customer’s situation

3. Customer’s ability to pay
   i. Provide clear guidance and training to personnel on how to elicit information about customer’s ability to pay and monitor the effectiveness of this
   ii. Hear each case sympathetically and, where appropriate, provide customer with information on relevant third parties which may be able to assist (i.e. recognised charities, Community Welfare Office, MABS)
   iii. Explore and develop options for repayment of debt together with the customer to achieve a successful outcome

4. Repayment arrangements based on the customer’s ability to pay
   i. Reasonable and affordable debt recovery arrangements which take into account the customer’s circumstances
   ii. Upfront payments are presented as an option not as an obligation

5. Customer’s understanding and agreement
   i. Confirm that the customer understands and agrees with the debt repayment arrangements and how the debt will be repaid
   ii. Communicate the repayment arrangements to the customer in an appropriate format
iii. Provide information on next steps

6. Monitor repayment arrangements
   i. Monitor repayment arrangements (honoured and failed arrangements for credit customers and top—ups for PAYG customers)
   ii. Take reasonable steps to find out why repayment arrangements have failed
   iii. Monitor honoured and failed repayment arrangements to understand patterns and review the policy

Supporting reasoning
The context for and reasoning behind the CER’s Proposed Decision are as follows:

- The CER acknowledges suppliers’ efforts to improve disconnection practices since the disconnection taskforce held in 2014, where the CER worked in conjunction with energy suppliers and network companies to establish further actions that could be taken to assist customers in managing their bills and avoiding disconnection. In this context we note the launch of the Energy Engage Code, where suppliers who signed up to the code commit never to disconnect an engaging customer
- Suppliers have adopted different practices to assess customers’ ability to pay when agreeing debt payment arrangements, depending on their credit control policies, each customer’s individual circumstances, whether customers accept a PAYG meter to repay debt
- The proposed principles are aimed at providing suppliers with guidance as to what is expected from them in terms of the obligation to take customer’s ability to pay into consideration properly and proactively
- The proposed principles reflect key “indicators” which the CER consider relevant when assessing suppliers’ compliance with this obligation
Note: we are asking respondents to note that the revised version of the Supplier’s Handbook, published with this paper, includes a draft of the proposed requirement and associated principles. Respondents are invited to comment on the principles suggested herein as well as the phraseology used.
4.3 Codes of Practice for Non-household Customers

4.3.1 Introduction
The Supplier’s Handbook includes a section consisting of requirements that suppliers must comply in their dealings with non-house customers\(^\text{19}\). Similar to the requirements for household customers, these requirements are grouped under individual codes of practice covering the following aspects of the supplier-customer relationship: marketing & sign up, billing & disconnections and complaints handling.

We acknowledge that the consultation paper did not include specific proposals in respect of requirements for suppliers to business customers. Notwithstanding this, we have reviewed the current requirements in light of recent market developments and are now making proposals to reflect this review. The requirements are mainly aimed at increasing the level of transparency of information provided by suppliers to non-household customers.

In reading the following sections, we ask respondents to note the following:

- The following sections outline an overview of the key proposals made in respect of Codes of Practice for non-household customers, together with supporting reasoning for same

- Some proposed changes have been reflected directly in the revised version of the Supplier’s Handbook, such as proposed requirements outlined in the household customers section which have been included in the non-household customers section, based on rationale similar to that provided previously

\(^{19}\) Categories DG5 and DG6 (electricity) and Industrial and Commercial (gas).
Some existing requirements have been removed or placed under more appropriate headings.

Therefore we strongly recommend that the revised version of the Supplier’s Handbook is read in its entirety, in addition to the sections below.

**4.3.2 Code of Practice on Marketing and Sign Up**

**Introduction**

The Code of Practice on Marketing and Sign Up sets out requirements that suppliers must adhere to in relation to marketing & advertisement activities and customer sign up process in respect of non-household customers.

**Key Proposed Decisions**

The CER recognises that, in most cases, suppliers enter into bespoke contracts with non-household customers, which consist of negotiated terms and conditions of supply, including energy tariffs. Notwithstanding this, we are of the view that a higher level of transparency in this area would increase competition amongst suppliers and provide non-household customers with faster access to valuable information when choosing an energy supplier or offer.

**Proposed Decision 1**

Suppliers are required to publish the methodology used to determine energy tariffs for non-household customers on their website. The methodology should, at the minimum, provide customers with information on what suppliers take into account when setting the energy tariffs for different categories of non-household customers.
Supporting reasoning

The context for and reasoning behind the CER’s Proposed Decision are as follows:

- Non-household customers covered by the requirements of the Supplier’s Handbook are customers from DG5 and DG6 categories in electricity and Industrial and Commercial category in gas. These customers are often small to medium businesses which display similar behaviour to that of domestic customers when it comes to interacting with energy suppliers.

- Currently suppliers are not required to publish information regarding energy tariffs for non-domestic customers and, to date, suppliers have not displayed energy tariffs, or related information, on their website on an optional basis. It may be argued that this makes it more difficult for non-household customers to compare energy tariffs offered by various suppliers or gain knowledge in this area.

- As stated above, we recognise that, in most cases, suppliers and non-household customers negotiate the terms and conditions of energy supply, including energy tariffs and, as such, it may not be possible for suppliers to publish energy tariffs for non-household customers as they may differ from customer to customer.

- Notwithstanding the above, it is our view that non-household customers need access to transparent information on what suppliers take into account when setting energy tariffs, such as the business sector the customer operates in, the method of payment, the size of connection, credit history. In our view, this information will help business customers firstly understand how energy suppliers determine energy tariffs and secondly, choose the offer that best suits their energy needs.
Views invited

Question
Do you have any views on the CER’s Proposed Decision outlined above? Please outline reasons for agreement or disagreement.

4.3.3. Code of Practice on Billing and Disconnection

Introduction
The Code of Practice on Billing places specific obligations on suppliers in relation to the frequency and content of energy bills, presenting information on bills and closing of energy accounts. In addition, suppliers are required to adhere to specific legislative obligations in respect of the minimum information to be included in the energy bill and provision of information on energy consumption. Under the Code of Practice on Disconnections, suppliers are required to follow strict rules in terms of number and format of notices prior to disconnection for non-payment of account.

Key proposed decisions
We recognise that suppliers require non-household customers to pay a deposit, typically used as guarantee for situations where customers fail to discharge payment timely and in full. In stating this, we also recognise that non-household customers should be provided with information on what suppliers take into account when establishing the amount required in deposit and also how long will the supplier intends to retain the deposit for.
Proposed Decision 2
Suppliers are required to have a fair, transparent and reasonable policy to determine the amount requested from customers as deposit and refund of deposit. The policy must be available to any person who requests it in an appropriate format. To ensure accessibility, a link must be provided from the suppliers’ website to the place where this policy is stored.

Supporting reasoning
The context for and reasoning behind the CER’s Proposed Decision are as follows:

- We acknowledge the rationale supporting a request for deposit and that the deposit may vary in amount from customer to customer, depending on a number of factors such as the customer’s credit history
- Notwithstanding this, it is our view that non-household customers should be provided with information in relation to what suppliers take into account when determining the amount of money requested as deposit and also whether the deposit will be refunded

Views invited

Question
Do you have any views on the CER’s Proposed Decision outlined above? Please outline reasons for agreement or disagreement.
4.3.4 Code of Practice on Complaint Handling

Introduction
The Code of Practice on Complaints Handling sets out minimum requirements that suppliers are required to adhere to when handling complaints from non-household customers.

Key proposed decisions
The CER is minded to extend the proposed requirement outlined in the Code of Practice on Complaint Handling for household customers to non-household customers.

Proposed Decision 3
Suppliers are required to respond to the CER’s Final Decision to a complaint resolution within three weeks from the date of the Final Decision, confirming that the CER’s Final Decision has been implemented.

