



REVIEW OF THE ELECTRICITY AND GAS SUPPLIERS HANDBOOK
DECISION AND FURTHER CONSULTATION

SSE AIRTRICITY RESPONSE TO

THE COMMISSION FOR ENERGY REGULATION

2016

INTRODUCTION

SSE Airtricity welcomes the opportunity to comment on the CER's paper on the Review of the Electricity and Gas Supplier Handbook Decision and Further Consultation.

SSE Airtricity is the largest independent supplier operating in Ireland with over 800,000 customers served across both electricity and natural gas markets. SSE Airtricity is committed to the development of competition in energy markets in Ireland and to presenting its customers with choice and quality customer services. The energy market in Ireland has evolved greatly over the past five years and this is an ideal opportunity to review all regulatory requirements. In this respect SSE Airtricity is fully committed to assessing our obligations and believes that any changes to the current requirements need to be effective, proportional, necessary and consistent. In addition we believe the review needs to ensure the development of competition and customer protection, adopt a holistic approach and take into account future pending regulatory projects.

We have reviewed the CERs decisions and proposals and have provided comments in this response. We have provided detail on the following:

1. Detailed responses to the consultation questions
2. Other key comments of note on the process and on the revised version of the Supplier Handbook. We have also provided additional comments on the revised Handbook in the document attached to this submission. There were a significant number of changes outside of those consulted on and we did not have the scope to set out all our comments here.
3. Implementation questions on the decisions
4. Other opportunities for improvement

Similar to our original consultation response, we have raised important questions on the proposals and also around the implementation practicalities for the decisions. While the questions raised in our original response were not addressed, we need to have responses to all questions to ensure that we implement these decisions and proposals efficiently and compliantly.

Our detailed responses to the questions are set out in the sections below, but we have some concerns we would like to raise here.

We appreciate the magnitude of the review that the CER is undertaking, both in terms of size and importance; however we do not believe that the consultation process that has been undertaken is adequate given the extent of the changes. Some of the decisions made in this paper will have significant implications for the development of competition in the market. While this is the case, the CER has neither consulted twice on these as promised to suppliers nor has it responded to some of the key concerns raised in our original response. We do not believe that the process that has been undertaken conforms to the six principles of good regulation.

The CER has made a decision on the majority of the proposals yet industry had been informed that there would be a second consultation. While we support the progression of certain decisions (e.g. in the area of PPM where engagement with industry has been ongoing for a number of years), we do not understand how the CER has come to a decision on some of the more significant proposals, especially when a review of the responses shows mixed views associated with such proposals (e.g. annual prompt). Given the lack of response from the CER to our concerns raised, we do not consider that some of the key issues raised have been addressed or even fully understood by the CER.

This is not just limited to the more significant changes but we also do not see any of our critical questions being addressed in other areas (e.g. do the requirements for third party representatives cover exclusive contracts only). These are important questions which will assist suppliers in understanding how exactly they can ensure full compliance with the decisions made and also for suppliers to respond accurately on the proposed timelines for implementation. Given the lack of response on certain valid questions, we do not see how the good regulation principles of proportionality and transparency have been achieved here. In this paper we have outlined questions related to the decisions and the consultation questions and we hope that further clarity is provided.

We are also seriously concerned that the CER has made decisions in a number of areas **without** consulting with industry (e.g. rates to be presented inclusive of VAT on marketing and bills). We have identified a number of changes in the document attached to this submission. The revised Supplier Handbook in its current form also does not align with the six principles of

good regulation (necessity, effectiveness, proportionality, transparency, accountability, and consistency). In fact we do not believe any of these principles was adhered to in the development of these modifications. These changes were included in the revised Supplier Handbook but there was no mention of these in the original consultation or in this decision. We cannot understand how the CER can make such fundamental decisions without any consultation with suppliers who have real experience of dealing with customers and have insight on how the changes impact on customers and their business.

SSE Airtricity is also concerned that some of the decisions and proposals do not have clear research or evidence to support them. Lack of evidence based research on the part of Ofgem was identified by the CMA in its recent investigation as an area of concern where new measures implemented had negative impacts on competition in the market. SSE Airtricity believes it is essential that all regulatory proposals are fully researched and *tested* with customers prior to becoming requirements. This will ensure no wasted costs and no customer detriment.

In terms of implementation, we believe that further consultation with industry is necessary. Some of the changes are quite significant and will require a change to our systems and/or processes. We will need a bit of time to fully evaluate what is required to meet the requirements of the decisions and of each of the other changes that we have identified in the draft revised Supplier Handbook. At a high level we can confirm that the majority of timeframes proposed in the Decision are unrealistic, but we would welcome further discussion after the CER has responded to our questions for clarification related to the new requirements.

Finally we would note that there will be significant changes in the retail market in the next few years that will require further reviews of the Supplier Handbook. We believe that the CER needs to ensure that it is cognisant of any future changes associated with developments such as Smart Metering and the European Commission's Winter Package to ensure that there is no conflict or unnecessary costs imposed on customers.

Our detailed comments on the proposals and decision implementation are below.

SPECIFIC COMMENTS

Comments on CER's Proposals

The CER's paper included a number of areas for further consultation. Some of the questions in the paper related to the detail associated with decisions that have been made. While we did not receive responses from the CER on some of our critical concerns raised in our original response related to these questions, we have tried to limit our comments to the specific consultation questions.

We have responded to each question below, but we would note that these responses should be read in conjunction to our comments on some of the associated decisions, as relevant (see Decisions section).

Proposals for Domestic Customers

Question 1 -Estimated Annual Bill (EAB)

SSE Airtricity does not agree with Option 1. We are not clear what exactly would be included or not included under options 2 or 3 so would request a bit of clarity on this. Notwithstanding this, option 3 appears to address the CERs rationale for the requirement to display the EAB. If our understanding is correct, this would mean that any material issued by a supplier which contain references to percentage discounts or savings, and /or claim leading positions would be required to include the EAB.

Question 2 – EAB: TV /Radio

We do not believe the EAB figure should appear on TV and Radio marketing. The inclusion of this figure in these types of advertisements would create implementation issues and increase costs associated with marketing in these formats. Suppliers generally have space or character restrictions associated with various forms of advertising. It would be difficult to include an EAB figure in these forms of adverts along with all associated substantiation. We already have CER and advertising standards requirements around marketing that we must meet. Therefore we suggest that the EAB should not be a requirement for TV or radio advertisements but that suppliers should include a reference to the fact that terms and conditions apply.

Question 3 – EAB: Method of Calculation

The proposal suggests that cash back/cash refund would only be included in the EAB estimate where the customer does not have to take any opt-in action. We disagree with this part of the proposed calculation methodology. If an offer has an associated cashback, regardless of the method a customer has to take to 'avail' of it, this should be included. Suppliers have different methods for applying the cashback but ultimately the customer is entitled to the cashback and can claim it. It would be unfair to suggest that the average bill for a tariff with a cashback is a value that excludes the cashback amount just because the customer may have to undertake a quick action. We argue that this is misleading for customers and could create a lot of confusion, particularly because suppliers will be forced to explain this requirement to customers when they request information on the differences. If a customer has to take an action (even if it is just to contact the supplier) they can still avail of the cashback. All customers who sign up to such contracts are fully entitled to receive the cashback regardless of the way it is ultimately applied. We do not see why the CER would exclude this from the calculation. In the interests of customer clarity, transparency and consistency, all forms of cashback should either be included in the EAB calculation or not included at all.

