Ofgem's response to the Super-complaint on billing processes made by the Gas and Electricity Consumer Council ("energywatch")

Decision document

July 2005

Executive Summary

This document sets out Ofgem's response to the super-complaint received from energywatch on 6 April 2005[1]. energywatch's super-complaint set out their arguments that the billing processes of gas and electricity suppliers are significantly harming the interests of consumers [2].

As required under the super-complaint procedures, Ofgem has carefully reviewed and analysed energywatch's evidence within the statutory 90 day period allowed. Ofgem has also taken into account evidence from energy suppliers and other interested parties[3]. Ofgem's analysis has not identified significant and widespread consumer detriment associated with billing processes. For the vast majority of customers, the competitive energy market is working well. The quality of service they can obtain is generally good as well as competitively priced. However, for the relatively few customers who have reason to complain, there is evidence that the market does not always serve them well. Complaints are not always resolved quickly, while customers sometimes suffer great inconvenience and are not always adequately compensated.

energywatch's key concerns

energywatch's key concerns have been carefully considered in arriving at these conclusions:

- energywatch states that there is "*clear quantitative evidence of substantial consumer detriment"* and that there is "*overwhelming evidence that consumers face billing problems across the energy market"*

On the basis of evidence provided by energywatch and collected direct from suppliers, Ofgem cannot conclude that there is widespread or excessive consumer detriment relative to the scale of the energy industry's billing processes. Each year the energy industry manages 47 million customer accounts and delivers around 200 million bills.

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[1] An electronic copy of a non-confidential version of their complaint can be found on energywatch's website at http://www.energywatch.org.uk/uploads/Super_Complaint.pdf

[2] Ofgem must assess the scale of consumer detriment and its alleged root causes. Ofgem's role is to "carry out wider enquiries with a view to testing the evidence provided and obtaining any further information it considers necessary in order to form a reasoned view on whether the super-complaint justifies further action." Paragraph 2.22, OFT 514, "*Super-complaints: Guidance for designated consumer bodies"* July 2003. Also relevant is Section 11(1) of the Enterprise Act 2002.

[3] Appendix 6 sets out a full list of respondents.

Last year 39,000 billing complaints were received by energywatch. This represents a monthly average of 0.07 complaints per 1,000 customer accounts[4].

Customer service performance varies from one supplier to another. According to energywatch's complaints data, the worst performing supplier generates up to twelve times more complaints than the best. None of the evidence that Ofgem has considered, including the level and distribution of complaints, provides compelling evidence of a systemic failure in billing.

However, as energywatch's case studies show, whilst the number of complaints compared to the total number of energy customers is relatively small, and despite the rights customers have to change to a supplier offering a better service, some customers do experience significant hardship arising out of billing complaints. For such customers, the consequences can be traumatic and stressful, particularly when they are vulnerable[5].

- energywatch states that there is consumer detriment in the form of debt arising from *"inaccurate, delayed and estimated bills"*

Estimated bills do not in themselves imply problems of accuracy or cause consumer detriment. Meter reading can be expensive and survey data shows that most customers find it easy to read their own meters and challenge the accuracy of their bills if necessary. Suppliers have various processes and practices (including frequent meter reading programmes) to ensure the delivery of accurate bills. Evidence from suppliers and customer surveys also indicates that customers are not concerned about the frequency and regularity of bills. However, when delays do occur, they can cause uncertainty. A relatively small number of customers experience financial difficulties when, through no fault of their own, they do not receive a bill for a significant period of time and then receive a bill for several years' energy use.

[4] This data is available on energywatch's website, www.energywatch.org.uk. It covers both gas and electricity.
[5] Ofgem refers to vulnerable customers throughout this response. Ofgem must, amongst other things, have regard to the interests of people who are disabled or chronically sick, pensioners, those on low incomes and people living in rural areas. Electricity Act 1989 s3(A)(3), Gas Act 1986s4AA(3).

- energywatch states that the "*individual impact upon consumers can be significant*" and that there is a *"perception by consumers that suppliers do too little too late"*

Whilst the overall pattern for energy customers does not support claims that the process is systemically flawed, Ofgem conducted its own review of over 200 individual customer case studies. These clearly demonstrate that a relatively small number of customers experience significant detriment from billing problems.

The speed with which complaints are resolved and the compensation that suppliers provide when at fault varies from supplier to supplier. The ability of suppliers to choose to award compensation, or to block a customer's request to change supplier because of a disputed debt, can put a customer at a significant disadvantage in resolving a dispute with their supplier.

