Wednesday, 13 January 2016

Roger Witcomb
Chairman, Energy Market Investigation
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Email: BillBullen@utilita.co.uk

By email only

Dear Roger,

Re: Revised AEC relating to the prepayment segment, Second supplemental notice of possible remedies

The revised AEC relating to the prepayment set out a number of areas to which the CMA had given additional consideration, it was accompanied by the second supplemental notice of possible remedies.

We find ourselves in agreement with many of the identified issues leading to the AEC. Utilita is the only supplier specialising in smart meters for prepayment customers, and with over 99% prepayment customers has an excellent understanding of prepayment customers' needs and preferences.

We have for many years argued that insufficient attention has been paid to the difficulties experienced by prepayment customers, and that as a result, prepayment customers for the most part have been poorly served. We have also argued that prepayment customers stand to benefit most from the flexibility and convenience offered by the SMETS1 meters, and that they should be prioritised in rollout. Our business model, to install smart meters as quickly as we can free of charge to all our customers demonstrates our commitment. However, while we support much of the CMA analysis, we are much less supportive of the general thrust of the possible remedies CMA is minded to consider.

We are concerned that the CMA is minded not to consider further what we believe would be the single most effective remedy.

The CMA has correctly identified that the roll out of smart meters has the potential to address, to a significant degree, the AEC for the prepayment segment. Not only do smart prepayment customers enjoy significant benefits over non-smart customers, but they have greater flexibility over payment mode, and subject to credit, can have their mode switched. There is no need to consider meter installation costs as these are addressed in the same way as for other smart meter installations.

Utilita has proven, by leading the market in smart prepayment, the benefits available to the customers and that the model works. This has been the most important development for prepayment customers

to date. Ensuring that prepayment customers have a right to have a smart prepayment meter installed if they want one has far greater value than the right to a credit meter. A smart meter can be either – it gives the customer real choice.

The second limb to this remedy needs to be a requirement on suppliers that they must allow prepayment customers to keep their existing smart prepayment meters (in prepayment mode) if they want to on change of supply. This second limb would ensure that once customers had their smart prepayment meter they could keep it. This change will have a number of benefits including:

- Encourage smart prepayment customers to be more active in switching
- Fostering increasing numbers of smart prepayment meters as suppliers can support them; and
- Speed up effective competition in this market.

We believe that together with improvements to debt assignment once system automation can be achieved, these remedies would address the majority of the AEC without recourse to such options as tariff caps with their attendant risks.

In the attached appendix to this letter, we address the questions raised by the CMA in the submission.

If you would like to discuss any of the points in more detail, we should be happy to help. Please contact Alison Russell, our head of regulatory affairs, who will be happy to co-ordinate.

Yours sincerely

By e-mail

Bill Bullen
CEO, Utilita

Appendix 1 – Supporting submission in response to Second Supplemental Notice of possible remedies

Remedy 19 – facilitating sharing of data relating to prepayment meter customers

(a) Would this remedy be effective and proportionate in increasing competition for non-smart prepayment meter customers?

As a general observation, while there may be benefits to sharing data subject to careful specification and management, we do not understand why the remedy should be limited to prepayment customers. As smart prepayment has become increasingly convenient to use and more directly comparable to other pay-as-you-go services, more people opt for prepayment as a choice.

On this basis we would argue if this remedy is to be put forward such that data on non-smart opt in customers is to be shared, this should include credit and prepayment customers. This approach could include where customers were on a regulated tariff if this were implemented. The remedy would carry costs as a specific opt out scheme and system would be required and would need to be actively managed, especially if it is to operate annually. Hence to maximise benefit, the data sharing scheme should be extended more widely.

The costs of such an approach should be carefully considered and a cost benefit analysis conducted. As the document notes, smart meters are expected to alter the way in which suppliers and customers interact, leading to a review of the remedy in either 5 years or once the smart rollout is substantially complete. This means that benefits of this particular remedy are unlikely to be enduring and hence to be proportionate costs must be kept low.

The requirement for this remedy might also be obviated by the implementation of the faster switching programme. If this is the case, given the target date for that programme, the costs of these proposals would need to 'payback' in potentially 2 years.

Consideration should be given as to whether the data shared should include if the customer is in debt, whether they have consented to data sharing for debt assignment purposes.

It would also be important not to disadvantage individual suppliers. The proposals in paragraph 22 would require careful consideration. For example, where a supplier operates a very simple structure (only one or two tariffs per meter category), it would be unreasonable to require disclosure to Ofgem on the basis that the customer is on a default tariff because they have been on the same tariff for several years.

(b) Are there additional legal considerations that are relevant to this remedy (eg under the Data Protection Act 1998 or the Privacy and Electronic Communications (EC Directive) Regulations 2003)?

