

RMR policy intent and legal drafting workshop

Tariffs

09 May 2013

Agenda

- **Introduction**
- **General issues with legal drafting**
- **Tariff structures**
- **Tariff simplification**
 - **Tariff Cap**
 - **Discounts, bundles and reward points**
- **Dead Tariffs**
- **Fixed term contracts**



Introduction

- **Brief reminder of RMR policy goals for Tariffs**
- **Workshop objectives**
 - explain policy intent/effect for key substantive RMR topics and policy brief for legal drafting
 - No discussion on merits of policy
 - explain legal drafting and seek suggestions for drafting improvements to achieve greater clarity and simplicity (in line with policy intent/brief)
- **Policy brief for legal drafting**
 - Full transposition of policy intent covering complex interactions and hierarchy between policies
 - Avoiding loopholes

General issues with legal drafting

- Ofgem notes general concerns with SLC drafting
 - Clarity, Complexity and length
 - Repetition
 - Cross-referencing
- Ofgem does not intend to radically redraft the RMR licence conditions as a whole, but is exploring ways of addressing general concerns
- Any drafting changes will have meet the policy brief of:
 - Full transposition of policy intention
 - Avoiding loopholes

General issues with legal drafting - repetition

- Repetition is deliberate
- Most repetition reflects policy brief to avoid loopholes
 - e.g. repetition avoids arguments that paragraphs and sub-paragraphs don't apply to the same subject matter
- Some repetition is intended to help future-proof SLCs
 - e.g. Main content requirements for information remedies would still work in the event that Ofgem decide to remove (or grant derogations from) the detailed schedules
- Ofgem will be exploring options to reduce repetition
 - e.g. via overarching rules such as paragraphs 22B.31A to 31D on page 25 of latest SLC drafting

General issues with legal drafting – cross-referencing

- Cross-referencing reflects complex interactions and hierarchy between RMR policies
 - Without cross-references suppliers would be faced with uncertainty about interactions and hierarchy between SLCs
- Cross-referencing also reflects policy brief to avoid loopholes
 - Many SLCs include a general prohibition and then set out exceptions for particular things/circumstances
 - E.g. Ban on additional information being included in (or sent with) Annual Statements and Price Increase Notifications is subject to exceptions arising from rules relating to the TCR and supplier cheapest tariff messaging
 - See next slide for explanation of cross-referencing used in SLC 23.4(c)

Cross-referencing: SLC 23.4(c) example

23.4(c) (without prejudice to SLC 23 Supplier and Customer Information, paragraphs 23.4B to 23.4E, the information required by sub-paragraph 31C.5(e) of standard condition 31C, the requirements of paragraph 23.1A of standard condition 23, and subject to paragraph 23.4A) must only include the information mentioned in sub-paragraphs 23.4(d) to 23.4(y);

Text	Why is this necessary?
<i>Provisions set out below</i>	<i>In general, to reflect exception and hierarchy arising from policy intent regarding content restrictions</i>
<i>"without prejudice to SLC 23 Supplier and Customer Information"</i>	<i>Ensures that suppliers are able to include essential additional information in the notice</i>
<i>"without prejudice to...paragraphs 23.4B to 23.4E"</i>	<i>Ensures that suppliers are able to include supplier cheapest deal messaging in the notice</i>
<i>"without prejudice to...the information required by sub-paragraph 31C.5(e) of standard condition 31C"</i>	<i>Ensures that suppliers are able to include the additional information relating to the TCR in the notice</i>
<i>"without prejudice to... the requirements of paragraph 23.1A"</i>	<i>Ensures that there is no conflict with the requirements to provide Tariff Information Labels and Estimated Annual Costs (AKA Personal Projections)</i>
<i>"subject to paragraph 23.4A"</i>	<i>Ensures that there is no conflict with the requirements to have a combined gas and electricity notice</i>

Tariff Structure – Policy intent

- **Tariffs presented in the form of a standing charge (SC) and unit rate (UR)**
- **UR may vary in a predefined way with**
 - **time of year/week/day**
 - **independent published index**
- **SC and or UR cannot be dependent on the amount of gas and/or electricity consumed**
- **Any charges related with energy supply will have to be reflected in the SC and/or UN. List of exceptions is specified.**