- energywatch states that there is "*clear evidence that suppliers have shown no genuine attempt or willingness to address billing issues"*

Concerns about billing in the energy industry are not new. Ofgem itself has strongly encouraged improvements in the industry's performance and there are currently a range of initiatives underway to address some of these concerns. Many of these initiatives show the commitment of energy suppliers to improve performance in this area.

- the Customer Transfer Programme, which began in June 2003, will be fully implemented in February 2006. The solutions it brings are aimed at significantly improving the information available to suppliers when customers switch, thereby reducing the scope for billing and other errors when a customer changes supplier

- in its Social Action Strategy Ofgem committed to continuing to work with the industry and other stakeholders to improve ways of identifying the vulnerable, and

- the EnergySmart campaign jointly undertaken by energywatch and Ofgem increases customers' awareness of the ability to switch supplier in order to secure lower prices and better customer service.

A number of suppliers are currently investing hundreds of millions of pounds in new IT systems, customer service programmes and enhanced meter reading programmes to improve their performance. Given the scale and complexity of billing processes, these programmes will take time to deliver improved performance. Whilst it is clear that improvement is needed, suppliers are actively engaged in seeking to resolve the problems indicated by the analysis. Ofgem is encouraged that the industry appears to be grasping the issue both individually (through investment) and collectively through the forthcoming Energy Retail Association (ERA) customer service code.

- energywatch states that "*consumers find energy bills confusing*"

Customer survey evidence suggests that a low proportion of customers report significant levels of dissatisfaction with the clarity of their bills. Nevertheless, suppliers have incentives to improve clarity and Ofgem expects the new ERA code of practice to deliver significant improvements in this area.

Ofgem's conclusions

In response to the super-complaint, Ofgem is calling on energy suppliers to deliver in three key areas:

- ***Independent dispute resolution body***: energy suppliers should establish and finance, by July 2006, an independent dispute resolution body with the principal function of addressing account and billing disputes where the customer is able to demonstrate that (s)he has been unable to resolve the dispute with the supplier. The body should have powers to award compensation to customers who are shown to have received very poor customer service. A similar body exists in the telecommunications industry

- ***Back-billing:*** energy suppliers should, by July 2006, stop seeking payment from customers for any energy supplied where the supplier is at fault for not billing the customer for two years. From July 2007, energy suppliers should stop seeking payment for unbilled energy where a supplier has failed to bill for over 12 months and is at fault for not doing so, and

- ***Unfair contract terms***: energy suppliers should, by July 2006, review the terms and conditions in their supply contracts and change them where necessary. The

review should ensure that contracts are as simple as possible, comply with consumer rights' legislation and are not biased in suppliers' favour.

Ofgem is committed to the principles of "better regulation"[6] and is therefore asking energy suppliers to deliver these actions through "self regulation" within specified timescales. Ofgem will monitor suppliers' compliance and will introduce licence conditions if suppliers do not deliver in these key areas within 12 months.

[6] The five principles of the Better Regulation Task Force are: transparency, accountability, targeting, consistency and proportionality. The details can be found on: http://www.brtf.gov.uk/reports/principlesentry.asp

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1. Introduction

1.1. On 6 April 2005, the Gas and Electricity Consumer Council ("energywatch") submitted a super-complaint pursuant to section 11 of the Enterprise Act 2002 to the Gas and Electricity Markets Authority. energywatch alleged in its complaint that the billing processes and practices of gas and electricity suppliers are significantly harming the interests of domestic consumers[7]. This document is a response to that super-complaint.

Approach to the response

1.2. The claims made by energywatch relate to a large part of the customer's service experience in the retail energy market. energywatch's allegations of detriment relate not only to the physical bills that customers actually receive, but to a range of issues that affect the meaning and content of those bills, such as meter reading and contract terms. As such, energywatch considers that a significant part of the process of retail competition as it affects customers is a source of costly and unnecessary interaction for customers.

1.3. Chapter 2 gives some background to the super-complaint. It sets out the main points highlighted by energywatch in its super-complaint to Ofgem and explains the process Ofgem has followed when assessing the super-complaint.

1.4. Chapter 3 reviews briefly the state of retail competition to provide the context for the assessment of energywatch's specific allegations. Billing does not exist in a vacuum and the issue of billing needs to be considered in the wider context of the effectiveness of retail competition. It explains why the competitive process is generally the best form of customer protection, but highlights why there may be specific circumstances in which the energy market may not necessarily serve customers' interests without some intervention.