Supporting reasoning
- The rationale underpinning this proposal is similar to that provided in respect of the same proposal for the household customers, namely enhancing the process of monitoring suppliers’ compliance with CER’s complaints resolution decisions

Views invited

Question
Do you have any views on the CER’s Proposed Decision outlined above? Please outline reasons for agreement or disagreement.
5.0 Next Steps

The following sections (Section 5.1 and Section 5.2) provide information in relation to the proposed implementation of CER’s decisions and approaches to the future reviews of the Supplier’s Handbook.

5.1 Implementation of the CER’s decisions

Following careful consideration of responses to the Consultation Paper Review of the Supplier’s Handbook CER/16/031A, the CER has published the following documents:

1. The Decision and Further Consultation Paper Review of the Supplier’s Handbook, which outlines key decisions, together with rationale and supporting reasoning for same, and proposed requirements for further consultation (Section 4.0)

2. The revised version of the Supplier’s Handbook, which reflects the decisions and specific proposed requirements mentioned at point 1 above, together with various amendments to the content of current requirements and the overall structure of the Supplier’s Handbook

This represents the second stage of consultation in the review of the Supplier’s Handbook. As stated previously, we recommend that respondents examine both documents thoroughly before submitting final comments to the review.

The Decision Paper Review of the Supplier’s Handbook, together with the final version of the Supplier’s Handbook, are expected to be published in Q1 of 2017. The decisions associated with the proposals outlined in Section 4.0 of this paper will be reflected in the final version of the Supplier’s Handbook.
The CER’s view on how, and when, each policy decision outlined in this paper will be incorporated into the regulatory framework is outlined in Appendix D. The CER is mindful that the implementation of these decisions may impact on energy suppliers’ internal systems and policies (such as IT systems, billing systems, credit control policies, staff and representatives training policies). Furthermore, suppliers will be required to amend their Terms and Conditions of Supply, Codes of Practice and Customer Charter to ensure compliance with the revised Supplier’s Handbook.

Finalising the implementation timelines and amendments to the Codes of Practice will require the input of industry participants (licensed energy suppliers and networks companies at the minimum) so that the completion of the implementation process is consistent with delivery of other projects and work streams. The CER will engage with energy suppliers and network companies to establish timelines for the implementation of these decisions. In doing so, the CER will endeavour to provide suppliers with sufficient time and information to plan their own resources and make required changes to internal systems and processes.
5.2 Process for the review of the Supplier’s Handbook

In delivering our objectives of providing a high level of protection for energy customers, the CER is cognisant that competitive energy markets represent a rapid changing environment, with new market entrants, new business models delivered on various technology platforms and diverse marketing and advertising strategies.

In this context, it is vital that the minimum requirements that suppliers are required to adhere to in their dealings with energy customers are timely and efficiently monitored and reviewed to ensure that they are fit for purpose and reflective of current market conditions.

It is the CER’s intention to consult on the review of and update the Supplier’s Handbook on regular basis, to reflect legislative, regulatory and competition developments (such as new legislation, or requirements stemming from compliance audits or new energy products or marketing strategies). For example, we may consult only on the introduction of a new requirement or only on amendments to a specific requirement or the requirements contained in a specific Code of Practice. We consider this approach to be less daunting for the general public and less resource intensive for suppliers in terms of responding to consultations, as well as ensuring an effective and efficient update of the requirements of the Supplier’s Handbook.
Appendix A – Overview of main proposals and summary of key themes emerging from the responses to the review of the Supplier Handbook Consultation Paper

Introduction
This section provides an overview of the main proposals put forward in the consultation paper Review of the Electricity and Gas Supplier’s Handbook CER/16/031 (Section A1), together with a summary of the key themes emerging from the responses submitted by respondents. The purpose of the consultation was to seek the views of the energy industry, consumer interest groups, and members of the general public on proposed updates to the Electricity and Gas Supplier’s Handbook. The review takes account of a wide range of sources such as legislative developments, engagement with industry and the results of audits and consumer surveys.

The consultation was originally open for a period of 6 weeks. On foot of requests from some stakeholders CER extended the consultation period for an additional 4 weeks. In total, CER received 15 responses from a range of organisations. More information on the respondents are contained B.1.1.

List of Respondents
CER would like to thank all of the organisations who took the time to submit their responses to the consultation and for engaging with the CER in the weeks post-publication to clarify their submissions in more detail.

The list of respondents is outlined below:

<table>
<thead>
<tr>
<th>Category of response</th>
<th>Respondents</th>
</tr>
</thead>
<tbody>
<tr>
<td>Retail</td>
<td>Electric Ireland, BG Energy, Budget Energy, Energia, Pinergy, PrePayPower and SSE Airtricity</td>
</tr>
<tr>
<td>Consumer / Community Interest Groups</td>
<td>Age Action, COPE Galway, Energy Action, Money Advice &amp; Budgeting Service and Society of St. Vincent de Paul</td>
</tr>
<tr>
<td>Government Department</td>
<td>Department of Jobs, Enterprise and Innovation</td>
</tr>
<tr>
<td>Price Comparison / Switching Service</td>
<td>Bonkers</td>
</tr>
<tr>
<td>Business Interest Groups</td>
<td>Irish Bulk Mail Producers Association</td>
</tr>
</tbody>
</table>
Annex A1
This section provides an overview of the main proposals put forward in the consultation paper. The content of this section is categorised by the individual codes of practice so as to make it easier for readers to navigate.

The main proposals included in the consultation paper are summarised below:

**Overarching Principles**
CER sought views on the introduction of a set of overarching principles aimed at guiding the behaviour of licences energy suppliers when interacting with customers, with a general application to both domestic and business customers.

**Suppliers’ Representatives**
CER sought views on the introduction of proposed requirements aimed at strengthening the customer protection framework for customers who deal with suppliers’ representatives acting on behalf of energy suppliers.

**Suppliers’ Customer Charter**
CER invited comments on whether the current requirements of this section required updating.

**Code of Practice on Marketing & Sign-Up**
CER sought views on the introduction of new requirements in the Marketing and Sign Up Code. Policy areas were divided below into (1) Marketing and advertising and (2) Sign-up.

1. **Marketing and advertising:**
CER made proposals regarding the accessibility and presentation of information to customers. Access to good quality information which is easy to access is important for consumers to make informed decisions and be active in the market. They are grouped under the following areas:

   (i) Quality and accessibility of information provided by energy suppliers to customers
   (ii) Presentation of information on marketing and advertising
   (iii) Increasing customers’ ability to understand and compare energy offers
   (iv) Requirements related to win-back and retention activities
Further details on the points (i) to (iv) listed above are provided below:

(i) **Quality and accessibility of information provided by energy suppliers to customers**
CER sought views on 3 proposed requirements aimed at making it easier for customers to access suppliers’ tariffs and ensure a high quality standard for the information provided by energy suppliers to customers through marketing and sign up material.

(ii) **Presentation of information on marketing and advertising material**
CER sought views on the introduction of minimum requirements which suppliers and their representatives must include on marketing and advertising materials such as brochures, leaflets, websites, TV and radio ads, etc.

(iii) **Increasing customers’ ability to understand and compare energy offers**
CER sought respondents’ views on a range of options to increase customers’ ability to understand and compare these offers:
   a) Provide customers with a clear and easy to understand basis for undertaking comparisons between energy offers. CER considers the estimated average annual bill, using the estimated consumption figures, to be the most appropriate method of carrying out this comparison.
   b) Simplifying the structure of the energy tariff. This option was formed with a view to limit the number of components of the energy bill to 2: one variable (which depends on consumption) and one fixed (which does not vary with consumption).
   c) Comparison with customers’ own current energy plan. This final option requires suppliers to provide customers with a comparison based on their own current tariff when selling an energy product or offer.