No comments

(c) Is Ofgem the right party to have oversight of this process?

It is not clear that Ofgem would be the appropriate party to operate this process if implemented, though oversight may be sensible. It would be better to consider first whether any other arrangement would be appropriate, for example, whether any of the existing or planned industry systems could provide equivalent facilities.

(d) What limitations would need to be imposed to ensure that the data was disclosed and used appropriately?

As above

(e) When should the continued need for this remedy be reviewed?

As above

(f) What might be a suitable frequency with which to share customer data?

A cost benefit analysis should be carried out, but it seems unlikely that a frequency of more than annually would be practical. However, issues may arise if customers seek to update their opt-out status during the year, requirements in this area will need to be carefully considered.

(g) Should this remedy apply to prepayment meter customers with smart meters?

Yes, but in accordance with our comments above.

Remedy 20 – removing the barriers that prepayment meter customers without a debt face when attempting to switch to a credit meter

Utilita is of the view that once prepayment customers have had a smart meter fitted, impediments to switching where customers do not have a debt are reduced. Ofgem has identified that there are a range of approaches in the industry, some suppliers may seek a security deposit, others do not and offer alternative approaches to confirm credit terms are viable for a customer.

Moving to costs of meter installation, some suppliers seek to make a charge, others do not though once a smart meter is installed this issue should be nugatory. The issue currently relates more to suppliers failing to facilitate smart meters remaining in place, and hence removing smart meters and installing a dumb prepayment meter on change of supply. This removes the flexibility of choice the customer previously enjoyed and means that a switch to credit from prepayment again requires a physical meter exchange.

Remedy 20a – prohibit the charging of a security deposit in circumstances when a customer is not in debt and has not incurred any fines, charges or interest for late payment in the last six months

It is worth noting under this section that the issues of security deposits considered relate equally to smart meters.

(a) Would this remedy be effective and proportionate in removing the barrier to switching that security deposits can pose?

We agree that this is a viable option within the current framework, though we question its value. There may be more benefit to customers overall in restricting the level of security deposit that can be requested, limiting the duration for which such a deposit may be held, and requiring an alternative to be offered rather than an absolute ban, which may carry more risk (and hence cost).

Suppliers adopt a range of approaches to security deposits This means suppliers are available to customers who do not charge a security deposit (for example Utilita does not charge security deposits other than in cases of proven repeat theft). We therefore believe that the option to seek a security deposit should remain, as one of a range of options which can be offered to a customer along with price and payment method. This enables suppliers to differentiate offerings.

However, if the approach were adopted, there would need to be exclusions, the main one being where a deposit is requested as a result of revenue protection activity. We also suggest that if implemented this proposal be kept under review in the light of other work being considered by Ofgem in the area of credit and debt.

It is important to recognise that suppliers must have practical and reasonable tools to manage debt and risk of debt otherwise prices for all customers may rise. The option to request a reasonable security deposit as one of a range of options made available to a customer is a well understood and most likely cost effective way of managing risk.

(b) Are these the right criteria to apply in determining circumstances in which suppliers can charge a security deposit?

Utilita currently does not charge security deposits where a customer wishes to move to credit, instead, once the customer has a smart meter in place we operate a managed credit process. We ask the customer to pay by direct debit onto their smart meter for a period. If the direct debit is insufficient, the customer will need to top up in the usual way. This allows the customer to ensure they can manage a monthly payment routine. Once a customer has successfully operated this direct debit process for 3 months, they will be able to move to normal direct debit if they wish to do so.

An approach such as this enables a customer to demonstrate they can manage credit terms and provides a viable alternative to a security deposit. It is frequently difficult for a prepayment customer to provide such evidence in any other way.

If the approach of removing the ability to charge a security deposit is taken as described, it would also be important to consider what other criteria should be applied. We would suggest that consideration should also be given to the frequency with which service such as Emergency and Friendly Credit have been used, as well as frequency of any free vends required to maintain supply. While not conclusive, all three may suggest a potential difficulty in managing a monthly or quarterly payment cycle.

(c) What are the potential unintended consequences of being explicit about when customers can be charged a security deposit?

No additional comments

(d) Is there a preferable alternative way of mitigating detriment arising from the impediments to switching posed by the potential need to pay a security deposit?

Please note the comments above relating to managed credit. We also suggest that automation of the Debt Assignment Protocol process would assist by making it a less intensive process.

The current process for transfer of smart prepayment meters is to switch into credit mode on transfer as not all suppliers support the relevant smart prepayment meters. This means the incoming supplier may often either elect to operate the supply in credit mode (potentially with a security deposit) or to install a dumb prepayment meter which may mean the customer incurs additional cost should they later seek to move to credit. Reducing inefficient meter replacement of this type would also be expected to reduce difficulties for customers.