Question 4 – EAB: Category of Customer

We agree with the CERs proposal that the calculation method should be based on urban 24hr unless the offer is only available to a specific category of customer. We suggest that this is included in the guidance for the calculation when being transposed into the Supplier Handbook itself.

However we would request clarity around the annual consumption figures and whether the CER wants suppliers to use separate figures for each category of customer where applicable. So for example, if a supplier has a targeted offer for rural 24hr customers, would the EAB be based on the average consumption for this category. We would not agree with this approach given the potential implementation issues we would face and so we consider that the current status continues where overall average CER consumption figures are used across all customer types.

Question 5 – EAB: Display of EAB

SSE Airtricity is surprised by the proposals of the CER in this area. The CER has for a number of years stated that competition is working in the market and has never publically identified an issue with the current advertising of suppliers. We are confused as to why the CER has deemed these proposals as necessary in the market. We strongly disagree with the CERs proposals around the display of the EAB. The format and presentation of supplier's advertisements and marketing material can be a source of competitive advantage. Marketing is a key feature of a competitive energy market and suppliers invest heavily in advertising campaigns. The introduction of requirements around the placing of certain information, font sizes and the inclusion of specific required text in collateral will create significant costs for suppliers which will be ultimately passed onto customer and will negatively impact on the level of creativity and innovation related to marketing. We would also note that it appears that the CER has developed all proposals around the EAB solely based on the results of ESRI research. It also looks like that this research was based on a small sample of 40 participants. We would expect significant changes such as this to be based on more statistically robust evidence.

A supplier may choose to focus on specific elements of an offer in a particular campaign. The CER is in effect suggesting that the EAB becomes the main focal point of advertising campaigns. If we include this in the main body of the material then this becomes the main point rather than anything else (e.g. any innovative features that the offer is developed around). We fundamentally disagree with the CERs proposal that the EAB is in the 'main body' of the material. We believe that suppliers should be compliant if we include the EAB figure, regardless of where it appears on marketing material.

We also disagree with a requirement around the font size. This again restricts innovation, creativity and we do not see how the CER can justify imposing such a requirement on suppliers in a competitive market. We would request information from the CER in relation to the basis for this proposal and would like to see evidence of similar requirements in other jurisdictions before the CER makes a decision on this. We would note that we already have requirements around Universal Design which should be sufficient in ensuring accessibility.

While we understand the rationale for the inclusion of a specific definition for EAB, we argue that suppliers should have discretion about how they phrase this information. On our sales material we already include a lot of information and substantiation about the details of an offer. Additionally as discussed earlier, for certain types of marketing material we may have restrictions around the number of characters and space. Suppliers should have discretion about how they include this information.

In relation to the proposed text on cashbacks, we reiterate our point above. We would also point to our response about the exclusion of certain cashbacks from the calculation. If this were to proceed, certain material will include this statement but others won't which will create confusion for customers. All forms of cashback should be included in the EAB calculation or none at all. If a customer has to take action to 'opt in' then this action should be identified in the terms and conditions associated with the cashback/credit and pointed out in the advertising material. This would meet advertising standards and create consistency across the market.

Question 6 – Content of 30 Days' Notice

The CER is proposing specific content to be included on the 30 days' notice. We have identified a number of points below, but we would like to raise concerns about the proposed detail and the associated cost. The cost to introduce a new automated letter can be significant. This letter will require a high level of associated system intelligence to pull information from various sources and to detect the customer type will only add to already significant costs, which will ultimately be passed on to customers. We have outlined these points in further detail below and we believe the CER needs to reconsider the purpose of this communication.

Our key points are as follows:

- *Unclear function of the notice*
SSE Airtricity believes that the function of the notice is to provide customers with information that their contract is due to end and their tariff will change. These customers already know that they can engage with the market and have already recently engaged with it. The intent of the notice should be to provide information and it should not put undue pressure on customers to make an immediate decision.

The CER has stated that the function of this letter is twofold: to notify customers that they may be charged a higher price for energy and to encourage customers to engage with the market. The CER regularly raises concerns about the lack of customer engagement. Yet the CER is well aware of the source of this issue (i.e. where the disengaged customers are) so should consider targeted measures to increase the level of engagement of customers of Electric Ireland and Bord Gáis Energy. We do not understand why the CER has consistently avoided addressing issues with the incumbents' existing customer base, and does not admit that something needs to be done to help the customers who have never switched. We are not clear what 'engagement' issue this notice is proposed to resolve given that this will be sent to customers already engaged with the market. This proposal in its current format will require major changes to suppliers billing systems, the cost of which will ultimately be borne by customers.

We do believe that there is an engagement issue in the market and a large number of customers have never switched. However we do not agree that a letter sent at the end of the end of a customer's contract will increase engagement. All customers with independent suppliers have engaged with the market so the CER should focus on the incumbent base first. We believe in order to address the issue; the CER needs to address customers who have never switched rather than encouraging already engaging customers to switch back to the incumbents. We suggest that the CER focuses on more impactful or targeted measures to increase customer engagement. If a targeted letter campaign to those who have never engaged is not going to be introduced, we suggest that the CER considers a promotional campaign led by the CER on the options available to customers.

- *Customer confusion*

Another one of our main concerns relates to the level of detail proposed which will almost certainly create customer confusion. We are concerned that the notice will in effect be a means for inundating the customer with information. This would ultimately result in customers experiencing difficulty finding the important information, which SSE believes is that their contract is ending. In this context we would also be particularly concerned about

customers with literacy or numeracy issues. We would propose that the CER drafts a template of how this communication would look and determine for itself the scope for confusion.

- *System changes and costs to be passed to customers*

The proposal will require a significant change to our systems. Firstly we will have to introduce an automated solution because these letters will be issuing daily. This is a complex and time-consuming activity that is further complicated by the fact that our system will have to pull a wide range of information in order to populate a letter. Not only this but our system will have to have some form of inbuilt intelligence to identify better offers that are available to customers (if that is what point 'g' is referring to). It would have to have the intelligence to calculate average bill for all rates, taking any cashbacks into account, but only where a customer does not have to take action as per CERs proposal. Additionally it will have to be able to determine the amount the customer could lose or gain by changing rate. At the present time, we cannot see how a solution can be developed to do this. The CERs proposals are vague and would need to be explicit in terms of what is required on the notice if it were to be introduced.

SSE Airtricity is of the view that the costs of implementing this (or even a reduced version of this) would be excessive for any resulting benefit. We are unclear how sending a letter to customers who already engage with the market will encourage engagement. We believe the CER needs to be clear about the function of this letter (see comments above).