1.5. Chapter 4 then considers the evidence on consumer detriment produced by energywatch together with other sources, including enquiry and complaint data from suppliers, independent customer survey data and evidence from over 200

[7] An electronic copy of a non-confidential version of their complaint can be found on energywatch's website at http://www.energywatch.org.uk/uploads/Super_Complaint.pdf

case studies. The scale of detriment is assessed in both absolute and relative terms.

1.6. In Chapter 5 Ofgem assesses the possible root causes of the detriment alleged by energywatch to explore to what extent there should be greater regulatory scrutiny of certain aspects of billing processes.

1.7. In the final chapter on conclusions, Ofgem sets out the areas for action in the light of its analysis and challenges suppliers to deliver the initiatives within 12 months, consistent with the principles of better regulation, or face regulatory action from Ofgem to implement them.

1.8. Appendix 1 provides Ofgem's analysis of some of the evidence presented in energywatch's super-complaint. Appendix 2 provides a response on each of energywatch's recommendations for further action. Appendix 3 provides an overview of the regulatory framework currently in place with regard to the issues raised in the super-complaint. Appendix 4 provides two graphs illustrating the change in gas and electricity retail prices between January 2002 and March 2005. Appendix 5 provides a summary of two case studies which illustrate the extent of individual consumer detriment. Appendix 6 provides a list of respondents to Ofgem's open letter of 8 April 2005 which requested comments on the super-complaint from interested parties.

2. Background

2.1. This chapter explains the background to the super-complaint and sets out the main points highlighted by energywatch in its super-complaint to Ofgem. The chapter also discusses the possible outcomes of a super-complaint and the procedures for taking this super-complaint forward.

The super-complaint

2.2. On 6 April 2005 the Gas and Electricity Consumer Council ("energywatch") submitted a super-complaint pursuant to section 11 of the Enterprise Act 2002 to the Gas and Electricity Markets Authority. Under section 11, designated consumer bodies, of which energywatch is one, may make a super-complaint.

2.3. A super-complaint, as defined in section 11(1) of the Enterprise Act 2002, is a complaint submitted by a designated consumer body that 'any feature, or combination of features, of a market in the United Kingdom for goods or services is or appears to be significantly harming the interests of consumers'.

2.4. Section 183(1), Part 4 of the Enterprise Act defines 'consumer' for the purposes of Part 4 as excluding a person who receives or seeks to receive the goods or services in the course of a business carried on by that consumer. Section 11 of the Enterprise Act 2002 relating to the making of super-complaints by designated consumer bodies uses the term 'consumer' in the same manner as Part 4 (see subsection 9 of section 11). Therefore, a super-complaint must relate to what are broadly understood to be 'domestic consumers'. That is, consumers supplied or required to be supplied with gas or electricity at domestic premises[8].

Issues raised by energywatch

2.5. It is energywatch's view that the billing processes and practices of gas and electricity suppliers are significantly harming the interests of domestic customers. To support this conclusion, energywatch highlights a number of alleged detrimental effects on customers. They assert that billing processes are a

[8] Where customers are referred to in the document this should be read to mean 'domestic consumers'.

material contributor to levels of debt which have further consequences for customers, such as preventing them from changing supplier should they wish to do so. energywatch also maintains that supplier billing processes contribute to confusion among domestic customers, affecting their ability to make informed decisions when choosing a supplier.

2.6. energywatch highlights a number of aspects of billing processes as being of particular concern[9]:

- *"the complexity of contractual wording and the imbalance of the obligations between suppliers and customers*;
- *the failure to deliver bills on time*;
- *inaccurate bills being delivered*;
- *infrequency of actual meter reads and over-dependence on estimated bills*;
- *debt blocking of customers who most need to switch suppliers*;
- *non-use of customer own reads when provided*;
- *unreasonable complexity of billing formats, complicating customers' attempts to understand their bills and make tariff comparisons between suppliers*."

Possible outcomes of a super-complaint

2.7. As set out in the Office of Fair Trading (OFT) guidelines[10], there are a number of possible outcomes of a super-complaint, including:

- a market investigation reference to the Competition Commission (CC) if there is a competition problem
- action by a sectoral regulator with concurrent duties

[9] energywatch super-complaint, page 27, paragraph 5.3.

- a finding that the complaint requires no action
- a finding that the complaint to be unfounded, and
- a dismissal of the complaint as frivolous or vexatious.