(e) Should the CMA implement this remedy itself, or should the CMA make a recommendation to Ofgem to do so?

If this remedy were implemented, we expect a licence change would be required, in which case we would favour use of the normal process for licence changes.

Remedy 20b – Suppliers are prohibited from charging customers upfront for the cost of a new meter when switching away from prepayment

(a) What length of time is reasonable and appropriate to allow the recovery of the cost of the meter and installation?

The evidence supplied in the analysis shows that 95% of prepayment meters that were removed in favour of credit meters were removed for free. On this basis it is clear that there are a range of suppliers available to prepayment customers who will not make such charges. On this basis we do not believe that a blanket provision of this type will bring significant additional benefit.

It is also important to consider the additive effect of provisions in the context of the regulatory environment. While some suppliers such as Utilita do not charge for meter removal (we seek to install smart meters for all our customers free of charge, which removes the question), it is reasonable to allow a range of approaches. This provides for differentiation and for the effect of competition as customers will choose the offer that suits them.

(b) Is this a proportionate remedy given the number of cases in which suppliers charge for removal of a prepayment meter?

As above, given the small number of cases in which suppliers charge we do not consider this a proportionate remedy.

(c) Is there an equally or more effective alternative way to reduce the costs of prepayment meter removal and replacement?

No additional comments.

(d) Should the CMA implement this remedy itself, or should the CMA make a recommendation to Ofgem to do so?

If this remedy were implemented, we expect a licence change would be required, in which case we would favour use of the normal process for licence changes.

Remedy 20c – Require suppliers to provide annual notifications to prepayment meter customers setting out their right to switch and highlighting any potential restrictions or charges that may be payable

(a) Would this be an effective means of facilitating switches away from prepayment meters?

We believe that much of the intent behind this remedy is already included in the Annual Statement which is supplied to all customers. The requirement for Relevant Cheapest Tariff messaging together with Alternative Cheapest Tariff messaging addresses most of what would be achieved by adding an additional notification. The ACT messaging in particular highlights that this may require a meter change.

It may be that a modest additional adjustment could be made to the existing provisions, though we are not convinced it would bring any real advantage to customers.

In addition, as a smart prepayment specialist, we do not consider that it is necessary to facilitate switching away from prepayment meters. Smart prepayment is flexible, convenient and frequently adopted by choice. The key, is to prioritise prepayment customers in the smart rollout to maximise flexibility for such customers. If customers do have smart meters and wish to request a different payment method this is then much simpler to implement.

(b) What would be the most effective means of communicating this information to customers?

No additional comments

(c) What is a suitable frequency with which to contact customers? Would this messaging be more appropriately included alongside other messages or be triggered by particular events (such as outstanding debt being paid off)?

It is important in any such messaging to carry it out economically and efficiently to minimise costs to consumers.

We suggest that this, if implemented would be best included within existing contact cycles. As prepayment customers generally do not receive bills, we suggest the Annual Statement would be the best place for the communication.

(d) Should a prompting remedy such as this be introduced directly by the CMA or should this be an area that Ofgem considers running randomised controlled trials to assess its effectiveness?

If this remedy were implemented, we expect a licence change would be required, in which case we would favour use of the normal process for licence changes.

While we would favour testing the effectiveness of such an approach in advance, it would be important to ensure it could be tested in the intended delivery format. It would be important to consider how practical randomised trials would be across a range of suppliers, given the implementation costs (and also possibly costs of backing out such changes).

Remedy 21 – reform the protocol for assignment of debt on prepayment meters

(a) Would a remedy recommending Ofgem to address the above-mentioned issues be effective in ensuring that adequate changes to the DAP are implemented promptly? Or should the CMA instead use its order-making power to support Ofgem's ongoing work?

The current DAP is manually intensive and onerous for suppliers. We believe that the limited use to date does to some degree reflect that not all suppliers have signed up to the process. In addition to the manual nature, the objection flows do not make clear when an objection is raised for debt reasons and hence unnecessary DAP processes may occur.

It is notable that on change of supply, smart prepayment meters have to be switched to credit mode based on an industry process. As debt assignment has to be initiated by the incoming supplier, if the meter is not switched back to prepayment, the DAP may not be taken forward.

While changes to the DAP would be beneficial, it should not be made more onerous until a properly automated process can be applied for both gas and electricity to ensure consistent treatment. We also consider that the current level at which DAP is applied is sufficient. Currently no changes are being accepted into the gas systems due to Nexus implementation. This means that the objection process needs to continue to drive the DAP process in the interim. Objection letters are driven by licence requirements on a 'per objection' basis.