Tariff Structure – SLC drafting

- **Standard Licence Condition 22A** *[pages 15 to 17]*
 - **22A.2 All supply related charges/costs are incorporated in the standing charge (SC) and unit rate (UR)**
 - **Difference between “Charges for Supply of [Gas/Electricity]” and new concept of “Charges for Supply Activities”**
 - **Definition of Separate charges: includes the charges that do not have to be incorporated in the SC and UR(s)**
 - **22A.3 Tariff structure: main purpose to require single UR and SC, unless time of use rates**
 - **SC and UR do not depend on the level of consumption**
 - **Definition of SC – makes clear that the SC may be zero**
- **For discussion**
 - **Any questions about legal drafting?**
 - **Any areas of clarification?**

Tariff Cap – Policy intent

Core tariff: Covers the charges for supply of gas/electricity. Excludes dual fuel discount, variations in charges relating to payment method, appropriate surcharges and optional additional services/products.

Type of tariff	Fuel	Meter types / modes	Same across regions
Non-ToU	4 x electricity	Single rate	Differences in payment methods
	4 x gas	(credit or prepayment – gas and electricity)	
ToU	4 x electricity 4 x gas	Two rate electricity (e.g. E7 tariffs)	
		Three rate electricity (e.g. E10 tariffs and variants)	
		DTS electricity	
		Any other meter type / mode (gas and electricity)	

Exceptions to the cap:

- expired fixed term tariffs
- collective switching (unlimited fixed-term tariffs)
- dead tariffs
- white label suppliers up to July 2014

Tariff Cap – SLC drafting

- **Standard Licence Condition 22B** *[pages 18 to 30]*
 - **22B.2 – Limit of four Core Tariffs for Relevant Metering Arrangement Categories (in any Region)** *[page 18]*
 - **Definitions in SLC22B** *[pages 27 to 28]*
 - **Relevant Metering Arrangement Categories**
 - **Time of Use Arrangement**
 - **Non Time of Use Arrangement**
 - **Definitions in SLC1**
 - **Core Tariff** *[page 5]*
 - **Region** *[page 9]*
 - **Economy 7** *[page 6]*
 - **Economy 10 and Variants** *[page 6]*
 - **Dynamic Teleswitching** *[page 6]*
 - **Prepayment** *[page 9]*
 - **Standard Credit** *[pages 10 to 11]*
 - **Other Time of Use** *[page 9]*
- **For discussion**
 - **Any areas of clarification?**
 - **Break out sessions**

Tariff Cap – Break out sessions

- **3 break out groups**
- **Objectives:**
 - **discuss ways of improving SLC drafting to achieve policy intent** (*approx 1 hour per group*)
 - **participants may wish to consider key amendments to Ofgem drafting or approach to complete redraft on this topic**
 - **Group spokesperson to report back on recommendations for Ofgem** (*approx 15 mins per group*)