- *Marketing opt-out customers*

If the proposals were to be introduced as outlined, we do not know how this aligns with any marketing opt in/out requirements. The text proposed by the CER could potentially be viewed as marketing text as well as the presentation of information on other tariffs. We request clarity on this and if the letters are intended to be sent to all customers regardless of marketing preferences.

- *Clarity on specific elements*

While our overarching points related to the function of the notice and cost should take priority, we have a number of observations around the proposed content of the notice.

30 days in advance

- We have outlined some questions in the decisions section.

Information on CER accredited price comparison websites

- While we understand the intent here, we suggest that suppliers should only include a generic statement that there are price comparison websites available without naming particular websites. Suppliers could potentially link to the CER website where the list of accredited sites can be found. The reason for this is because some of these websites have exclusive offers with particular suppliers and we consider that it would not be in the interest of suppliers or customers to be pointing to specific sites.

Estimated annual bill for alternative offers currently available

- We have outlined a number of concerns about implementing this proposal. We do not know how suppliers would know what the best offer is for a particular customer. From our experience, customers value different elements of an offer (for example, cashback, green credentials, reward programmes etc). Suppliers cannot determine what offer is the best for a particular customer given that: different customer's value different aspects of a product, customers may have different payment methods or signup methods, customer may be within contract and customers may have different consumption patterns. If we were to undertake this exercise, it would require a large amount of manual intervention, not to mind system intelligence, to ensure that the 'right' offer is presented to a particular customer.
- The presentation of alternative offers means that this letter will have at least 3 figures for estimated annual bill which will confuse customers.
- Given that the proposal is relatively vague, we are unclear if this relates to offers in the market or a suppliers offers. We assume this relates only to offers available with the customer's existing supplier. Related to our first point we would like to know if these are all offers that are available or just selected cheaper offers, or offers we think the customer

will be interested in. Additionally we would note that suppliers may offer different rates for retention customers and new signups. Given that retention offers may not be publically available they are not published on supplier websites. Can the CER clarify which offers it is proposing for suppliers to present?

Charges

- The CER has introduced a change to how tariffs are to be presented in its draft revised Supplier Handbook (see below for comments on this). We would need clarity around whether the charges must be presented inclusive and /or exclusive of VAT.

The amount the customer stands to lose or gain

- SSE Airtricity is confused by this proposal. We are not clear what the exact requirements would be. Is the proposal for suppliers to include a value for the amount the customer could potentially lose or the amount the gain? How are each of these measured? Aside from the advanced intelligence that would need to be developed to implement this, the proposal is very unclear and we consider it would actually create a high level of customer confusion. The notice would be sent to any customer who is at the end of their contract. We cannot see how we would be able to provide clear explanations to customers on all the different figures in the communication. This is a drastic proposal which has not been substantiated, evidenced or tested with customers to see if they want it. We would again point to the fact that a lack of evidence based research on the part of Ofgem was identified by the CMA in its recent investigation as an area of concern where new measures implemented had negative impacts on competition in the market. The introduction of the EAB on all marketing material is a very significant change alone and should be evaluated after it is introduced to see if it is effective for customers. If not, other ways of informing customer of savings/losses should be considered.
- As well as the potential to cause confusion among customers, we would be concerned that the presentation of information on potential losses could be construed as being threatening to customers.

- Another important point here is that, put simply, this information is misleading. The values of the potential loss or gain are in no way reflective or particular to the customer that would receive the communication. The CER has a range of proposals around not misleading customers which SSE Airtricity agrees with. So we cannot understand why the CER would even propose to introduce a requirement that will most certainly mislead customers and will put not only suppliers, but the CER's reputation at risk along with the wider energy market.

CER Defined text

- The CER proposes to require suppliers to introduce a sentence stating 'there are no penalties for switching!'. It is true to state that there are no penalties but some suppliers have termination fees. The fixed term letter is issued before the end of a contract and if a customer switches at that time they may incur a fee as per their contract. Given that the change of supplier process is easy and quick, we are concerned that some customers may have a negative switching experience if they decide to switch when they receive the letter.
- We have made a number of comments about marketing messages above which are relevant to the text CER has defined also. In summary we would like to know how the proposed text aligns with marketing opt-in-/opt-out and customer preference requirements.

Given the concerns raised above, we suggest that the introduction of a separate communication would be excessive and we suggest that the CER considers whether suppliers could introduce a note on customers' bills to inform them that they are at the end of their contract. This would ensure customers are aware and, while it would create costs on implementation, they would not be as excessive.

Question 7 – Content of Annual Prompt

We are disappointed that the CER has made a decision to introduce an annual prompt. While we agree that the issue of disengagement needs to be addressed, the structure of the CERs requirement does not fully address the issue. We again request that the CER provides clarity around the comments we included in our consultation response because we do not see responses to these issues in the CERs decision.

The CER regularly raises concerns about the lack of customer engagement. Yet the CER is well aware of where this issue rests and where the disengaged customers are. As stated above the CER should consider targeted measures to increase engagement of Electric Ireland and Bord Gáis Energy customers with the market. The CER had an opportunity to introduce a targeted measure in the Annual Prompt to address customers who have never engaged in the market, but instead has unfortunately decided to widen the scope to include customers who already engage with the market. Given the already identified issue with the incumbent customer base, this could have a disproportionate impact on other newer suppliers who already have a more engaged customer base.

We are seriously concerned about the proposed wording of the requirement around the Annual Prompt. The CER has stated that the purpose of this requirement is to address non-engaging customers, yet the proposed wording of the requirement does not reference this fact at all. It just states that notification needs to be ‘sent to customers who have been on the same tariff for more than 3 years’. We strongly advise the CER to include a reference to the fact that this prompt should also be sent to customers who have never switched. If the text remains as it is, this will mean that customers who have never switched will most likely not receive the notice.

In its impact assessment section, the CER states that this measure is targeted at customers who have little or no engagement with the market and that these customers miss out on the benefits of competition. However, this is being targeted at those who do engage. As raised in our original response, this decision will have a direct negative impact on competition because newer suppliers will be disproportionately affected.

We believe that the CER needs to reconsider what it has identified as the function or purpose of both the 30 day notice and the annual prompt. The CERs paper suggests that both have the same function but one is targeted at

those who switched within the last 12 months and the Prompt is for customers who have not switched in 3 years. SSE Airtricity is of the view that the 30 day notice is to inform customers of the end of their contract and that the prompt should be for customers who have never switched.

All of the points we raised above on the content of the 30 day notice are also relevant to the proposed content of the Annual Prompt and we would request that they are considered in this context too. These points related to cost of implementation, system changes required, misleading information, customer confusion, marketing preferences, etc.

In relation to information on alternative offers, suppliers may not have other options available for certain customers (e.g. financial hardship PAYG). We would need some specific guidance around whether this is relevant for these customers. Additionally, customers with debt may be debt flagged and may not be able to successfully switch if the gaining supplier rejects them. We have specific requirements to ensure we do not mislead customers however if the requirements here are not defined, we may inadvertently mislead customers by issuing a prompt.