(iv) **Requirements related to win-back and retention activities**
CER sought respondents’ views on the introduction of 4 proposed requirements in this area, aimed at increasing the level of protection for customers who are presented with retention and win-back offers. One of the proposals related to the number, frequency and format of suppliers’ attempts to contract customer for win-back and retention activities.

2. **Sign-Up Process**
CER proposed the introduction of a number of requirements and amendments aimed at improving the sign-up process. These are grouped under the following policy areas:
   - (i) Cooling off period
   - (ii) Doorstep checklist
   - (iii) Customer sign-up process
(iv) Improving customer participation

Further details on the points (i) to (iv) listed above are provided below:

(i) Cooling off period:
CER sought the views of respondents on whether door-to-door sales agents should leave the Cancellation Form with the customer at the time of sign-up.

(ii) Doorstep checklist:
Respondents were invited to comment on proposed changes to the doorstep checklist for both credit and prepay customers aimed at ensuring that door-to-door agents go through the key elements of the energy offer with customers before sign-up.

(iii) Customer sign-up process:
CER also sought feedback from respondents on proposed amendments to the ‘Customer Sign-Up’ section of the Supplier Handbook.

(iv) Improve customer participation:
CER proposed 4 options aimed at stimulating engagement in order to encourage participation from those customers who have disengaged in the market. The 4 options are as follows:

a) Notice before the expiry of a fixed term contract. This option is aimed at notifying customers of the fact that their tariff is due to expire. Respondents were invited to comment on what information should be contained in the notification communicated to the customer.

b) Annual prompt. This option is aimed at those customers who have been on the same tariff or a non-discounted tariff for a period of 3 or more years.

c) Availability of energy offers to existing customers. This option seeks to make all energy deals offered by a supplier available to potential customers as well as existing customers.

d) Passing on discounts associated with billing format and method of payment. This option will ensure that those customers who avail of discounts based on a payment or billing method continue to receive discounts in the event they change tariff but continue to use direct debit, e-billing, etc.
Code of Practice on Customer Billing and Disconnections

CER sought views on a variety of requirements and amendments to the Code of Practice on Customer Billing and Disconnections. They are divided into two sections (1) Billing and (2) Disconnections.

1. Billing

CER invited comments on a number of proposed changes to the Code of Practice on Billing arising from outputs of consumer surveys, audits, stakeholder engagements and market monitoring activities. These changes are grouped under the following areas:

(i) Obligations arising from the Energy Efficiency Directive
(ii) Obligations arising from CER decisions that impact on the content of the information to be included on the energy bill / energy statement
(iii) Energy and non-energy related charges
(iv) Consistency, completeness, accessibility and transparency of information presented on energy bills and energy statements

Further details on the points (i) to (iv) listed above are provided below:

(i) Obligations arising from the Energy Efficiency Directive 27/2012/EU

CER sought the views of respondents on how best to reflect the requirements of the Energy Efficiency Directive in the Supplier Handbook.

(ii) Obligations on energy suppliers arising from CER decisions that impact on the content of the information to be included on the energy bill / energy statement.

Respondents were invited to comment on a proposed requirement to present information regarding fuel mix figures and green source products to customers via the bill or other methods. This requirement reflects the section as set out in decision paper CER/15/205 Regulation of Green Source Products in the Electricity Retail Market.

(iii) Energy and non-energy related charges

Respondents were invited to comment on whether additional requirements should be introduced addressing the payment of security deposits.

In tandem, views were invited on a proposed requirement to bring all relevant charges associated with the termination of supply contract are brought to the attention of the customer at the time of sign-up.
(iv) Consistency, completeness and transparency of information presented on energy bills and energy statements
Views were invited on a proposed requirement to make all information contained in bills, statements, contracts, etc. be clear, transparent and consistent.
Views were also sought on proposed amendments to the Code regarding dual fuel accounts which addresses issues such as debt transfer and disconnections.

2. Disconnections
CER put forward a number of items for consultation pertaining to disconnection for non-payment of account.

(i) Customers’ ability to pay
CER sought views on whether minimum requirements or guidelines should be issued for suppliers to ensure that they take the customer’s ability to pay into account when agreeing debt repayment arrangements

Code of Practice on Complaint Handling
CER sought to improve the current requirement under this Code by requiring suppliers to respond to a CER decision regarding a complaint within 3 weeks.

Code of Practice on Vulnerable Customers
CER, through extensive stakeholder engagement, audits and workshops, identified a number of items in relation to vulnerable customers which it sought to address under the following policy areas:

(i) Identification of vulnerable customers at sign-up
(ii) Additional requirements for sign-up of vulnerable customers
(iii) Registration forms
(iv) Change in type of vulnerability
(v) Vulnerable customers on PAYG meters (both financial hardship and lifestyle choice)

Further details on the points (i) to (iv) listed above are provided below:

(i) Identification of vulnerable customers at sign-up
CER sought views on the introduction of a proposed requirement which requires suppliers to take specific steps to identify those eligible as vulnerable customers at the time of sign-up and provide them with all relevant information which is in accordance with all legislative and regulatory requirements.
(ii) Additional requirements for sign-up of vulnerable customers
Respondents were also invited to comment on whether additional requirements should be introduced for the sign up of vulnerable customers. If yes, what should these requirements provide for? Please outline reasons for agreement and disagreement.

(iii) Registration forms
CER sought views on the introduction of 2 proposed requirements regarding the forms currently used to sign-up customers to the Priority Services Register and the Special Services Register.

(iv) Change in the type of vulnerability
Respondents were invited to comment on whether additional requirements should be introduced to ascertain the status of vulnerable customers and ensure that they are registered on the appropriate register.

(v) Vulnerable customers on PAYG meters (both financial hardship and life style choice)
CER invited feedback on whether principles, guidelines or regulatory measures are required to ensure consistency in the criteria used by suppliers to assess suitability of PAYG meters for vulnerable customers.

Respondents were also invited to comment on whether specific regulatory measures should be introduced to ensure continuous assessment of suitability of PAYG meters for vulnerable customers (i.e. post sign up).

CER posed an additional question as to whether a proposed requirement should be introduced which requires suppliers to communicate with those vulnerable customers who don't top-up regularly and, at a minimum, provide them with information on the emergency credit facility and contact details for recognised support agencies such as MABS, Dept. of Social Protection, etc.

Code of Practice on PAYG Metering and Budget Controllers
CER have proposed the introduction of requirements which seeks to make improvements to this code under two policy areas:

(i) Potential barrier to switching

(ii) Energy statements

(i) Potential barrier to switching
Under this area CER sought views from respondents on 2 proposed requirements which seeks to remove any complexity in the switching process for PAYG customers. One proposal addresses the issue of the deactivation code which is required by lifestyle electricity PAYG customers in order to complete the switch.
(ii) **Energy statements**
Respondents were invited to comment on the introduction of a proposed requirement aimed at ensuring that PAYG customers receive billing information of the same quality and frequency as bill pay customers and in line with requirements of the Energy Efficiency Directive.

**Terms and Conditions of Supply for Household Customers**
Under the section of Supply for Household Customers, CER sought feedback on the introduction of 3 proposed requirements aimed at addressing the level of information that suppliers must include in their Terms and Conditions of Supply.
These are grouped into 3 policy areas:
(i) Deemed contracts
(ii) Customer notification
(iii) Period of notice
Further details on the points (i) to (iii) listed above are provided below:

(i) **Deemed contracts**
CER sought views on the introduction of a requirement stating suppliers must provide a separate section in their terms and conditions of supply contracts dealing with the issue of deemed contracts specifying clearly information regarding charges under a deemed contract, the rights of the customer under said contracts, etc.

(ii) **Customer notification**
CER also invited feedback on the introduction of a proposed requirement which obligates suppliers when notifying customers of changes in the Terms and Conditions of the supply contract and that the notification must be in writing, either by post or by email.