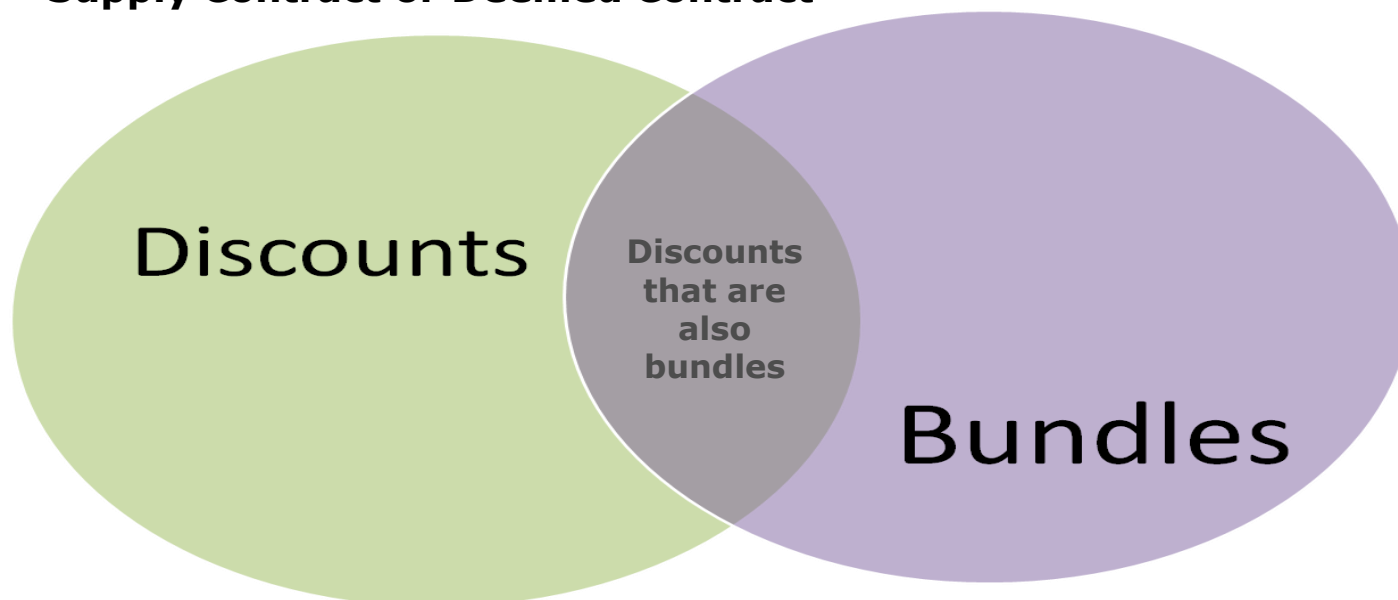
Break Out Groups

	Organisation	Attendees
Group 1 – Sweta	British Gas	David Watson
	Consumer Focus	Gillian Cooper
	RWE Npower	Legal representative
	Utility Warehouse	Andrew Lindsay
	Scottish Power	Richard Sweet
	DECC	Patrick Whitehead
Group 2 – Barry	First Utility	Malcolm Henschley
	Eon UK	Steve Russell
	EDF	Steven Eyre
	Utility Warehouse	John Cooper
	Energy UK	Alun Rees
	SSE	Roger Hutcheon
Group 3 – Cesar	British Gas	Camilla Oakley
	Eon UK	Jordon Glossop
	RWE Npower	David Mannering
	EDF	Jon Parr
	Scottish Power	Pamela Mowatt
	Energy UK	Additional rep

Discounts, bundles and reward points (1)

- **Definition of discount**

- **Discount means, excluding a Compensation Payment, any form of payment, saving, rebate, benefit or reward (whether financial or otherwise) which is in any way linked or otherwise relates to a Domestic Supply Contract or Deemed Contract**



- **Policy intention is restrictive**

- **There are only two allowed cash discounts (dual fuel and online)**
- **Many bundles provided for free or at a discount would be effectively banned**

Discounts, bundles and reward points (2)

1. Discounts £/yr or p/kWh	2. Bundles which are also discounts	3. Bundles £/yr or p/kWh	4. Reward Points
must be available to existing and new customers	must be available to existing and new customers	must be available to existing and new customers	must be available to existing and new customers
may not vary by region	may not vary by region	may not vary by region	may not vary by region
must be applied continuously	must be applied continuously		must be applied continuously
must be expressed in the same monetary terms as the SC or UR	must be expressed in the same monetary terms as the SC or UR		
Only allowed cash discounts are one dual fuel & one online discount (£/year)	All other bundle rules apply (see column 3)	Optional bundles must be available with all core tariffs - does not count towards the cap	Optional reward points must be available with all core tariffs - does not count towards the cap
Banned: loyalty discounts and any other staggered discount		Mandatory (tied) bundles must be tied to a specific core tariff - counts as one tariff	Mandatory (tied) reward points must be tied to a specific core tariff - counts as one tariff
		One core tariff can only have one tied bundle	One core tariff can only have one tied bundle
		Bundles cannot be cash or redeemed for cash in any currency	Reward points cannot be cash or redeemed for cash in any currency
		Bundles cannot be applied to SC, UR or the energy bill	Reward points cannot be applied to SC, UR or the energy bill