We have made additional comments in relation to implementation in the section relating to the decision on the annual prompt.

Question 8 – Customers Ability to Pay

SSE Airtricity has processes around the assessment of customers' ability to pay. Circumstances can vary significantly between customers so we understand the importance of treating each case individually. All situations are dealt with on a case by case basis. While we support the introduction of guidelines around how best to do this, we believe that there are a wide range of requirements proposed by the CER. Some are specific (trained personnel), but others are more general (e.g. reasonable and affordable debt recovery arrangements which take into account the customer's circumstances). While the requirements may seem reasonable and SSE Airtricity probably has relevant processes in place to meet each of these, we are unclear how the broad requirements will be measured. What is an affordable or reasonable repayment plan? We can only develop a repayment plan where a customer will pay off debt but will also not accumulate more debt through additional unpaid bills. We support the intent of the proposal but we suggest that the CER reviews the specific

detail with a view to establish how it would measure compliance with each. If it is unclear it will be difficult for suppliers to develop compliant processes that can be measured. We would note that suppliers already have the Energy Engage Code in place which addresses how suppliers will work with these customers.

We have identified some other comments on the specific proposals as follows:

- Development of fair policy. While we have policies and procedures in place which we believe meet the proposed requirements, we would note that the case by case nature of dealing with customers in debt make it difficult to apply a detailed consistent approach in this area. High level policies or procedures are more appropriate in this context.
- “Personnel incentives linked to successful outcomes (such as customers honouring repayment agreements) and not the recovered debt”

In a deregulated market, we do not understand how the CER can regulate how an independent supplier decides to compensate its staff.

Proposals for Non-Household Customers

Proposed Decision 1 – Publication of Tariff Methodology

SSE Airtricity disagrees with the detail associated with this proposal. The CER is proposing that the methodology would include information on different categories of non-domestic customers (DG 5 and DG6). It would set out the different information that suppliers take into account when setting tariffs such as business sector, payment method, connection size, credit history, etc. Our interpretation of the CERs proposal is that suppliers would need to set out how we take each of these characteristics into account when setting tariffs. We are concerned at the publication of this detail given the commercial sensitivities associated with this information.

However we understand the CERs argument, we suggest that suppliers could publish a high level statement which would indicate what we take into account, without going into the detail about exactly how we do this.

Proposed Decision 2 – Deposit Policy

Our comments on the CERs proposal for suppliers to publish information on their deposit policy are similar to those on the tariff methodology. Depending on the level of detail required in this policy, it could give competitors an insight into our commercial strategies and our credit policy.

Some information on deposits may already be contained in supplier's terms and conditions. We would request the CER to clarify if the provision of information in this format would be sufficient under this proposal. Alternatively, we suggest again that a high level statement could be provided as to how deposits are set. We could provide more information to particular customers if they contact us.

Proposed Decision 3 – Complaint Resolution Implementation

We have no comments on the introduction of a three week timeframe for complaint resolution implementation where the resolution is within the supplier's control.

Other General Comments

Process for the Review of the Supplier's Handbook

SSE Airtricity would welcome the proposed ongoing review and update of the Supplier's Handbook to ensure relevance or to introduce specific requirements. We consider that a lot has changed in the market from the time of the initial publication of the Handbook and now. If a review and update had been undertaken on an ongoing basis, this consultation would not be as significant and the ultimate cost on customers would be spread over time. Additionally certain prevalent issues, for example in the PAYG market, would have been resolved long ago. We suggest that the CER develops a process for how this ongoing review and update would work. It might be the case that through the industry meetings (IGG and GMARG), changes to the handbook could be proposed by any party and then publically consulted on when agreement is reached. This would also ensure that informed discussion takes place in advance of publishing proposals or decisions.

Additionally we would suggest that the CER considers how it can reflect other decisions in the revised Supplier Handbook (e.g. debt flagging, green source, cooling off period).

Appendix B of the Decision Document

SSE Airtricity cannot understand why this critical decision has been put in the appendix of the document. There is a risk that other suppliers may not see it. While we have comments on the decision itself (see decisions section), we suggest that all decisions are brought forward into the main body of the CER's final decision and are reflected in the final revised Supplier Handbook.

Regulatory Impact Assessment of proposals

While SSE Airtricity appreciates the CERs effort in completing a regulatory impact assessment, the assessment is biased and does not fully evaluate the impact on suppliers and customers. The issue of costs is not mentioned at all, yet all the proposals of the CER will entail very significant implementation costs. These costs will be passed directly to customers yet this is not acknowledged in the impact assessment.

The negative impact of some of the proposals on competition and the availability of offers is also not acknowledged in the CER's assessment. In our original response we had identified a range of possible unintended negative impacts associated with certain proposals yet none of these issues have been addressed.

While we agree with many decisions, in the interest of transparency we suggest that the CER re-evaluates each decision and undertakes a full impact assessment looking at the costs and benefits for all stakeholders involved before finalising any implementation plan. The inclusion of customer research or evidence on the key proposals/decisions should be a critical part of a transparent consultation process. Lack of evidence based research on the part of Ofgem was identified by the CMA in its recent investigation as an area of concern where new measures implemented had negative impacts on competition in the market.

We also suggest that the CERs decision provides suppliers with responses to the concerns raised in their consultation and decision paper responses. We believe that the principles of good regulation should always be observed in the development of new industry requirements.

Proposed Timelines for Implementation

Given the significant costs to implementation which will ultimately be borne by customers and the time required for implementation, SSE Airtricity cannot commence development of any of the changes proposed until well after the CER publishes the decision and is of the view that suppliers need to be provided with an appropriate timeframe for implementation. The proposal to introduce new requirements on publication of the decision or three months after the decision is published is not a realistic view to implementation especially considering the extent of some of the changes in this consultation/decision. The introduction of new letters or the alteration of existing communications to customers will require the commencement of big projects and will present significant costs. Therefore we would need a significant timeframe for implementation to ensure that any changes can be made in the most efficient manner. We would also note that suppliers have other major projects with IT implications (e.g. ISEM, retail schema and non-schema changes, CER name change) so our IT resources may already be engaged.

Comments on Revised Supplier Handbook

On review of the revised Supplier Handbook, we came across a large range of changes which were not included in the consultation or proposed decision papers. From what we can see, suppliers have not been given the opportunity to comment on these changes, some of which are very significant. The principles of good regulation have not been adhered to by the CER in the development of the revised Handbook and we are seriously concerned if this sets the precedent for how the CER plans on introducing future changes to the retail market. We believe engagement with industry and other stakeholders is critical and that any changes need to be evidence based. If the CER is moving from this approach we suggest that all stakeholders need to be informed.

Given the extent of the changes contained in the revised Supplier Handbook, we did not have the scope to outline all our comments in this paper. However we have included comments in the document attached to this submission. We would really appreciate if the CER would consider consulting on the changes in the revised Handbook so that suppliers have the opportunity to consider fully the impacts.

