Ms Meabh Gallagher  
Commission for Regulation of Utilities  
The Exchange  
Belgard Square North  
Tallaght  
Dublin 24

15 February 2019

Re: CRU Debt Flagging Review Consultation Paper (CRU18255)

Dear Meabh,

The Competition and Consumer Protection Commission (CCPC) welcomes the opportunity to respond to the Commission for Regulation of Utilities (CRU) Debt Flagging Review consultation paper. The CCPC notes the content of the consultation paper and wishes to submit its observations specifically in relation to the proposed Revenue Protection Flag (RP Flag). We appreciated the opportunity to make some preliminary observations to the CRU at the Consumer Stakeholder Group meeting on 1st February and also wish to express our appreciation for the extension to the deadline extended to the CCPC for our comments.

The CRU consultation outlines that the purpose of introducing an RP Flag would be to help detect, investigate, prevent and deter interference at electricity and gas meters. Whilst meter interference is first and foremost a safety issue, there remains the fact that under the Energy (Miscellaneous Provisions) Act 2012, meter tampering is a serious criminal offence which can carry penalties ranging from a fine to imprisonment or both and any proposed measures must be considered in that context.
Rationale of RP Flag and implications on new occupants

The CRU, in its rationale for introducing a potential RP Flag, states that the current debt flag alone “is not a significant enough deterrent for energy theft, whereas a RP flag will help; detect, investigate, prevent and deter interferences at meters”. In the CCPC’s view, the proposed RP flag will only partially realise some of the intended benefits for the following reasons:

1. The RP Flag is introduced after the meter tampering has been detected, investigated and indeed confirmed. As such, the network operator’s ability to send a market message to suppliers raising a RP Flag will have no bearing on the detection, as it relates to the debt that has been accrued after the meter tampering has already occurred. It appears that the raising of an RP Flag may simply assist in having a dissuasive effect on those who might consider tampering.

2. Section 2.1.9 of the consultation paper states that “for move out/move in cases, if the current customer at the address did not tamper with the meter but benefited by consuming energy they did not pay for, they will receive an RP read and therefore an RP Flag could be raised”. In the CCPC’s view, it is inappropriate for a network operator to be able to link a ‘moving in’ customer to a tampered meter when they have not, in fact, tampered with a meter and therefore not committed an offence under the Energy (Miscellaneous Provisions) Act 2012. We consider that for new occupants of a property who have consumed energy it would be more appropriate to consider an alternative flag that is not in any way connected with a criminal offence. We note that the CRU explicitly states that the flag will “in no way imply that the customer has interfered with the meter”. We disagree with this, however, as the raising of an RP Flag does in fact indicate that tampering has occurred. It should be possible to differentiate between a customer who has tampered with a meter, and therefore committed an offence, and a customer who has benefited from meter tampering through no fault of their own.
Time limitation on RP Flag

The consultation paper states that the “CRU is proposing that a supplier would only be able to raise a debt flag against a customer for up to one year after they receive confirmation that the customers meter was tampered with. If the customer still has debt related to meter tampering (above the threshold) one year after the tampering was confirmed to the supplier, an RP flag would no longer be able to be raised against them.”

It is a welcome measure that an RP Flag, if it were introduced, would be time limited, particularly as such a Flag could be applied to a consumer that had no active involvement in meter tampering and has the potential to reduce their ability to switch suppliers. If the proposal to introduce an RP Flag proceeds, suppliers should be required to employ a uniform process for the removal of RP Flags, or the conversion of RP flags to debt flags, in their internal systems. The CCPC supports the CRU’s measures to encourage active switching by energy consumers, such as the 30 Days’ Notice and the Annual Prompt. To that end, it will be important to ensure that the RP Flag is removed promptly to ensure that such measures to encourage switching are not undermined, as suppliers would be entitled to refuse a switching request by a consumer with an RP Flag raised against them.

The CCPC also notes that the RP Flag, if introduced, will be reviewed after three years to ascertain its effectiveness. The CCPC assumes that the CRU will undertake a monitoring role in respect of the implementation of the RP Flag, in line with its regular market monitoring functions.

We are available to discuss this matter further.

Yours sincerely,

[Signature]

Aibe Carroll
Director of Communications and Policy