Examples for discounts

- Would a discount be possible for online account management, with paper bills? → Final proposed RMR rules only allow an online discount if it includes paperless billing. The discount will have to be a monetary amount (£/year), for example – £10 per year off for online account management. [Dual fuel and online discounts]
- Would loyalty discounts be allowed? → Cash discounts are not allowed. Discounts applied after a time period are not allowed. [Prohibition on cash discounts, continuous applied rule]



Discounts, bundles and reward points (3)

1. Discounts £/yr or p/kWh	2. Bundles which are also discounts	3. Bundles £/yr or p/kWh	4. Reward Points
must be available to existing and new customers	must be available to existing and new customers	must be available to existing and new customers	must be available to existing and new customers
may not vary by region	may not vary by region	may not vary by region	may not vary by region
must be applied continuously	must be applied continuously		must be applied continuously
must be expressed in the same monetary terms as the SC or UR	must be expressed in the same monetary terms as the SC or UR		
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Examples for bundles



- Are shares allowed? As shares cannot be redeemed for cash, we consider them a bundle and are allowed under our final proposals. Bundle rules will apply to this offering. Example, pay £5/yr extra to receive x shares per year. [Treatment of bundles] If however shares are offered free or at a discount then discount rules will also apply.
- Are other goods and services allowed under our final proposals? Suppliers are free to offer other goods (ie a boiler) and services (boiler cover, telecommunications, etc) as long as they comply with our bundle rules. Example, pay £100/yr for boiler cover with energy. [Treatment of bundles]

Discounts, bundles and reward points (4)

1. Discounts £/yr or p/kWh	2. Bundles which are also discounts	3. Bundles £/yr or p/kWh	4. Reward Points
must be available to existing and new customers	must be available to existing and new customers	must be available to existing and new customers	must be available to existing and new customers
may not vary by region	may not vary by region	may not vary by region	may not vary by region
must be applied continuously	must be applied continuously		must be applied continuously
must be expressed in the same monetary terms as the SC or UR	must be expressed in the same monetary terms as the SC or UR		
only allowed cash discounts are one dual fuel & one online discount (£/year)	All other bundle rules apply (see column 3)	Optional bundles must be available with all core tariffs - does not count towards the cap	Optional reward points must be available with all core tariffs - does not count towards the cap
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		One core tariff can only have one tied bundle	One core tariff can only have one tied bundle
		Bundles cannot be cash or redeemed for cash in any currency	Reward points cannot be cash or redeemed for cash in any currency
		Bundles cannot be applied to SC, UR or the energy bill	Reward points cannot be applied to SC, UR or the energy bill

Examples for bundles that are discounts

- Tickets offered for free or at a discounted rate, capable of being used in advance of start of energy supply. This is allowed.
[Exemption to continuous applied rule]
- A free TV offered after the first year of the supply contract. This is not allowed because of our continuous applied rule and our rules on termination fees.



Discounts, bundles and reward points (5)

1. Discounts £/yr or p/kWh	2. Bundles which are also discounts	3. Bundles £/yr or p/kWh	4. Reward Points
must be available to existing and new customers	must be available to existing and new customers	must be available to existing and new customers	must be available to existing and new customers
may not vary by region	may not vary by region	may not vary by region	may not vary by region
must be applied continuously	must be applied continuously		must be applied continuously
must be expressed in the same monetary terms as the SC or UR	must be expressed in the same monetary terms as the SC or UR		
only allowed cash discounts are one dual fuel & one online discount (£/year)	All other bundle rules apply (see column 3)	Optional bundles must be available with all core tariffs - does not count towards the cap	Optional reward points must be available with all core tariffs - does not count towards the cap
banned: loyalty discounts and any other staggered discount		Mandatory (tied) bundles must be tied to a specific core tariff - counts as one tariff	Mandatory (tied) reward points must be tied to a specific core tariff - counts as one tariff
		One core tariff can only have one tied bundle	One core tariff can only have one tied bundle
		Bundles cannot be cash or redeemed for cash in any currency	Reward points cannot be cash or redeemed for cash in any currency
		Bundles cannot be applied to SC, UR or the energy bill	Reward points cannot be applied to SC, UR or the energy bill