Some examples of changes are outlined below. There are many more in the document we have attached.

- **Application**

In its decision paper the CER states that the non-domestic section of the Supplier Handbook relates to DG5 and DG6 electricity customers and industrial and commercial gas customers. We suggest that the revised Supplier Handbook also includes this reference for ease of reference for new suppliers.

- **Approval process for Codes of Practices, Bills and Terms and Conditions**

From time to time suppliers may need to make editorial changes to documents that have been approved by the CER (e.g. CER name change, spelling/grammatical errors, formatting). SSE Airtricity suggests that editorial changes made to these documents should not have to go through the CER approval process. The text in section 3. 'Approvals Process' would need to be updated to reflect this.

- **Definition of Marketing & Advertising**

Section 2.1 sets out definitions for 'marketing' and 'advertising'. We did not see questions related to these definitions in the original consultation paper so we have not had the opportunity to determine if we have any comments on the definitions provided.

- **Discounts or Savings claims**

Section 2.4.4 of the revised Supplier Handbook states that where a supplier is offering discounts or claiming savings it must ensure that the savings amount advertised is achievable /realisable by the customers at whom the advertisement is directed. Similar to the CERs new requirement for the presentation of the figure for estimated annual bill, savings claims will be based on estimated annual bill figures using urban 24hr rates. We assume that if this approach is acceptable for the EAB figure then it is acceptable for any savings claims.

- **Presentation of Tariffs Inclusive of VAT**

Section 2.5.1 of the revised Supplier Handbook states that when presenting information on tariffs in marketing material and on bills, tariffs must be displayed inclusive of VAT on a per unit basis. We again did not see a question on this in the consultation paper and we do not see it referenced in the Decision. We do not see how the CER can introduce such a significant change without consulting with suppliers. While we can see why the CER would suggest something like this, we would note that this will require relatively significant changes to our brochures and our website and would be a costly change since our website is not optimised to present in this manner. The cost to change our bills would also be excessive and we would request clarity from the CER about how this change to the format of bills aligns with other legislation in this area. The timeframe and merits of implementing this change should be discussed with suppliers.

- **Cooling off period**

The Draft Handbook states that the cooling off period shall commence when the customer receives a copy of the necessary documentation. We suggest that the CER considers rewording this because suppliers do not know when the customer receives the copy of the documents. All we know is when we send this information to them, so we could assume customers receive the documents immediately if they are emailed but we could add a few

days if posted. To ensure consistency, we suggest that the CER defines exactly what this timeframe should be.

- **Non-Household section**

The Revised Handbook contains an updated draft section dealing with requirements for non-household suppliers. We are confused and seriously concerned about the significant amount of changes to this section. It appears that many current domestic only requirements have been inserted into the non-domestic section. Again none of this was consulted on.

Monitoring and Compliance

This review has presented a range of new requirements both in the decision paper and in the draft revised Supplier Handbook. We would like the CER to provide industry with some clarity around how compliance is going to be measured and if the CER intends on developing a 'compliance and monitoring framework'. We note that in other jurisdictions, industry is clearer about how compliance will be monitored and also how potential issues may be addressed.

Decisions – Implementation Considerations

Decisions 1-5 - Principles

While we believe that the introduction of these principles represents a fundamental change to the Handbook, SSE Airtricity welcomes the decisions made by the CER in relation to the overarching principles.

In relation to the Principle related to 'consistency of terminology', we believe that there should be consistency across the whole market including all stakeholders (i.e. suppliers, networks and the CER). We have encountered examples of where terminology differs between suppliers, CER, networks and even with legislation (e.g. cooling off period compared to cancellation period, cash payment versus over the counter/An Post).

Decision 9 - Supplier representatives

SSE Airtricity already has procedures in place to ensure that third party contractors with exclusive contracts with SSE operate to certain standards. This represents a new regulatory requirement and we request some clarity around the implementation of this requirement and particularly around the activities that are included in the scope of the requirement. While we understand the rationale for the inclusion of some activities, we are unclear how we can ensure compliance for others. For example the requirement includes 'debt collection' within its scope. However suppliers may engage with debt collection agencies to engage with customers no longer with the supplier. If an audit of compliance were to take place, we cannot see how compliance would be measured in this example. Additionally, we are unclear how we are expected to train such third parties. This is also the case for registered gas installers or electrical contractors. Such parties already undergo intensive training to become a RGI/REC and we are unclear what area of the Handbook we are expected to train them on. We request clarity from the CER on what exactly the relevant requirements are for each area identified in the decision.

The decision paper did not address some practical implementation questions raised by SSE in its original response. We request clarity again around non-exclusive contracts that suppliers may have with third parties (for example, property channels, debt collection agencies). Such representatives offer specific services for all suppliers and no one supplier has a leading relationship with the third party. We would consider that these types of relationships do not fall within the scope of the requirement but would like the CER to clarify its position on this.

Finally we also need clarity around how the CER expects suppliers to track or log this type of information.

Decision 13 - Code of Practice on Marketing: Information on the Website

SSE Airtricity already presents information on domestic tariffs in an easily accessible place on its website. The tariffs we have presented include publically available tariffs that are available to all new customers. Exclusive rates that are only available to customers through certain channels (e.g. through price comparison websites) are not presented on our website.

Decision 15 - Code of Practice on Marketing: Presentation of information on marketing/advertising material

While many of the features of this decision represent business as usual for SSE Airtricity, we would like clarity on the validity period for the offer. This should only apply where the offer has an associated end date. We have some offers in place currently where we do not have a set end date. In such instances, we suggest that we include a 'valid from' date.

We have a number of comments on the proposal around the estimated annual bill –see relevant decisions and proposals.

Decision 17 - Code of Practice on Marketing: Comparisons

The CER appears to have made a decision here in relation to how the estimated annual bill will be calculated. It includes reference to cashbacks and the exclusion of things like loyalty points. However, later in the document the CER appears to be consulting on the calculation of the estimated annual bill. We would request clarity on whether the CER has already made a decision in this area or, if supplier's comments will be taken into account will this decision be revised.

Decision 18 and 19– Code of Practice on Marketing: Winback and Retention

SSE Airtricity agrees in principle with these new requirements. However we have some questions around implementation. Any customer we signup as a win back receives the same information as new signups in the sales completion email that is sent to customers.

In the case of retention customers, we already have details on these customers on their account and so we do not necessarily ask such customers the same questions when signing them up to a new contract. However, they receive all the same information on the rate that they have signed up to. We are not clear if the CER wants suppliers to set up a new account for these customers to ensure compliance with this condition. In order for us to check our current practices and alignment with this new requirement, we request further clarity from the CER on whether suppliers must engage in the same signup process as for new sign-ups for retention customers (where we already have customer information on account).

While the CER has made a decision not to introduce a requirement to offer the same rates to existing and new customers, we would request clarity around whether the CER considers that under this new requirement that suppliers must offer the same tariffs to new signups, retention and winback customers. We believe that this would have a significant impact on competition so we would request clarity on this.