Consideration must be given to potential interactions with the proposed faster switching project and associated new central systems as well as Ofgem's ongoing work on objections.

Overall, the most efficient way to improve the DAP process would be for it to be properly implemented into industry systems, and for the presence of debt to be accurately flagged on the objection flow. E-UK's submission to this supplemental notice of remedies covers the issues related to DAP thoroughly, and hence no further points are made here.

(b) What is the most efficient way for Ofgem and the industry to improve the DAP process in relation to the above-mentioned areas identified by Ofgem in order to increase the switching rates of indebted PPM customers?

As above, no additional comments

(c) How would this remedy interact with the other remedies to address the Domestic AEC and/or detriment?

As above, no additional comments

(d) Are there other impediments to switching for indebted PPM customers – other than those identified by Ofgem – that need to be addressed? If so, what are these and how should Ofgem or the industry address them?

As above, no additional comments

Remedy 22 – A transitional 'safeguard price cap' for domestic prepayment customers

We do not favour transitional tariffs or price caps, due to the difficulties inherent in setting levels effectively without requiring frequent resets. As noted in the document, if a price cap were to be applied, even on a transitional basis, headroom would be required to allow for market movements and additional costs. The cap also runs the risk of becoming a focal point. Relative rather than absolute price caps do not remove this risk, they simply change the focal point. As a result, we consider price caps generally damaging to competition. It is also not clear whether this remedy is intended to apply to all prepayment customers or only non-smart prepayment customers.

While we strongly oppose the introduction of price caps, should this remedy be implemented, we have included some brief observations below.

(a) If the transitional safeguard price cap for PPM customers were set relative to other prices in the domestic retail energy markets, how should we identify an appropriate level of prices and how can we ensure the level of the cap remains appropriate for the duration of the period it is in effect?

The period the cap is in effect should be relatively short – no more than a year. Caps must also strike a reasonable balance between simplicity and allowing for different tariff types – for example fixed and variable contracts should not be subject to the same cap.

(b) Could the imposition of a transitional safeguard price cap for PPM customers result in energy suppliers reducing the quality of service offered to customers on these tariffs? Is this risk reduced by prepayment customers' ability to choose alternative, unregulated tariffs or changing to a smart prepayment meter?

This would depend on how the cap is set and on what terms. It seems likely that if a tariff cap is set, to be sufficiently protective, a basic level of service would need to be specified.

(c) How should the headroom be calculated to provide the right level of customer protection while not unnecessarily reducing healthy competition?

No additional comments

(d) What regulatory information would be required to set the transitional safeguard price cap?

No additional comments

(e) How long should the transitional safeguard price cap be kept in place? Is it appropriate to include a specific sunset provision, or should there be a commitment to review the need for and level of the safeguard price cap after a certain period of time?

If a safeguard tariff cap is put in place, it should be subject to a full annual review and re-justification, ideally with a specific sunset clause.

(f) Should the termination date of a transitional safeguard price cap remedy be linked to the roll-out of smart meters? If so then should this be done explicitly, in aggregate or on a customer-by-customer basis?

It should be linked to smart rollout, in aggregate.

(g) How frequently – if at all – would the level of the cap need to be reassessed?

It will depend on the level of headroom in the initial estimates. A tighter estimate will require more frequent review.

(h) **Which prepayment customers should this remedy apply to?**

Utilita believes that the position with respect to 'safeguard price caps' is no different for prepayment domestic customers than it is for domestic credit customers.

(i) **Which energy suppliers should be subject to the transitional safeguard price cap, and why? Should it be restricted to the Six Large Energy Firms, or should all retail energy suppliers be covered?**

No additional comments

(j) **How should the transition from the current arrangements be managed? Should there be a period over which the transitional safeguard price cap is phased in? If so, how long should this period be and how should the transition work?**

No additional comments

(k) **Would energy suppliers have the ability to circumvent the remedy, for example, by encouraging domestic prepayment customers to switch on to less favourable, unregulated tariffs, and how could such risks be mitigated?**

We consider that the RMR provisions should provide sufficient protection. The market comparisons required under condition 25 should ensure customers have sufficient information to make an informed choice.

(l) **Should the CMA set the level of the transitional safeguard price caps itself, or should the CMA make a recommendation to Ofgem to do so?**

Given the requirement for close monitoring and regular review, if such a remedy is implemented a recommendation to Ofgem (as to the basis for the cap) would be the most practical way forward.

(m) **Are there any potential unintended consequences of setting a transitional safeguard price cap, for example, in terms of their potential impact on the level of other, unregulated tariffs?**

As above, the main issues relate to forming a focal point for unregulated tariffs and damaging competition.