2.8. However, this list is not exhaustive and a super-complaint could generate more than one outcome depending on the issues raised. Ofgem has decided that action by itself as the sectoral regulator is the appropriate response in this instance (the actions it proposes are set out in Chapter 7).

2.9. The specific outcomes sought by energywatch are set out in its super-complaint on pages 45-46. Appendix 2 sets out Ofgem's response to each of these.

Procedural issues

2.10. Ofgem is required to publish a response to the super-complaint stating how it proposes to deal with the complaint within 90 days after the day on which it receives the complaint. If it has decided to take action in response to the complaint, it must outline the action it proposes to take, together with the reasons for its proposals.

2.11. As set out in the OFT guidelines, Ofgem may carry out wider enquiries to test the evidence provided by the super-complainant and to obtain further information it considers necessary in order to form a reasoned view on whether the super-complaint justifies further action.

2.12. In forming a reasoned view on whether the super-complaint justifies further action, Ofgem has consulted a number of other interested parties[11].

2.13. Ofgem also sent an information request to the six largest domestic gas and electricity suppliers seeking their response to a number of questions and

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[10] The OFT guidelines, "*Super-complaints – Guidance for designated consumer bodies*", July 2003, can be found on the OFT's website, www.oft.gov.uk.

[11] National Association of Citizens Advice Bureaux, Citizens Advice Bureau Scotland, the six largest domestic electricity and gas suppliers, Zest4 and Good Energy, Ofcom and regulators and consumer representation bodies in the energy sector in the following states and countries: Norway, Sweden, Finland, Texas (U.S.A.) and Victoria (Australia).

published an open letter requesting comments on the super-complaint from interested parties. A list of respondents to the letter is in Appendix 6.

3. The retail energy market

3.1. In their super-complaint energywatch paints a picture of customers facing generally poor customer service. They do not appear to see any reasons why this situation should improve over time. In order to assess energywatch's concerns, this chapter assesses the retail market arrangements to see what barriers there might be preventing suppliers improving their customer service in response to their customers' requirements or preventing customers switching to better performing suppliers.

Customer protection through competition

3.2. Suppliers have strong commercial incentives to give their customers what they want including billing effectively. If suppliers provide customers with bills that are hard to read and inaccurate, their customers will seek an alternative supplier offering better customer service. If all suppliers provide poor customer service this provides a strong commercial incentive for new companies to enter the market and offer better service to attract dissatisfied customers.

3.3. The threat of customers switching provides the discipline on them to offer products not only at a relatively attractive price, but also with a level of service that customers want. Bills are an important part of the supplier's relationship with their customer and an important means of managing that relationship.

3.4. Over time, competition should mean that all suppliers seek to improve their customer service. It will reward those companies who offer superior service at a competitive price. But these incentives are only effective to the extent that customers can exercise their rights and switch to a new supplier. There are three particular reasons why customers may not be able to address the detriment they experience by switching supplier, or through the threat of switching supplier. These are:

If the billing processes of all suppliers give rise to similar levels of consumer detriment

3.5. All customers may experience similar levels of detriment if suppliers collectively do not offer customers any real product or service choices, or if customers do

not perceive that they have those choices. However, as set out above, unless there are barriers to new entry this would present an opportunity for new supply companies to enter the market offering better customer service.

If the root cause of the detriment is an industry-wide issue

3.6. Industry-wide factors, such as the customer transfer process and the infrastructure for metering data flows, are parts of the billing process where suppliers rely to some extent on central systems and are not able to differentiate themselves through innovation or investment. If these systems are not generally reliable, then a customer who has a poor service experience as a result of the failure of the central systems cannot necessarily eliminate detriment by switching to another supplier that has to use the same systems.

If the customer's switch is debt blocked

3.7. Where customers are prevented from switching due to an outstanding debt with their existing supplier, they are unable to move to a better service by switching supplier and the supplier has a limited incentive to offer a captive customer good customer service.

3.8. The extent to which these three factors may help to explain the persistence of any consumer detriment is examined in the next chapter and in the conclusions.

Customer engagement in the market

3.9. The domestic supply market comprises approximately 21 million gas customers and 26 million electricity customers. Survey evidence[12] suggests that there is a high level of awareness of the ability to change electricity or gas supplier (97 per cent and 95 per cent respectively in each market).