Decision 21 – Code of Practice on Marketing: Switching process

SSE Airtricity welcomes the new requirements in the area of the switching process. We have a number of questions related to implementation below.

In relation to the issuing of the deactivation code, we agree with the introduction of a requirement around the timing for the issuing of the code. While we originally suggested that it could be issued within a certain timeframe after receiving the customer loss notification market message, on reconsideration we believe that the requirement should be around the MM105L, confirmation of customer loss, market message. The reason for this is because there is still a chance for a customer to change their mind. Additionally if a supplier issues a deactivation code, the customer cannot enter a vend after the code is issued. If the customer enters the deactivation code the meter will be put back into credit mode. We also therefore suggest that the window is shortened from 10 days to 5 day.

Another point to note is that SSE Airtricity can only issue the code if requested by the customer and so we will only issue the deactivation code when on the telephone with the customer. While we understand some suppliers issue the deactivation code via text to customers, we avoid doing this for a number of reasons. We need to explain to the customer the impact of vending once the deactivation code has been issued and entered into the meter. If we issue the code via text and the customer inserts it on the meter, they are at risk of self-disconnection. We will never issue a de-activation code by text or email for this reason as it can leave the customer in a vulnerable situation and a final prepayment read should be taken to bill accurately. We currently request that the customer is at the meter before we generate a deactivation code plus we need to ensure credit is on the meter and not arrears as the supply will de-energise if the meter is in arrears. Customers switching to us have been cut off because their old supplier has texted them the deactivation code and the customer had not been aware that the power would cut off. The only way we can guarantee

that a customer is aware of this is by talking to the customer directly when we issue the code.

The new requirement states that the code must be provided in a separate communication from retention, win back or other marketing. We suggest that if the customer actively requests the code during these calls, then suppliers should have the ability to release it. However, where the customer has called for the code, none of these activities should take place.

In relation to the retention of auditable records, we record all calls with customers and have a record of letters or other communications issued to a customer. We record any information that is within our direct control but we do not have control over external systems that contain customer information, such as Liberty, and so we cannot guarantee that records from such systems will be auditable.

Decision 22 – Code of Practice on Marketing: Cancellation form

SSE Airtricity sends customers the cancellation form with their welcome pack via email or post after the customer signs up. We would like clarity on whether the CER requires suppliers to *give* customers a physical copy of the form if it is a doorstep sale. We would also like to know if suppliers are required to provide it in some form at the point of signup if the customer signs up online (through the supplier's website or through a price comparison website). We consider that by providing the form in the customers welcome pack should be sufficient because this ensures that customers receive the form in a consistent manner regardless of how they signup.

Decision 23 – Code of Practice on Marketing: Signup process

We have some comments with respect to implementation on the detail of this decision as follows:

- *'(g) Explain how existing account will be closed'*. We understand that this is an existing requirement but we would suggest a change to the wording. If we are required to go through the full signup journey for retention customer, this may not be relevant to retention customers so the requirement should state *'., if applicable'* at the end of the sentence.

- Provide customers with the Cancellation form. Please see comments under Decision 22.
- *'P) Provide the customer with a copy of the terms and conditions of supply, contract and the rates that apply to the product that they are signing up to. Where a customer is not provided with a copy of these documents at the point of signup,...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'*. There is currently a DR at IGG meetings raised by CER which states that the cooling off period commences when the customer receives the documents. We have also noticed that this is specified in the revised draft Supplier Handbook that the CER circulated to suppliers. SSE Airtricity would suggest clarity on this and if it is the case, the wording of this requirement around suppliers leaving the cancellation form may need to be altered. (Other requirements may also need to be reviewed in the context of this.) It could cause confusion if the requirement is for suppliers to leave a form with the customer but their cooling off period does not commence until a few days later.
- Additional steps for PAYG:
'Provide adequate information in accessible language on the use of emergency credit , etc. SSE Airtricity would like clarity from the CER as to whether the inclusion of this information in our Codes is sufficient. Customers get such information in the Network and supplier instruction manuals so we just want to be clear about whether this requirement requires suppliers to provide additional information to customers.
Meter exchange. If we request the install of a PAYG meter for a customer in financial hardship we provide them with information on rates, etc. We assume that the CER is not proposing that we have to complete a full signup with existing customers as this would not be customer friendly.
- *Vulnerable customers:*
SSE Airtricity currently includes questions to assess vulnerability in signup forms and processes. Given the importance of disseminating consistent information to customers on the registers, SSE Airtricity suggests that the CER could work with suppliers at industry fora (IGG and GMARG) with a view to developing generic guideline text

on this for PAYG and credit signup customers that could be used by all suppliers in a consistent manner.

Decision 28 – Marketing Code of Practice: Estimated Annual Bill

SSE Airtricity has a couple of implementation considerations related to this as outlined below. While we understand the CERs view on this, the impact assessment in the CERs decision paper states that because of this requirement *'suppliers will be incentivised to design more competitive offers aimed at retaining current customers and drive down the annual bill'*. We believe that this statement is not true and it also does not recognise the changing nature of the energy market. Customers may value other things associated with an energy offer rather than price alone. As time goes by we will likely see more and more offers with non-energy components associated with them. The focus on price alone by the Regulator will negatively impact on the level or the impact of innovation in the Irish energy market. This will present a failure on the part of the CER to encourage innovation and options in the market in order to support the development of competition. Additionally this may not result in lower bills as suggested in the CERs paper.

In relation to the proposed timeline for implementation, we will not be in a position to deliver in Q2 2017. Suppliers currently have marketing campaigns in train and/or have live campaigns which will run into 2017. Given the complexity involved in the development and delivery of marketing campaigns, we require long lead times before introducing any changes. We suggest that the timeline for implementation is pushed out until early 2018 when current and/or planned campaigns have ended and we also have full clarity around the requirement.

We have outlined our substantive comments in relation to the areas for further consultation in the section above.

Decision 29 – Marketing Code of Practice: 30 day notice

Given the concerns we raised in relation to the potential impact on competition in the market, we are disappointed that the CER has made the decision to implement this without further consultation. As highlighted earlier we have not seen any responses to the concerns we raised in the

decision. While this is the case, we have identified some questions related to implementation (these should be read alongside our response to the detail proposed for inclusion in the notice).

The proposed timeline for implementation is Q2 2017. SSE Airtricity will require a longer implementation timeframe because we will need to make significant changes to our IT system to facilitate the issuing of this letter. We have presented our thoughts on the proposed content of the communication in the relevant section; however we would note that the development and introduction of a letter even just with information on current rates and new rates alone will require significant investment and time to implement. We suggest that the CER consults with suppliers separately in relation to the implementation of this letter (and the annual prompt letter).

We would assume that 'written notification' includes email for the customers who have opted for email. Additionally we would request clarification if suppliers could combine this with any other existing communications to customers (e.g. bills).

