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By email to: [Consumerpolicy@ofgem.gov.uk](mailto:Consumerpolicy@ofgem.gov.uk)

18 December 2017

Dear Dennis

## **Statutory Consultation Response: Protecting consumers who receive back-bills**

Thank you for the opportunity to comment on Ofgem's statutory consultation to introduce protection to consumers who received back-bills. The contents of this response are not confidential and can be published.

Centrica is a long standing supporter of the 12 month back-billing principle in both the domestic and micro business (MB) sector:

- We have applied the prevailing back-billing principles to domestic customers in line with Energy UK's Billing Code of Practice<sup>1</sup> (CoP) since its creation.
- We have proactively reduced the level of back-billing we apply to MB consumers by applying a one year back-billing limit. We are signatories to the Voluntary Standards for back-billing micro business energy consumers<sup>2</sup>. To be signatories to the voluntary MB standards, suppliers must commit to apply back-billing limits of four and three years go gas and electricity fuels respectively. Centrica has gone further than these requirements, by applying a 12 month limit for both fuels.

Therefore, we are supportive of Ofgem introducing measures to ensure there is a consistent application of the back-billing principle across the market. This consistent application will result in a better consumer experience across both domestic and MB markets.

Our detailed responses to the questions posed in the consultation are detailed in Appendix 1. To summarise, the main points that we make are as follows:

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<sup>1</sup> The E.UK Billing Code of Practice can be viewed here: <http://www.energy-uk.org.uk/files/docs/Industry%20codes/Code%20of%20Practice%20for%20accurate%20bills/Codeofpracticeforaccuratebills2017.pdf>

<sup>2</sup> The E.UK Voluntary Standards for back-billing microbusiness customers is available here: <https://www.energy-uk.org.uk/files/docs/Policies/Micro%20business/VoluntaryStandardsforBackbillingofMicroBuisnessCustomersApril2.pdf>

- We are supportive of the proposed limit being an exception based limit, if it is based on the current Billing COP, and not a hard 12 month cap. If Ofgem envisages this change to be different to the current arrangements, then we require clarification on how it is different. This clarification is required to understand if any change is required before we can support the licence condition.
- We understand Ofgem is looking to address this risk as soon as possible but we believe that a further consultation should have been completed before this statutory consultation. This further consultation will have identified full impact that a new licence condition could have had on the market.
- We believe further clarification is required in the drafting to make clear that there is a customer responsibility to ensure that billing is correct. This is particularly relevant in scenarios such as Change of Tenancy.
- The current proposal includes a limit to direct debit adjustments. It is unclear how this is expected to be implemented. We need Ofgem to clarify what its intention is for a direct debit limit and to clarify how it should be implemented. The consultation wording can be interpreted in a way that would require a large amount of change that would be costly and time consuming. We also believe it would be a change that would be unwelcome to the customer potentially requiring 'balloon payments' at the end of their direct debit plan to ensure a zero balance before agreeing their next plan.
- Ofgem have stated that any billing over the 12 month period should be communicated to the customer to explain why the customer is at fault and why they have been billed for the full amount. Our current approach is to invoice the customer and explain to the customer following an enquiry why they have been billed for that consumption. This approach proposed would require a substantial lead time and cost to implement across both our domestic and MB customers.
- It is not clear whether the consumer harm evidenced is due to an incorrect application of the back-billing principle or whether it is due to consumer engagement issues. The evidence provides the contacts to CitA, EHU and the Ombudsman but does not show the outcomes of those contacts.
- The introduction of a limit into licence will have an impact on the current Billing COP. We believe the back-billing clause of the COP would no longer be required if it was introduced into licence. The removal of the clause will result in the back-billing no longer forming part of the annual external audit completed as part of the billing code.

- We are still of the view that a 6 month back-bill limit should be applicable to domestic smart meter customers as stated in our response to the open letter published in April '17.<sup>3</sup>

We seek clarification on some key aspects of the proposals to be able to fully understand the cost and whether the implementation timescales are achievable.

We would be very happy to discuss our response in more detail and to engage with Ofgem on this further to help progress consumer protection from back-billing. Should you have any questions please contact my colleague, Gregory Mackenzie, on [Gregory.mackenzie@centrica.com](mailto:Gregory.mackenzie@centrica.com).

Yours sincerely



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**Director, Consumer Policy**  
**Centrica**

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<sup>3</sup> Our open letter response can be found here: [https://www.ofgem.gov.uk/system/files/docs/2017/11/centrica\\_-\\_open\\_letter\\_response.pdf](https://www.ofgem.gov.uk/system/files/docs/2017/11/centrica_-_open_letter_response.pdf)

## **Appendix 1 : Detailed Response**

### **Question 1: Do you agree with our assessment of the consumer harm? Both for domestic and microbusiness consumers?**

We understand that there is consumer harm in the market due to the inconsistent application of back-billing and are supportive of steps to address this.