(iii) **Period of notice**
Views were invited on a proposed requirement which ensures suppliers' terms and conditions of supply don't add complexity or undue complexity to process including, but not limited to, switching suppliers, cancelling a switch during the 14 day cooling off period, refunding monies owed to a customer, etc.
A2 Summary of key themes emerging from the responses received to the consultation paper

**Overarching Principles:**

- Consumer interest groups broadly agree with the proposed introduction of overarching principles and recognise that they are intended to protect the interest of the energy consumer.
- One consumer interest group specifically recommended CER consider introducing a “slimmed down” version of the Supplier Handbook in plain English to make it more reader friendly to the general public. One consumer interest group called for a campaign focussed on improving education and awareness amongst consumers regarding energy. This campaign could be led by CER, the Energy Association of Ireland (EAI) or some other organisation.
- Suppliers questioned the rationale for introducing the principles and also raised concerns as to how they’d operate in practice.
- One supplier argued that some of the principles are already covered under existing legislation, licences, etc. and therefore could be considered superfluous and would only add further layers to the rules in currently in place.
- Consumer interest groups urged CER to ensure that the overarching principles apply to both household and non-household customers.

**Suppliers’ Representatives**

- There was a general agreement amongst suppliers regarding the proposed requirements on suppliers’ representatives. One supplier expressed reservations around the requirements regarding training for supplier reps and the potential to impose additional costs on suppliers.
- Respondents were in general agreement with the benefits of bringing the Codes of Practice to the attention of customers. However, consumer groups and suppliers expressed concern regarding mechanism of notifying customers of the CoP and the potential to clutter up the energy bill with too much information. This in turn will result in consumers disengaging from the bill as it becomes overloaded with information and difficult to understand.
- One supplier cautioned against requiring this information to be included on the bill and requested the requirement be amended to include email as an acceptable mechanism for notifying customers for environmental reasons.
1. **Marketing:**

- There was broad agreement that the information provided to customers regarding marketing and sign-up must be clear, transparent and not misleading.
- Consumer interest groups were particularly encouraged by the proposed requirement to publish all tariff information on the supplier website. DJEI stressed the need that CER broaden the requirement to include non-household tariffs also citing added complexity for SMEs getting readily accessible information with which to compare tariffs.
- Suppliers agreed in spirit with the intent of the proposed requirements on marketing and advertising. However, the application of the requirements in practice would be extremely problematic for example in TV and radio advertisements arguing that providing this level of information will be extremely problematic. For example, typical TV and radio advertisement have limited duration and CER’s requirements, if implemented, could effectively rule out some forms of advertising for suppliers.
- Some suppliers also disagreed with the requirement to notify price comparison websites (PCWs) of changes to their tariffs in a timely fashion citing concerns regarding the impartiality of PCWs. However, consumer interest groups were broadly supportive of this requirement believing it will benefit the energy consumer by having more up to date information enabling them to compare tariffs.
- Suppliers also expressed concern with the proposals to simplify the tariff structure citing the potential to stymie tariff innovation in the market.
- Suppliers were also concerned with the proposal to require tariff comparisons to be based on the consumer’s own energy plan as this would be too complex in practice.
- Suppliers varied in their responses to the requirements regarding win-back and retention requirements. Some suppliers agreed with the proposals to limit win-back and retention contacts with some arguing that suppliers be limited to 3 contacts. Two suppliers in contrast disagreed with proposed approach and urged CER not to be prescriptive in this area.

2. **Sign-Up**

- There was broad agreement with the requirements regarding the doorstep checklist and supplying customers with the cancellation form however there were some reservations regarding the length of items required in the checklist.
- Suppliers had different views regarding the measures to improve customer participation in the market. Some suppliers stated that the cohort of customers with Electric Ireland and Bord Gáis
Energy who’ve never switched need to be prioritised. One supplier argued that more flexibility should be adopted with this approach and customers should be allowed to “opt-out” of prompts.

- Consumer interest groups broadly agreed with measures to encourage more participation in the market.

**Code of Practice on Billing & Disconnections**

1. **Billing**
   - Respondents agreed with making all of the consumer’s billing and consumption information available to them in an accessible way and free of charge. However, suppliers and consumer interest groups did express concern that the bill will become too long and complicated and this, in turn, would dissuade customers from reading the information contained in the bill.
   - One supplier recommended that a similar approach be followed to the one adopted in Great Britain where an annual statement (which is not a bill) is sent to customers containing energy related information which is not a request for payment.
   - One respondent argued that customers should retain the right to receive this information via the standard paper bill.
   - Respondents broadly agreed with providing information regarding fuel mix figures and green source products available to the consumer.
   - Suppliers to a large extent weren’t in favour of the introduction of any new proposed requirements regarding security deposits. Suppliers argued that determining the level of the deposit should rest with suppliers and allows them assess on a case-by-case basis.
   - However, one respondent argued in favour of the proposed requirements citing lack of transparency in the market regarding deposits – particularly for non-household customers and welcomed CER’s measures.
   - There was broad consensus from respondents that all relevant information regarding early termination fees, etc. should be made clear to the customer at the sign-up.

2. **Disconnections**
   - Consumer interest groups were in favour of introducing measures which would ensure suppliers take the customer’s ability to pay into account when settling debt repayment arrangements in order to assist those in difficulty.
   - Suppliers were not in favour of the introduction of principles, guidelines or regulatory measures in terms of customer’s ability to pay. Suppliers considered this is best left to the supply community, given that credit control powers differ amongst suppliers.
Code of Practice on Complaint Handling

- Most respondents agreed with the requirement on suppliers to respond to the CER on a complaint resolution within 3 weeks.
- Two suppliers however argued that individual complaints can be overly complex and would caution against CER being too prescriptive on this matter.
- One supplier agreed with CER’s proposals.

Code of Practice on Vulnerable Customers

Issues for consultation were grouped under the following headings:

(i) Identification of vulnerable customers at sign-up
- Respondents agreed with the proposed requirements regarding suppliers identifying vulnerable customers at sign-up.

(ii) Additional requirements for sign-up of vulnerable customers
- However, suppliers disagreed as to how far requirements should extend in this area. One supplier stated that a number of adequate protections are already in place to protect vulnerable customers and no further action is required.

(iii) Registration forms
- Suppliers and consumer interest groups agreed with the standardisation of forms with a view to making it simpler for consumers. Some respondents disagreed with this proposal.

(iv) Change in type of vulnerability
- Suppliers in general disagreed with proposed measures to continuously assess customers’ suitability for PAYG meters. Consumer interest groups stated that they didn’t see this proposal as practical.

(v) Vulnerable customers on Pay-As-You-Go meters (both financial hardship and lifestyle choice)
- Two suppliers encouraged CER to develop guidelines regarding the criteria to be used by suppliers in assessing suitability of PAYG meters for vulnerable customers.
- Some suppliers agreed with the proposal to implement an adequate process to communicate with vulnerable customers who don’t top-up regularly. One supplier argued against the introduction of a process of communicating with those vulnerable customers who fail to top-up regularly believing it to be “ineffective, impractical and an unwelcome intrusion.”
Consumer interest groups agreed with the introduction of a process of communicating with those vulnerable customers who don’t top-up however they also advocated for consideration be given to the other measures which need to be taken in order to communicate with vulnerable customers in an increasingly complex energy market.

**Code of Practice on PAYG Meters and Budget Controllers**
- Respondents broadly agreed with providing all relevant information regarding actions / interactions to be undertaken in order to initiate or complete the switching process.
- Suppliers broadly agreed with tying the release of the deactivation code to the completion of the market message process. One supplier stressed the need for the deactivation code to be released immediately to the customer once losing supplier receives the CoS message.
- Some suppliers disagreed with the proposed requirement to align the frequency of bills / energy statement with the requirements contained in the Energy Efficiency Directive. One supplier argued that the associated costs of upgrading IT systems to cater for this requirement would be too onerous.
- One supplier requested a collaborative, industry-wide review be undertaken in order to ascertain the best course of action.