In relation to the timeframe for sending the communication to customers, we would like the CER to clarify if this is this *exactly* 30 days prior to contract end date or is it *at least* 30 days before the expiry of a fixed term contract. We would note that we have a requirement for an end of fixed term notification in Northern Ireland (NI) which provides suppliers with a time range for when the letter is issued (i.e. between 21 and 42 days notice). We would note however that the NI requirement is not as complicated as that proposed by the CER. The purpose of the NI letter is to notify customer of the end of their contract and contains information on current rates and new rates.

While we do not have PPM customers on fixed term contracts in Ireland, we would note that our experience in Northern Ireland has shown that the Liberty system has particular anomalies which mean that rates can only be changed on particular days of the month and/or with a long notice period. These issues can impact on supplier's ability to issue certain days' notice to PPM customers where interaction with Liberty is required.

In its impact assessment section, the CER states that the introduction of this requirement may incentivise suppliers to develop competitive offers in order to retain offers. Suppliers already have retention offers but the nature of these will change with the introduction of this requirement. Suppliers will

no longer be able to offer high discounts and the number of options may reduce for customers. We do not believe the impact of this has been fully assessed by the CER.

Decision 30 – Marketing Code of Practice: Annual Prompt

Again we are very disappointed that our concerns relating to this requirement were not taken into account when CER was making its decision. We would welcome some clarity from the CER as to why it does not consider that there would be a disproportionate impact on newer suppliers with this proposal. Our concerns about the potential negative impact on the number of offers available to customers has also not been addressed and we would like to understand why this has been overlooked.

While we continue to have concerns in relation to this, we understand that a decision has been made and some implementation considerations are identified below.

- The proposed wording of the requirement will mean that customers who have never engaged with the market will not receive the notice (for more information, see our comments on the associated proposal above).
- Can the CER clarify when suppliers should send the annual prompt to customers? Is it at the end of the year or during the year following the three year period?
- In relation to implementation, we suggest that suppliers should be provided with the flexibility to combine this information with existing communications to customers if they wish (e.g. bill). This option could allow suppliers to find the most efficient and least cost method for implementing.
- Do we send this to financial hardship PAYG customers or other customers who do not have offers available to them or may be debt flagged if they switch? More comments on this are in the section above.
- Even at a basic level, this proposal will involve significant system intelligence to identify customers who have been on the same rate for 3 years. This is without even considering the addition of the proposed information in the communication.

- Given the cost and developmental issues, we would need a long implementation timeframe. It will be impossible to implement this by Q2 2017. We will need to allocate a very significant IT budget to the implementation of this and so we suggest that implementation should not be required until 2018 at the earliest. The CER needs to consider that suppliers have many other regulatory projects in train that will have IT implications and we do not have adequate resources to implement all of these at the same time.

Decision 31 – Marketing Code of Practice: Offers available to current and new customers

SSE Airtricity welcomes the CERs decision not to introduce a requirement to make all energy offers available to current and new customers.

Decision 33 – Code of Practice on Customer Billing and Disconnection: Bills free of charge

SSE Airtricity does not charge customers for their bills or information on their bills. Similar to most suppliers in the market we do offer discounts to customers if they opt for online or electronic billing.

Decision 35 – Code of Practice on Customer Billing and Disconnection: Closing account

In relation to point 6.6.9 in the CERs revised Supplier Handbook, SSE Airtricity suggests that the wording is updated to state that *'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, where possible'*. We would note that sometimes customers may not provide the supplier with information on how they want the credit refunded and in some instances the customer's account details may no longer be valid. While the decision contains a provision for where a replacement read is received, there are other situations that might impact a supplier's ability to issue a refund. Suppliers should be required to use best endeavours but there should be an acknowledgement that it may not always be possible to refund within 2 months because of issues outside of the suppliers control.

Decision 36 – Code of Practice on Customer Billing and Disconnection: Alignment with legislative requirements

The CERs decision sets out a broad requirement that suppliers must ensure that bills/statements are compliant with legislative requirements. In the text following the decision, the CER states that billing information regardless of type of meter should be made available at least quarterly on request or where the customer has opted to receive electronic billing or else twice yearly.

The CER has stated in its paper that ‘billing information’ is distinct from ‘bills’ and that billing information is a separate statement to the actual bill. This is not the same interpretation of the EED requirements as in other countries (e.g. Northern Ireland and Great Britain). We are concerned at this significant disparity in the interpretation of the same Directive. We believe that billing information relates to the information on the bill (e.g. units of consumption). From a customer experience point of view, we would be very concerned if we had to send customers multiple communications with the same or similar information.

There is another difference in interpretation in relation to whether ‘billing/billing information’ relates to both credit customers and PPM customers. In Northern Ireland, the Utility Regulator does not include PPM customers as part of this requirement. To introduce twice yearly billing for PPM customers would represent a significant change to current processes and customer experience.

We request that the CER re-reviews the Directive and, more relevant, the associated SI from a legal point of view to ensure that its interpretation is accurate and consistent with other jurisdictions. We would also request clarity around which requirements are relevant for business customers and which are domestic.

We would also just point out that the CER has only selected parts of the requirement in Annex VII in its decision paper. The full extract is as follows and includes a reference to annual billing:

“In order to enable final customers to regulate their own energy consumption, billing should take place on the basis of actual consumption at least once a year, and 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. Gas used only for cooking purposes may be exempted from this requirement.”

We note that the revised Supplier Handbook includes detail in section 4.1.12 which refers to consumption information being provided to the customer and the document states that the CER will engage with industry on the development and implementation of the requirements. We would request that any discussion and agreement on this information takes place before the CER publishes the final revised Handbook.

Decision 38 - Code of Practice on Customer Billing and Disconnection: Deposits

SSE Airtricity agrees with the CER in relation to its requirements in the area of deposits. The CERs decision refers to the requirement for suppliers to have in place a policy on deposits. SSE Airtricity includes information on deposits in its Terms and Conditions and also in our Codes of Practice. We would request clarity from the CER in relation to whether this is sufficient in terms of compliance with this condition. We would also request further clarity around the precise detail that the CER would like to see in the suppliers deposit policy.

We have different deposits in place for different customer types depending on the different costs to serve and risks associated with certain customers. We consider that this is necessary and fair based on a number of reasons. We would like the CER to clarify if the requirement for a ‘fair’ deposit policy means that the CER requires deposits to be the same for different customer types.

Decision 39 - Code of Practice on Customer Billing and Disconnection: Termination fees

While we agree with this condition and support the CERs views around the required flexibility in relation to termination fees, in order to ensure we are compliant we would request further information on how the CER would evaluate if suppliers termination fees are ‘disproportionate’ or ‘unduly onerous’. We would also request information in relation to the alignment between the CERs role in approving supplier’s terms and conditions where there is reference to a termination fee and this new condition.