Ofgem have estimated the financial detriment from £0.8m to £2.3m through using data provided by CitA, EHU and the Ombudsman Services. Ofgem has stated, as part of the consultation document, that this figure could be under-estimated. We agree and believe that the financial detriment is underestimated if customers do not seek further guidance following back-billing instance.

Further to the contact data used for the assessment of harm we believe it is important to consider the outcome of such contacts to fully understand the consumer harm. This can be done by understanding the resolution following the ombudsman complaints to see if the dispute was upheld or not. This further information will then show if:

- 1) The value for Suppliers not applying the back-billing principle correctly; or
- 2) The value of back-billing due to the consumer engagement issues.

This further information would provide a better understanding of the consumer harm and help make a fully informed decision on whether a licence condition is required.

### **Question 2: Do you agree with the way we are proposing to implement a back-billing limit and the other effects of our proposed licence modification?**

We are supportive of Ofgem's intent to ensure a 12 month back-bill limit is applied consistently across the market. We welcome Ofgem's intention to introduce an approach which allows the Supplier to bill the customer for more than 12 months of consumption due to the customer preventing access to the meter.

However, we do have some specific areas for consideration and questions that need clarifying with the proposed licence modification.

#### The Application of the licence condition

We are supportive of a 12 month back-bill limit if it is aligned with the current commitments through the Billing COP. If Ofgem's intention is for the licence condition to be more onerous then it is important that it is clear what those differences are and why they are required. We

believe the application of the Billing COP today is appropriate. We believe further changes could drive unnecessary costs for suppliers to introduce a back-bill requirement.

## Customer Responsibility

The current drafting states that the licence condition would not apply if the Supplier has ‘[...] *been unable to take a charge recovery action for the correct amount of [gas/electricity] consumed due to obstructive or manifestly unreasonable behaviour of the domestic customer.*’<sup>4</sup> We are supportive that this will allow the supplier to bill over 12 months when the Supplier is not at fault. We believe the current drafting does not make it clear that there is a customer responsibility in some scenarios to act appropriately to allow accurate billing to take place.

### *Example 1 – Change of Tenancy*

*The responsibility lies with the customer to inform the supplier that there has been a Change of Tenancy at the property. If the customer does not inform the supplier then the supplier is unable to bill the address correctly until that conversation has been held. If this was the case and it impacted the billing for over 12 months then we would continue to bill the customer for over 12 months of consumption due to unreasonable behaviour.*

### *Example 2 – Application of Debt on a Prepayment (PPM) meter*

*To apply debt to a PPM, once we have agreed the debt and weekly repayment amount with the customer, we send a debt message to a pay outlet. We are unable to apply debt directly to a legacy PPM meter. The customer is then required to top up at a pay outlet to collect the message to load this onto their meter. If the customer goes through a period of not topping up and potentially leaving our supply then this debt is not applied to the meter. In this scenario we do not apply the 12 month rule due to the customer not continuing to top up.*

We believe the two examples above reflect that there are scenarios where the customer must act for the supplier to bill or apply debt to the account. The supplier is not held responsible for these issues today and we are of the view that should be the case through a licence condition. The proposed licence condition under 21BA.2(d) allows for Ofgem to specify further exceptions to the rule in writing. We believe that a further guidance document can make it clear that the customer is also expected to act reasonably.

## Direct Debit Adjustments

The intention of the proposed licence condition is to extend to Direct Debit customers as ‘*Supplier will not be allowed to amend Direct Debits to recover charges contrary to the proposed*

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<sup>4</sup> Licence drafting s.21BA.(c)

*back-billing limit*<sup>5</sup>. We agree that the Direct Debits should not be adjusted as shown in case study 1 of the consultation document.

However, the current wording can be interpreted to have wider implications on current direct debit arrangements. We complete reassessments on a 6 month basis if we are able to gather regular reads and a full reassessment at the end of the 12 month period. If the customer has a debit balance on their account at the end of the year then the debit balance can be included in the next years direct debit plan by dividing them into monthly payments and spreading that cost over the year. This extension is to avoid 'balloon payments' at the end of the direct debit term to effectively ensure zero balance before the next plan is agreed. We believe that the current direct debit arrangements are appropriate for the customer.

If Ofgem's intention is for this licence condition to stop this annual reassessment adjustment from happening, then we do not agree with the intention. We believe that the current arrangement is beneficial for customers by avoiding 'balloon payments'. Further to this the system change required to deliver such a change would be very costly and time consuming. We seek clarity from Ofgem on their intention for the Direct Debit clause.