**Terms and Conditions of Supply for Household Customers**
- There was a broad consensus from respondents that suppliers should include a dedicated section regarding Deemed Contracts in their Terms and Conditions of Supply and that the information should include definition, statement of rights and obligations of customers under deemed contracts, statement outlining customer’s right to switch and all relevant charges associated with a deemed contract.
- The majority of respondents agreed that any change to terms and conditions of supply and change in tariff should be notified to the customer and that notifications must be in writing, in either letter or email format. One supplier however disagreed with the proposed amendments stating that it would impose additional costs on suppliers. Another supplier reiterated the point that its preference is for email notifications for environmental reasons.
- The majority of respondents agreed with the proposed requirement that suppliers ensure that that the terms and conditions of supply do not cause undue delays or add complexity to processes such as switching, cancelling a switch during the 14 day cooling off period, refunding of monies owed to a customer and the handling a complaint.
Appendix B – Overview of main proposals and summary of key themes emerging from the responses to the review of the Supplier Handbook Consultation Paper

Summary
Due to technical specifications of the PAYG meter, customers who opt for a lifestyle choice electricity PAYG meter require a deactivation code if they want to switch electricity suppliers. Currently, this deactivation code is generated and issued by the current supplier, typically upon verbal request addressed by the customer who wishes to switch to another electricity supplier.

Typically, suppliers become aware of a (PAYG) customer’s intention to switch to another supplier via a market message (electronic communication similar to an email) forwarded by the MRSO / GPRO as part of a suit of market messages sent during the change of supply process. Suppliers may not release the deactivation code until they manage to establish communication with the customer and present the retention/win-back offer, which may cause delays in the completion of the switching process.

It is the CER’s view that the delayed release or withholding of the deactivation code constitute a barrier to switching and may dissuade customers from completing the switch. This, in turn, has a negative impact on customers’ ability to engage with the competitive market and on their trust in energy suppliers.

To address this issue, we have decided to set out specific requirements for the release the of deactivation code in a specified and auditable timeframe and format. These requirements are outlined in the Code of Practice on Marketing and Sign Up, the Code of Practice on PAYG Metering and Budget Controllers and the Terms and Conditions of Supply.

Timing of the release of the deactivation code
The implementation of clear timelines for the release of the deactivation code is best achieved by linking the release of the deactivation code to the receipt of a specific market message sent to the losing supplier by the MRSO during the change of supply process. This will provide clarity to both customers and suppliers as to the timeframe for the release of the deactivation code and provide the CER with an accurate and verifiable base for monitoring suppliers’ compliance with relevant requirements.

The CER has engaged with suppliers extensively on this matter through workshops and industry meetings with a view to identifying the most appropriate timeframe for the release of the deactivation code. Following careful consideration of submissions from energy suppliers and the Retail Market Design Service and the pros and cons for the introduction of such a requirement, the CER has decided to implement a
measure to ensure the release of the deactivation code within a specified period of time. This measure is outlined below:

Suppliers are required to issue the deactivation code no later than 10 days of the receipt of the MM110 market message.

The CER will continue to monitor and review the outcomes of the implementation of this requirement and issue further guidelines that may be required on this matter from time to time, in consultation with the industry.
Appendix C – Regulatory Impact Assessment of Policy Proposals

Through the consultation process, the CER put forward a number of proposals in relation to two specific policy areas: improving customer participation in the market and increasing customers’ ability to understand and compare energy offers. These proposals are summarised below:

i. A proposal to provide customers with a clear and easy to understand basis for undertaking comparisons between energy offers. The CER proposed to use the Estimated Annual Bill as such basis and require suppliers to display this figure on all advertising and marketing material. The CER further proposed that the same basis is used by suppliers when claiming leading positions (for example “best electricity offer on the market”). The proposed method for the calculation of the Estimated Annual Bill is detailed in the consultation paper.

ii. A proposal to require suppliers to send customers a written notification 30 days prior to the expiry of a fixed term contract. The CER further proposed the content for such notice.

iii. A proposal to require suppliers to issue a written notification on an annual basis to those customers who have been on the same tariff or a non-discounted tariff for more than 3 years. The CER further proposed the content for such notice.

iv. A proposal to require suppliers to make energy offers available to existing customers. Under this option, all energy deals offered by suppliers will be available equally to potential customers as well as existing customers.

v. A proposal to require suppliers to pass on discounts associated with specific customer behaviour (such as paying by direct debit and receiving electronic bills) after the expiry of a fixed term contract to customers where there are no changes in behaviour.

In addition to the reasoning provided in relation to these proposals in the consultation paper, we have outlined below the potential impacts that the implementation of these proposals may have on stakeholders. The assessment of the potential impacts follows guidelines on best practice approach to regulatory assessment.

These guidelines are as follows:

1. Identify the policy issue and the objectives;
2. Ask the question: Is regulatory action required?
3. If so, identify and describe the regulatory options;
4. Determine the impacts on stakeholders (customers, energy suppliers and the CER);
5. Assess the impacts and choose the best option.

This section outlines a regulatory impact assessment for the key policy proposals listed above.
List of Proposals

<table>
<thead>
<tr>
<th>Proposals</th>
<th>Summary of proposal</th>
<th>Reasoning</th>
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</table>
| 1. Proposal Estimated Annual Bill | Proposal to provide customers with a clear and easy to understand basis for undertaking comparisons between energy offers. The CER proposed to use the Estimated Annual Bill as such basis and require suppliers to display this figure on all advertising and marketing material. The CER further proposed that the same basis is used by suppliers when claiming leading positions (for example “best electricity offer on the market”). The proposed method for the calculation of the Estimated Annual Bill is detailed in the consultation paper | ➢ The retail energy markets have evolved considerably since liberalisation. An increase in the number of energy suppliers, combined with the introduction of new business models, (such as pre-paid energy or energy supplied by providers of other utility services) and innovative tariffs and energy offers, has led to an increase in the level of competition between suppliers and a large number of competing offers. In this environment, suppliers use a wide range of advertising formats and have developed energy offers with a multitude of features, such as cash back, vouchers or loyalty points in conjunction with third parties, free services/energy efficiency devices/products, discounts off standard unit rates, fixed tariffs.  
➢ Consecutive Consumer Survey reports indicate an increase in the number of customers who have little or no understanding of energy offers between 2012 and 2016: 20% of electricity customers and 24% of gas customers (2013, similar to 2012), 24% of electricity customers (2014). This increased to 29% in 2015. Further, results from 2015 Consumer Survey indicated that 20% of customers still find it difficult / very difficult to compare offers. Results from 2016 Consumer Survey indicate this figure has remained at 20%.

Consumer Survey Report 2013  
Consumer Survey Report 2014
One of the CER’s key objectives is to ensure that as many customers as possible engage with the energy markets and benefit from competition, by saving money on their energy bills, trialling innovative energy efficiency devices or smart technology supported services, availing of free services or third parties incentives. More empowered and more active customers will incentivise energy suppliers to further develop energy offers aimed at retaining current customers and acquiring new customers.

- Engaging with the market requires at a minimum an understanding of the offers being promoted and have the knowledge necessary to select the offer that best suits their energy needs.

- In this context, and cognisant of the findings of consumer surveys, the CER considered the introduction of an easy and simple to understand indicator to simplify customers’ evaluation of competing energy offers and offer customers a tool to help them with comparing energy offers. The Estimated Annual Bill was proposed as such an indicator.

- The CER considers the role of the Estimated Annual Bill to be two-fold: a beneficial aid for customer choice and a consistent basis for suppliers to base their claims for leading positions.