Decision 41 - Code of Practice on Customer Billing and Disconnection: Dual fuel accounts

While this requirement is an elaboration of an existing requirement, we have a question about the communication with customers. The requirement states that customers should have the option to nominate the fuel to be disconnected first and that this should be included at the minimum in the number of attempts that suppliers are required to make in writing about the disconnection process. SSE Airtricity has in place a robust credit control process. We communicate to customers multiple times before a customer's account might be considered for disconnection. In the rare occasion that a customer is moved to the disconnection cycle, we include a statement relating to fuel nomination in the communication to the customer. We do not include this statement in any communications prior to this (i.e. in communications that relate to the credit control or payment recovery), because we consider that it would result in a negative customer experience. It may also not be appropriate to include this in the notice to customers that informs them that the network company has been requested to carry out the disconnection given that the request has been made and the charge would have to be recovered.

In some situations it might be the case that the meter for the fuel that the customer has nominated is inaccessible. We assume that suppliers have the discretion to disconnect the other fuel but we would request clarity about what suppliers can do in such situations.

Decision 43 - Code of Practice on Vulnerable Customers: Registration

SSE Airtricity agrees with the CERs decisions around vulnerable customers. While we include questions around vulnerability in our signup process, we would suggest that the CER issues common text around this for all suppliers in order to identify vulnerable customers and to inform customers about the suitability of PAYG for customers with vulnerabilities. We consider this would ensure consistency in terms of the information provided to customers in relation to the registers etc.

Decision 44 - Code of Practice on Vulnerable Customers: Vulnerable Code

SSE Airtricity includes a statement on all bills which informs customers of the existence of the Code of Practice for vulnerable customers. We would request clarity from the CER if they consider this to be sufficient or if the CER is proposing a separate specific communication around the Vulnerable Code.

Decision 45 - Code of Practice on Vulnerable Customers: Forms

This decision states that suppliers can use one registration form for registering customers. SSE Airtricity currently only has a form for the registration of priority services customers. Can the CER confirm if suppliers are required to use a form for registering special services customers?

Decision 48 - Code of Practice on Vulnerable Customers: Verbal confirmation

SSE Airtricity did not see a question related to this in the CER's original consultation so we did not have the opportunity to comment before a decision was made to introduce a new requirement in this area. While we understand the intent, we do not think this is a practical requirement and presents a commercial risk to suppliers. Any customer could state that they are priority services and because suppliers will be required to register the customer, the customer is protected under legislation. We are not clear when we are 'allowed' to ignore a customer if they tell us they have priority equipment or when we are required to register a customer. We consider that the process for a customer to complete a form works well in practice.

We would also raise concerns about potential data protection issues associated with registering customers with networks where they have not provided us with their explicit consent.

Suppliers could however introduce processes to follow-up with customers who do not fill in the form or return it to the supplier. We request clarity from the CER if this would be sufficient to meet this requirement.

Decision 49 - Code of Practice on Vulnerable Customers: change in type

While we understand the intent of this requirement, we would like some clarification around implementation. We would appreciate if the CER publishes a list of what suppliers can do in addition to the annual notification of the Code of Practice.

Decision 50 ,51 and 52- Code of Practice on Vulnerable Customers: PAYG

We agree with the CERs decision that PAYG meters may not be suitable for customers who are eligible to register on the Priority Services Register (PSR). However, we have encountered situations in the past (in Northern Ireland) where such customers insist on having a PAYG. We do not agree with causing distress to, or being seen to discriminate against, such customers so we would request clarity from the CER on how we can deal with such situations. Another anomaly arises when a customer switches to another supplier on a PAYG but is eligible for the PSR. Do suppliers limit such customers to credit meters only, do we request the removal of the PAYG, do we not complete the switch or do we ask such customers to sign a disclaimer?

The CER states in its decision that suppliers are best placed to ascertain if a PAYG is suitable. SSE Airtricity believes that the best approach is for a consistent market wide approach. The obligation to protect customers from disconnection is not limited to suppliers only and we think that the CER needs to work with suppliers to develop best practices in this area.

Other Opportunities for Improvement

The changes to the Supplier Handbook represent significant changes to how suppliers operate. The CER has decided to make these changes to ensure a high standard of protection for energy customers and to ensure that customers are treated in a fair and equitable way.

SSE Airtricity is of the view that more needs to be done outside of the Supplier Handbook to ensure a consistent and fair experience for customers across suppliers. We have set out a number of areas where we believe changes need to be made. Some of these issues may be outside of the direct control of the CER to change; however as the energy Regulator with legislative responsibilities around the development of competition and the protection of customers, we believe that the CER needs to represent the interests of customers on these matters.

Electricity and gas allowance

The electricity and gas allowances are applied directly onto the customer bill if the customer is with certain suppliers (Electric Ireland in electricity, Bord Gais and Flogas in gas). The allowances are paid directly to the customer if they are with any other supplier. This means that there is no consistency in how the allowances are applied and this results in a negative and inconsistent customer experience. While suppliers inform customers of the change to how their allowance will be applied if they switch, where it is not applied directly to the bill after switching, the customer could face a higher bill (because the value is not offset against it) and there is no guarantee that the customer will put the money towards their energy bill. We maintain that this is not a fair or equitable process for customers.

PAYG meters provided by ESNB

The prepayment meters provided by ESNB currently can only be installed in instances where the customer is in financial hardship and has agreed to the meter. In gas, the GNI meters can be installed for financial hardship or as a lifestyle option (for an extra payment). When PAYG was first introduced it was decided that these would only be available for financial hardship reasons in electricity because Smart Meters would be installed by 2020. The Smart Meter programme has experienced a number of significant delays



already and we know that there will be further delays to the 2020 timeframe. Given the uncertainty around the Smart programme currently, SSE Airtricity believes that the CER needs to reconsider making ESNB PAYG meters available for customers who wish to have one installed for lifestyle choice reasons.

CONCLUSION

SSE Airtricity again welcomes the opportunity to put forward its views on the CER's paper on the Review of the Electricity and Gas Supplier Handbook.

However we have highlighted some significant concerns around the process that the CER has undertaken in developing the new requirements and in the development of other decisions which have not been consulted on. We do not believe that the principles of good regulation have been adhered to and we suggest that the CER reviews the process and engage with industry to ensure transparency. We would be concerned if the process used in developing these requirements represents the process that the CER is going to undertake for other changes going forward.

Many decisions have been made but the CER has not presented evidence to support most of them. Additionally almost no market or customer testing has been completed. We are therefore unclear how the CER can justify the introduction of such significant changes. SSE Airtricity raised a range of concerns in its response to the original consultation but the CERs decision paper did not contain any response to these concerns and this adds to our perplexity around the entire consultation process.

Outside of our concerns around process, we have included comments around the key proposals. We do not agree with the level of detail proposed to be contained in both the fixed term notification and the annual prompt. We are also confused about the CERs views on the proposed functionality of these communications. The way the Annual Prompt requirement is drafted in the revised Supplier Handbook will mean that this requirement will not achieve the results that the CER is looking for (i.e. non-switchers may not receive it). The CER wants to encourage non-switchers to engage but the requirement does not reference non-switchers at all. We again reiterate our view that the CER needs to consider targeted measures to address non-switchers.