Examples for reward points



- 500 Nectar points offered after the first year. This is not allowed under our proposals as reward points must be applied continuously.
- Receive 1 Nectar point each day. Suppliers are allowed to offer this. [Continuous applied rule]

Discounts, bundles and reward points (6)

- Applied continuously rule (SLC22B definition)
 - Rule applies to any discount (including bundles that are discounts) and to reward points
 - The discount/reward points are accrued on a daily or per kilowatt basis
 - The value accrued of the discount/reward points are provided to the customer on a regular basis
- Exception for bundles that are discounts and reward points where (SLC22B.28)
 - they are not cash or capable of being redeemed by cash
 - they are provided to the customer before supply of energy starting
 - the customer does not have make any payment to receive them
- Examples
 - 500 nectar points received on signing up the contract
 - Supermarket voucher capable of being used before the date for the start of energy supply

Discounts, bundles and reward points – SLC Drafting

- Broad definition of Discount – SLC1 *[pages 5 to 6]*
- Prohibition on cash discounts – SLC22B.3 and SLC22B.4 *[pages 18 to 19]*
- Dual Fuel and Online discount – SLC22B.5 and SLC22B.5 *[page 19]*
- Treatment of Bundles – SLC22B.8 to SLC22B.16 *[pages 20 to 21]*
- Treatment of Reward Points – SLC22B.17 to SLC22B.23 *[pages 21 to 23]*
- Continuous Applied rule – SLC22B.36 *[page 26]*
- Exemption to Continuous Applied rule – SLC22B.28 *[pages 23 to 25]*

Dead Tariffs

- **Suppliers may choose to keep dead tariffs (which are less expensive than cheapest live evergreen) or to terminate them**
- **If suppliers choose to keep the dead tariff, they must**
 1. **First, make the dead tariff compliant with the RMR rules (minimal change principle)**
 2. **Then, compare the RMR compliant dead tariff with the cheapest evergreen core tariff**
 3. **If the RMR compliant dead tariff**
 - **Is more expensive, the supplier will need to transfer the customer**
 - **Is cheaper, the supplier can maintain the tariff**
 4. **If any change to the original dead tariff is made (including termination), suppliers will have to notify customers and allow them a switching window**
- **We expect that most of this process will take place in the back office – the customer should receive one single notification, or no notification at all (where the original dead tariff is already RMR compliant)**
- **Suppliers will have to conduct an annual check on dead tariffs**
- **Suppliers cannot create new dead tariffs**

Dead Tariffs – SLC Drafting

- Definition of “Dead Tariff” and “Live Evergreen Tariffs” in SLC 1
[pages 5 and 8]
- General Prohibition of Dead Tariffs SLC 22D.1 *[page 42]*
- initial back-office review of dead tariffs:
 - SLC 22D.3 and 22D.4 *[pages 42 to 23]*
- annual review of dead tariffs:
 - SLC 22D.3 and 22D.4 *[pages 42 to 23]*

Fixed term Offers

- **March RMR:** we proposed that existing fixed term contracts would be made compliant with the RMR tariff rules by 31 Dec 2013 (structure, discounts, bundles etc)
- **Effect:** All tariffs potentially would need to change to comply with the tariff rules, and consumers notified. This would include any expired fixed term, e.g. the terms a consumer signed up to would need to be changed
- **Consultation responses:** suppliers concerned they would have to break existing contracts. Could undermine trust and confuse consumers
- **Updated policy position:** we propose to exempt from some RMR rules (tariff structure, discount, bundles and reward point rules, and ban on unilateral variations to fixed term offers) the expired fixed term tariffs that were signed up to a certain date in the past. These tariffs will be allowed to run their course

The background of the slide is a composite image. On the left, there are rows of solar panels under a bright sun. On the right, a hand is shown holding a white document. In the bottom left corner, a blue gas burner is visible. The overall theme is energy and customer service.

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Promoting choice and value
for all gas and electricity customers