- The introduction of the requirement to display the Estimated Annual Bill on all marketing and advertising material is also supported by recent consumer surveys.
experiments conducted by the ESRI’s PriceLab research program. The experiments were designed to assess the impact of the estimated annual bill on consumers’ choices, their understanding of electricity pricing and the accuracy of their decision-making. In previous research conducted by the ESRI, it has been shown that customers struggle to make consistent choices when products have multiple attributes and that consumers are less likely to choose the cheapest electricity package when it is expressed as a discount off the standard unit rate relative to the actual per unit rate. The purpose of the studies carried out by the ESRI was to investigate how an estimated annual bill affects consumers’ choices and decision-making as they are currently marketed.

In summary, the results of the experiments indicated that the introduction of the Estimated Annual Bill “is likely to make it easier for consumers to choose cheaper electricity packages from among available offerings” and that that “it is likely to be beneficial for consumers’ decision-making”.

We are cognisant of the caveats highlighted by the findings in relation to the impact of displaying cash back offers on customer choice and have proposed options for further consultation to address this. Furthermore, we ill continue to monitor the market after the introduction of this measure and evaluate the outcomes of this measure.

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21 *Price Transparency in Residential Electricity*, ESRI PriceLab, 2016
### 2. Proposal

<table>
<thead>
<tr>
<th>30 Days’ Notice prior to the expiry of a fixed term contract</th>
<th>A proposal to require suppliers to send customers a written notification 30 days prior to the expiry of a fixed term contract (the 30 Days Notice). The CER further proposed the content for such notice.</th>
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</table>

- Taking into account that most fixed term contracts have a duration of at least 12 months, it is safe to say that customers may not remember the expiry date of these contracts and may benefit from a reminder from their current supplier that their current energy deal is approaching the expiry date (e.g., 30 to 45 days) in advance of expiry, as this may prompt them to re-engage with the energy market to seek a new competitive energy offer.

- Under current requirements (10.2.1 (f)) of the Supplier’s Handbook, suppliers are required to make arrangements for the expiry of fixed term contracts in their Terms and Conditions of Supply. Typically, these arrangements consist of customers being “rolled over” on a standard unit rate, which generally is higher than the discounted unit rate that the customer received for the fixed term contract. To customers who do not engage with their current supplier (or another supplier) for a more competitive offer, this ultimately results in having to pay more for their energy needs.

- Evidence from consumer surveys highlight that a majority of customers ‘roll-over’ on to new contracts with their current supplier at the expiry of a fixed term contract. In 2015, the Consumer Survey indicated that 58% for electricity and 47% for gas roll-over to higher tariffs contracts\(^\text{22}\). 2016

\(^{22}\text{Consumer Survey Report 2015.}\)
results show higher rates of roll-over (60% for electricity and 57% for gas).^{23}

- In 2015, 86% of electricity customers that had switched supplier in the last 12 months defaulted to a standard tariff, when their initial discount period ended. This amounted to 11.69% of all electricity customers. 12.89% of all gas customers defaulted to standard tariffs.^{24}

- Findings from Consumer Survey 2016 indicate that 51% of consumers would be interested in receiving an expiration reminder and this therefore may prompt and encourage them to seek a better deal.

- The introduction of this notice will remind customers of the expiration of their current fixed term contract and may prompt customers to engage with their current supplier or an alternative supplier to find a more competitive offer.

- The introduction of this requirement may incentives suppliers to develop competitive offers in order to retain customers, or entice customers to switch.

- In general, if customers have more confidence that they are making the right choice, they are more likely to engage with the market and select a competitive offer rather than remaining on or defaulting on a higher standard rate.

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^{23} Consumer Survey Report 2016
^{24} Q1 2016 Electricity and Gas Retail Market Monitoring Report
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<tr>
<th>3. Proposal</th>
<th>Annual Prompt</th>
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<tbody>
<tr>
<td>A proposal to obligate suppliers to issue a written notification on an annual basis to prompt those customers who have been on the same tariff or a non-discounted tariff for more than 3 years (the annual prompt). The CER further proposed the content for such notice.</td>
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</table>

- The introduction of an annual prompt is designed to target a specific cohort of consumers who have little to no engagement with the energy market. The CER is cognisant of the fact that a lack of engagement in the market from a cohort of consumers will likely mean that those customers miss out on the benefits of competition and may end up paying more if they remain on a higher rate tariff.

- In 2015, the Consumer Survey highlighted that approx. 50% of domestic customers were not aware of alternative energy offers on the market. The Consumer Survey 2016 results indicate that one third of energy customers are not aware of energy offers.

- Recent figures from the Consumer Survey 2016 indicate that 58% of electricity and 53% of gas customers have never switched.

- Results from the Consumer Survey 2016 indicate that just over one third of respondents, in both electricity and gas domestic markets, are not aware of alternative offers available.

- Similar to the expected outcome for the 30 days notice, the main objective for the annual prompt is two-fold: motivate customers to engage with the market to find a better energy offer and motivate suppliers to develop competitive offers that are made available to existing customers.

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25 The Consumer Survey Report 2016 will be published in Q4 2016
### 4. Proposal

**Availability of energy offers to existing customers**

A proposal to require suppliers to make energy offers available to its existing customers

In commenting on the proposed introduction of this measure, the CER asked respondents to consider the following:

- The impact of such an option on the development of competition in deregulated energy markets and whether the imposition of such requirement may remove the incentive for customers to exercise choice and curtail the need among suppliers to offer better value for money.
- The sufficiency of the combined measures implemented by the CER through customer protection initiatives and market monitoring aimed at protecting customers who do not engage with the market.

### 5. Proposal

**Passing on discounts associated with specific customer behaviour**

A proposal to require suppliers to continue to pass on discounts associated with specific customer behaviours (such as payment by direct debit and e-billing) after the expiry of a fixed term contract, where the customer continues to pay by direct debit and receive e-billing.

In providing views on this option, the CER asked respondents to take into account the following consideration:

- The tariff structure and level and format of discounts vary amongst suppliers, where some suppliers allocate distinct discounts for the method of payment and billing format (i.e. x% off the standard unit rate for direct debit and y% off the standard unit rate for e-billing) and others allocate a once-off discount off the standard unit rate.
- One of the requirements of the Third Package (Directives 72/2009/EC and 73/2009/EC) obligates suppliers to offer "a wide choice of payment methods, which do not unduly..."
Discriminate between customers and “any difference in terms and conditions shall reflect the costs to the supplier of the different payment systems”

1. Identify the policy issues and CER objectives:

    Through extensive analysis of energy consumer experience and behaviours and suppliers’ practices via market monitoring, consumer surveys and annual audits, the CER has identified a number of issues which need to be addressed. These are briefly summarised below:

    - Low level of customer participation in the market (indicated by a large number of customer who never switched or only switched once, the number of customers who default on a standard unit rate tariff upon the expiry of a fixed term contract, the level of awareness of alternative energy offers)
    - The ability of the customer to understand and compare energy offers
    - A considerable percentage of customers are not aware of energy offers

    In deregulated markets, competition has the potential to deliver real benefits to customers by driving further tariff and service innovation. To benefit from such, customers must engage with the competitive market. Engaged customers are an essential component of well-functioning retail markets. The CER acknowledges the challenge of finding the right mix of regulatory measures which prompt customers to engage with the market, creates the appropriate environment for suppliers to innovate and develop competitive energy offers and also affords protection to customers who do not engage with the market.

    The CER has a statutory obligation to ensure a high level of service provided to energy customer by licensed energy suppliers and deliver a customer protection framework reflective of market conditions. Furthermore, S.I. 630 of 2011 stipulates that the CER has the power to take any actions it has determined to be necessary in order “to ensure that final customers are benefiting from competition in the supply of electricity and gas”.26

    Within these obligations we need to ensure that:

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26 Regulation 40 of S.I. No 630 of 2011
- energy customers are provided with clear and easy to understand tools to compare offers and thus encourage more active engagement in the market
- customers are actively incentivised to engage with the energy market for competitive energy offers through specific communication from suppliers
- customers with low or no engagement with the market are properly communicated with to ensure that they benefit from competition

These objectives align with the CER’s strategic goals as outlined in CER Strategic Plan 2014-2018\(^{27}\).