### Smart Back-Billing Limit

We are supportive of a 12 month back-bill limit for MB and domestic legacy metered customers. We are still of the view that a 6 month limit is appropriate for domestic smart metered customers to provide a greater benefit to smart metered customers. We believe Ofgem should consider this prior to introducing a licence condition.

### Billing Code and Scenarios document<sup>6</sup>

Introducing a back-billing licence condition will have an impact on the current EUK Billing COP. Centrica, as signatories to the COP, are subject to an external audit to ensure compliance with the billing code clauses. We believe that if this is progressed as a licence condition that back-billing should no longer form part of the billing code and should not be audited.

Alongside the billing code is the billing scenarios documents setting out the customer and supplier responsibilities in a clear manner. We believe that the publication of this document would not be appropriate if a licence condition was progressed. We would urge Ofgem to consider adopting a similar style document so it is clear to customers that they are responsible in some cases.

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<sup>5</sup> Page 16, Paragraph 2.13 of the Ofgem Consultation document.

<sup>6</sup> The EUK Scenarios document can be found here: <http://www.energy-uk.org.uk/publication.html?task=file.download&id=6202>

### Billing Adjustments over 12 months

In some instances, we are required to correct an account historically going past the 12 month limit. This is to ensure that the customer's account is correct going forward and to ensure billing is correct. As the customer is not at fault we would not charge the customer for consumption from more than 12 months ago. We believe that the condition must allow for this corrective action to occur.

### Principle Based Regulation (PBR)

The proposed requirements for suppliers to amend their terms and conditions to reflect the 12 month back-bill limit is not consistent with Ofgem's move to PBR. We believe the aim of the licence condition should be to ensure the customer is aware of the 12 month back-bill limit allowing suppliers to choose how this is implemented.

As part of the consultation response Ofgem has cited that if a Supplier decided to bill over 12 months then they would expect communication to be sent to the customer explaining why the customer was at fault<sup>7</sup>. We believe that this is adding further prescription into communications sent to customers and is an extended requirement to the current billing COP. We do not believe this prescription is required. Suppliers should be able to consider how this is communicated in the most appropriate and cost effective manner.

### **Question 3: Do you agree with our assessment of the costs to suppliers?**

We understand that Ofgem is looking to implement this change quickly and seek to keep the cost to a minimum for the market. We do seek clarification before we can provide an assessment of the cost and timescales to implement on items in the consultation document.

As addressed in our response to q.2, Ofgem has stated in the consultation document that suppliers should provide specific communication to customers to inform them of why the 12 month limit does not apply to them. We believe this is a step away from PBR and, to implement specific communications for each instance could be costly requiring communications changes. We believe our current approach is sufficient. We inform the customer of when back-billing has

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<sup>7</sup> Consultation Document: protecting consumers who receive back-bills. Page 18, Paragraph 2.20.

been applied and why, by letter, alongside credits applied to their account following applying the 12 month back-billing rule. If the 12 month back-billing rule has not been applied, then we provide the customer a bill stating what consumption has been billed along with the date for the bill.

We need clarification on how the direct debit prohibition is expected to work. Any change to how we operate the Direct Debit process will require a full impact assessment which will add significant cost and the time required to implement the solution.

We are supportive of Ofgem closely replicating the current back-billing element of the Billing Code of Practice into licence. If this is Ofgem's intention we agree that the implementation cost will be low, subject to the potential direct debit and communication changes that we ask for clarification on. To help understand the implementation requirements we ask Ofgem to clarify the aspects that they believe to be different from the current principles so it is clear to Suppliers.

The requirement to include information in the Supplier T&Cs will have a cost associated to it. We believe this cost could be reduced if we aligned the implementation with the GDPR go live on the 28<sup>th</sup> May. This will allow multiple changes to the T&Cs at once rather than consecutive changes in short timescales.

We believe that a further consultation to fully understand the costs and the scope of the change should have been completed before issuing the statutory consultation. We understand that Ofgem is looking to introduce this change in time to limit the impact of the bill shock due to the smart meter rollout. However, introducing this change will impact all participants across the market. We do not believe that this impact is fully understood or reflected in the consultation document.

**Question 4: Do you agree with the proposed implementation period?**

As highlighted in our response to question 3 if Ofgem are looking to replicate the current voluntary principles into licence then a quicker implementation is achievable. Introducing a change to T&Cs can take longer than envisaged but we believe aligning with the changes required through GDPR are would be beneficial.

If the licence requirements are more onerous then it is important that it is clear how different the requirements are. Without this clarity, specifically regarding the direct debit limit and the communications, we are not able to assess how long it would take to make any changes to be able to meet the requirements.