2. **Ask the question: is regulatory action required?**

Having outlined the policy issues and their objectives, the question must be asked: is regulatory action required? Alternatively, if the CER took no direct action, could we envisage the aforementioned issues being rectified by the market?

Energy markets have been fully de-regulated since 2014, which resulted in customers realising a number of benefits from competition including more choice of energy suppliers, new market entrants, diversified of business models (such as pre-paid energy or suppliers who also offer other utility services), increased variety of energy offers (such as cash back, free services or products, loyalty points with third parties).

Notwithstanding the above, market monitoring activities and consumer survey reports indicate specific aspects of the energy markets where further regulatory measures may be required to ensure that the benefits of competition are shared in by as many energy customers as possible – a considerable number of energy customers have low or no engagement with the market, some customers experience difficulties with understanding and comparing energy offers as well as not being aware of energy offers.

Following careful consideration of consumer survey and market monitoring reports, the CER considers that it is prudent and timely to introduce measures to address these issues, given that competition levels and the number of market participants are expected to increase.

3. **Identify and describe regulatory options**

We have assessed a number of regulatory options to ascertain the mix of measures that would most likely achieve our objectives. These options are briefly

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\(^{27}\) CER Strategic Plan 2014-2018
outlined below:

(i) No action (Status Quo) - no changes to the current obligations on suppliers

(ii) Regulatory action through the introduction of a package of measures in the context of the Review of the Electricity and Gas Supplier’s Handbook. The measures considered are described above and listed below for ease of reference. The impact on stakeholders takes into account the introduction of all three measures.

1. Estimated Annual Bill
2. Notice of Expiry of a Fixed-Term Contract
3. Annual Prompt
4. Making new offers available to existing customers
5. Continuation of discounts after the expiry of a fixed term contract where there are no changes in specific customer behaviour associated with the discount (such as payment method or billing format)
### 4. Determine the Impacts on Stakeholders

#### ESTIMATED ANNUAL BILL

<table>
<thead>
<tr>
<th>Status Quo (no regulatory measures are introduced)</th>
<th>Regulatory Action</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Customers:</strong></td>
<td></td>
</tr>
<tr>
<td>➢ Marketing and advertising directed to consumers will continue on the premise of ‘discounts,’ ‘percentage offers,’ etc. which, evidence demonstrates, consumers struggle to understand and compare</td>
<td>➢ Customers will now have the option of comparing energy offers using a single, easy to understand figure, the estimated annual bill</td>
</tr>
<tr>
<td>➢ A considerable number of customers will continue to have little or no understanding of energy offers. In turns this may lead to negative outcomes, such as customers being unable to select the most competitive energy offer or an increase in the number of customers who do not engage with the energy markets</td>
<td>➢ Exposure to this figure may lead to customers gaining further knowledge of estimated annual energy expenditure</td>
</tr>
<tr>
<td>➢ Customers will not have at their disposal a consistent basis for comparing energy offers and continue to rely on suppliers’ advertisement content to take a decision as to the best offer to suit their energy needs</td>
<td>➢ A number of customers could potentially reduce their energy bills by selecting the most competitive offer for their energy needs, if they can achieve a greater understanding of and are empowered to compare energy offers</td>
</tr>
<tr>
<td>➢ More than one supplier may continue to claim leading positions (such as best energy offer on the market, unbeatable dual fuel offer) which may prove confusing to customers</td>
<td>➢ In time, customers may become accustomed to using or seeking this figure to aid them in selecting the energy offer that best suits their needs</td>
</tr>
<tr>
<td><strong>Suppliers:</strong></td>
<td></td>
</tr>
<tr>
<td>➢ Suppliers will be obligated to include the estimated annual bill on all marketing and advertising material. Suppliers may, as a result, have to change advertising and marketing formats and pricing strategies to take account of the estimated annual bill</td>
<td>➢ Suppliers will be incentivised to design more competitive offers</td>
</tr>
</tbody>
</table>
### Suppliers:

- Suppliers will continue to market to customers using a wide range of advertising formats e.g. loyalty scheme benefits, percentage reductions, unit price discounts for fixed-term contracts, etc.
- There may be more than one supplier claiming a leading position and this may be in the detriment of the supplier who would, in fact, be correct in claiming the leading position should a consistent basis for such be introduced.
- The prompt will remind customers of the fact that they’ve been on the same tariff for 3 or more years.
- Similar to the 30 Days’ Notice, the Annual Prompt will incentivise suppliers to design competitive offers to retain loyal customers.

<table>
<thead>
<tr>
<th>Suppliers:</th>
<th>aimed at retaining current customers and also drive down the estimated annual bill</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Suppliers will now be obligated to prompt those customers who’ve been on the same tariff or a non-discounted tariff for 3 or more years.</td>
</tr>
<tr>
<td></td>
<td>The prompt will remind customers of the fact that they’ve been on the same tariff for 3 or more years.</td>
</tr>
<tr>
<td></td>
<td>Similar to the 30 Days’ Notice, the Annual Prompt will incentivise suppliers to design competitive offers to retain loyal customers.</td>
</tr>
</tbody>
</table>
The CER will continue to monitor the market and conduct consumer survey to measure the customer experience and attitudes in the retail and SME markets.

The CER will continue to discharge its statutory obligations to protect consumers and promote active participation in the market through the tools at its disposal.

The CER is committed to further developing consumer communications to advise and inform consumers on the benefits of active engagement with suppliers in energy market place in terms of delivering value to customers and bringing competitive pressure on supplier prices and offers. To support this, the CER will deliver a consumer focused communications campaign in 2017 targeted at encouraging greater engagement by consumers with the retail market, focusing on switching levels, supplier engagement, price comparisons and consumer information. It is intended that this campaign will include the delivery of specialised marketing materials, public relations activity and a digital marketing strategy. The theme and concept for this campaign will be developed over the coming months.

The CER will not have a consistent basis to assess claims of leading positions which may pose difficulties in assessing and
4. Determine the Impacts on Stakeholders (continued)

### 30 DAYS NOTICE

<table>
<thead>
<tr>
<th>Status Quo (no regulatory measures are introduced)</th>
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</tr>
</thead>
<tbody>
<tr>
<td><strong>Customers</strong></td>
<td><strong>Customers</strong></td>
</tr>
<tr>
<td>➢ A considerable number of energy customers will continue to be rolled-over onto more expensive tariffs once the initial 12 month fixed-term contract expires and therefore potentially pay more for the energy used</td>
<td>➢ Consumers will now have advance notice (30 days), via an additional written communication, of when their fixed-term contract is due to expire, together with information on other energy offers available to them and options to reduce their energy bill. This may motivate customers to shop around for a better deal before rolling over on a higher unit rate</td>
</tr>
<tr>
<td>➢ This group of customers may miss the opportunity to engage with the market timely in order to benefit from competitive offers</td>
<td>➢ This may lead to a higher number of customers engaging with their current supplier, or another energy supplier</td>
</tr>
<tr>
<td><strong>Suppliers</strong></td>
<td><strong>Suppliers</strong></td>
</tr>
<tr>
<td>➢ Suppliers will be less incentivised to develop competitive energy offers to retain or acquire customers compared with the options where customers receive the 30 days’ notice and the annual prompt CER</td>
<td>➢ Suppliers will be more incentivised to develop competitive energy offers to retain customers whose fixed term contracts have expired</td>
</tr>
<tr>
<td><strong>CER</strong></td>
<td><strong>CER</strong></td>
</tr>
<tr>
<td>➢ Same as above</td>
<td>➢ Same as above and</td>
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## 4. Determine the Impacts on Stakeholders (continued)

### ANNUAL PROMPT

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<tr>
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</thead>
<tbody>
<tr>
<td><strong>Customers</strong></td>
<td><strong>Customers</strong></td>
</tr>
<tr>
<td>➢ A large segment of energy customers will continue to remain unengaged with the market and miss out on the benefits of competition</td>
<td>➢ A large number of customers will receive a written notification, separate from the energy bill, clearly stating that they have been on the same energy tariff for over 3 years, together with information on other energy offers available to them and options to reduce their energy bill</td>
</tr>
<tr>
<td>➢ A number of customers will continue to remain unaware of energy offers available from suppliers</td>
<td>➢ A larger portion of energy consumers could potentially reduce their energy bills by availing of offers and discounts with the current supplier or another energy supplier</td>
</tr>
<tr>
<td>➢ This category of customers may end up paying more for their energy needs than if they were prompted to engage with their current supplier, or another energy supplier</td>
<td>➢ It is possible that this may spark engagement from customers with little or no engagement with the energy markets</td>
</tr>
<tr>
<td><strong>Suppliers</strong></td>
<td><strong>Suppliers</strong></td>
</tr>
<tr>
<td>➢ Suppliers to this category of customers will be less incentivised to</td>
<td>➢ It will increase motivation amongst suppliers to develop competitive offers aimed at retaining their most loyal customers</td>
</tr>
<tr>
<td>Some suppliers will continue to retain a large cohort of disengaged customers</td>
<td><strong>CER</strong></td>
</tr>
<tr>
<td>➢ Same as above</td>
<td>➢ Same as above</td>
</tr>
<tr>
<td><strong>CER</strong></td>
<td></td>
</tr>
<tr>
<td>➢ Same as above</td>
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</tbody>
</table>
4. Determine the Impacts on Stakeholders (continued)

<table>
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<tr>
<th>NEW ENERGY OFFERS AVAILABLE TO EXISTING CUSTOMERS</th>
</tr>
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<tbody>
<tr>
<td><strong>Status Quo (no regulatory measures are introduced)</strong></td>
</tr>
<tr>
<td><strong>Customers</strong></td>
</tr>
<tr>
<td>➢ Existing customers of some suppliers may not avail of the same energy offers that are made to prospective customers</td>
</tr>
<tr>
<td>➢ Existing customers may have to switch to another energy supplier to avail of competitive offers</td>
</tr>
<tr>
<td><strong>Suppliers</strong></td>
</tr>
<tr>
<td>➢ Suppliers are not obligated to make new offers available to current customers</td>
</tr>
<tr>
<td>➢ Suppliers may choose to do so in order to retain existing customers who have expressed an interest in switching to another supplier</td>
</tr>
<tr>
<td>➢ Some suppliers have already adopted this strategy</td>
</tr>
<tr>
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</tbody>
</table>
### 4. Determine the Impacts on Stakeholders (continued)

#### CONTINUATION OF DISCOUNTS ASSOCIATED WITH SPECIFIC CUSTOMER BEHAVIOUR UPON THE EXPIRY OF A FIXED TERM CONTRACT

<table>
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</thead>
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<tr>
<td><strong>Customers</strong></td>
<td><strong>Customers</strong></td>
</tr>
</tbody>
</table>
| ➢ Currently, the tariff structure and level and format of discounts vary amongst suppliers, where some suppliers allocate distinct discounts for the method of payment and billing format (i.e. $x\%$ off the standard unit rate for direct debit and $y\%$ off the standard unit rate for e-billing) and others allocate a once-off discount off the standard unit rate. | ➢ All customers who continue to display a specific behaviour (such as paying by direct debit and receiving electronic bills) after the expiry of a fixed term contract will continue to receive discounts associated with these actions.  
➢ The interest in switching may reduce where customers are satisfied with their current supplier’s available energy offers and continuation of discounts.  
➢ The number of customers interested in switching may reduce as the discounts promoted in new energy offers may not be as appealing. |
| ➢ Depending on the supplier’s pricing strategy, some customers may continue to receive these discounts after the expiry of the fixed term contract where there are no changes in the method of payment or billing format. On the other hand, the customers of suppliers who have not adopted this strategy will not benefit of these discounts albeit their behaviour will not have changes after the expiry of the fixed term contract. |                                  |
### Suppliers
- Suppliers are not obligated to continue to pass on discounts associated with specific customer behaviour (for example paying by direct debit and receiving electronic bills) upon the expiry of a fixed term contract where the customer continues to pay by direct debit and receive electronic bills.
- Suppliers may choose to do so in order to retain customers whose fixed term contracts have expired and who have expressed an interest in switching to another supplier.
- Some suppliers have already adopted this strategy.

### Suppliers
- Suppliers may decrease the level of discounts promoted in energy offers to counterbalance the fact that they may have to continue to give these discounts to existing customers who do not alter their behaviour for a period exceeding 12 months.
- Suppliers will be required to continue to pass on discounts associated with specific customer behaviour (for example paying by direct debit and receiving electronic bills) upon the expiry of a fixed term contract where the customer continues to pay by direct debit and receive electronic bills.
- Suppliers may reduce the level of discounts available to new customers to counterbalance the effect of having to pass on discounts to a specific number of customers for an unknown period of time (for as long as the customer continues to pay by direct debit and receive electronic bills).
- Suppliers may change their pricing strategies to take into account this obligation together with the obligation described above (i.e. making new offers available to existing customers).
- The number of customers interested in switching may reduce as the discounts promoted in new energy offers may not be as appealing.

---

**CER**
- As above.

**CER**
- As above.
5. Assess the impacts and choose the best option

The CER considers the best option to further promote competition and enhance customer choice is to introduce a package of measures including the estimated annual bill, the 30 days’ notice and the annual prompt as part of the current Review of the Electricity and Gas Supplier’s Handbook. Based on the findings of the Consumer Surveys and the results of the experiments conducted at our request by the ESRI, it is our view that this package of measures has the potential to result in an increase in the level of customer engagement with the energy markets and customers’ ability to understand and compare offers, ultimately resulting in an incremental benefit for the energy consumer. More broadly, the introduction of these measures should enhance the customer experience and protection while also promoting more competition and choice in the market. It is our view that the introduction of these measures will serve to encourage the energy consumer to shop around for better offers and potentially encourage suppliers to develop competitive energy offer to retain current customers or acquire new customers.

As regards the other two measures (i.e. making new offers available to existing customers and passing on discounts associated with specific customer behaviour after the expiry of a fixed term contract) – we have evidence that some suppliers already make these choices available to their current customers. While acknowledging that tariffs’ structure and availability of energy offers are commercial decisions for energy suppliers, we expect these choices to be made available to all customers, as outcomes of increasing levels of competition, enhanced by the introduction of the three measures outlined above.

In conclusion, the CER’s decision is not to introduce prescriptive regulation at this time requesting suppliers to make new offers available to new customers and continue to pass on discounts associated with the method of payment and billing format after the expiration of a fixed term contract at this time. We will continue to monitor the market with a view to ascertaining whether competitive pressure has determined suppliers to reconsider strategies for current customers vis-à-vis new offers and continuation of discounts. Where the CER has evidence to show that the benefits of competition have not reached an increased number of energy customers after the introduction of the aforementioned 3 measures, we will conduct a new review of market conditions and consult on the introduction of further measures aimed at increasing the level of competition amongst energy suppliers.
### Appendix D – Proposed timelines for implementation on decisions

<table>
<thead>
<tr>
<th>DECISION</th>
<th>PROPOSED IMPLEMENTATION TIMELINES (the implementation to be completed by the timeline stated in this column)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>From the publication of the Final Decision Paper and final version of the SHB Q1 2017</td>
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<tr>
<td>13</td>
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<td>14</td>
<td>n/a (decision not to introduce a proposed requirement / principle)</td>
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<tr>
<td>15</td>
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<tr>
<td>16</td>
<td>Q3 2017</td>
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<td>60</td>
<td>Q3 2014</td>
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<tr>
<td>61</td>
<td>In line with the requirements of SI 603 of 2015</td>
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<tr>
<td>62</td>
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