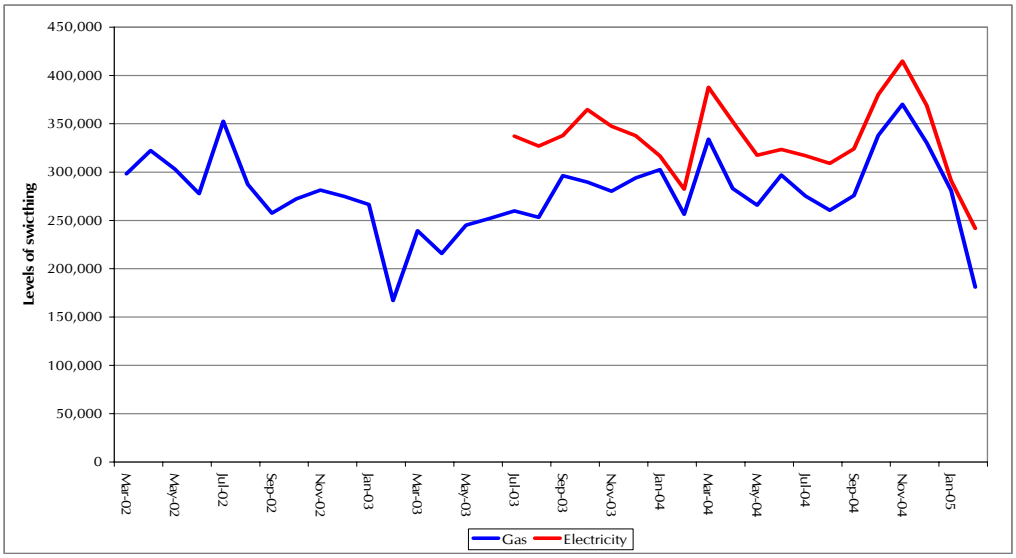
3.10. Almost half of all households have changed their gas and electricity supplier at least once (47 per cent and 48 per cent respectively)[13]. Switching continues at a high rate. On average 66,500 gas customers and 77,100 electricity customers switched their supplier each week from April 2004 to March 2005.

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[12] Accent (2005) "*Customer Experience Survey*", May 2005, commissioned by Ofgem.
[13] Accent (2005) "*Customer Experience Survey*", May 2005, commissioned by Ofgem.

3.11. Figure 3.1 below illustrates the levels of domestic customer switching per month since March 2002.

Figure 3.1: Number of gas and electricity customers that have switched per month between March 2002 and February 2005

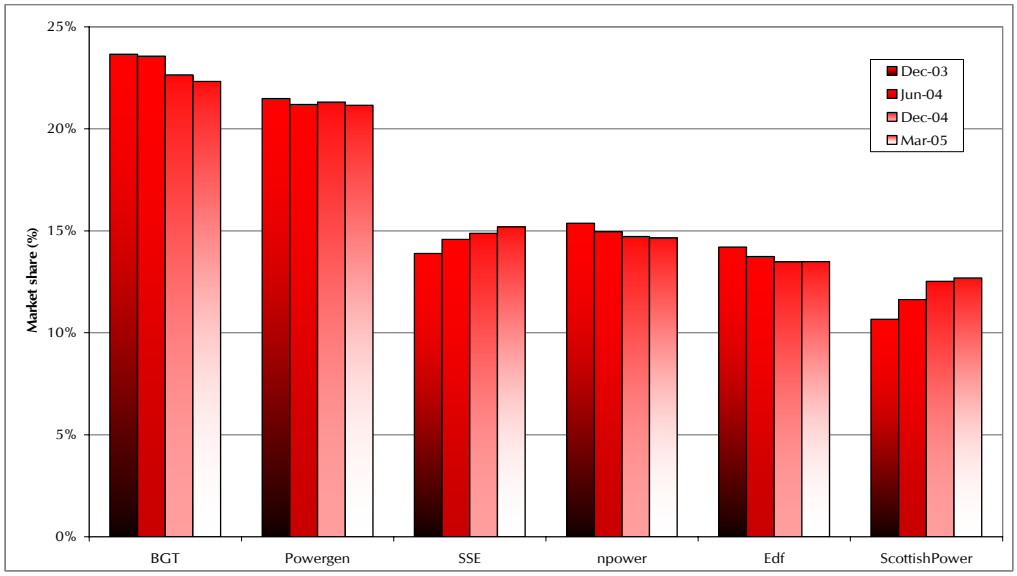


Source: Gas: Transco and Gas suppliers. Electricity: Distribution companies

3.12. The market share of incumbent suppliers has continued to fall steadily. New suppliers have entered the market, although against a backdrop of consolidation in the supply market in recent years. There are currently eight active domestic gas suppliers and twelve active domestic electricity suppliers.

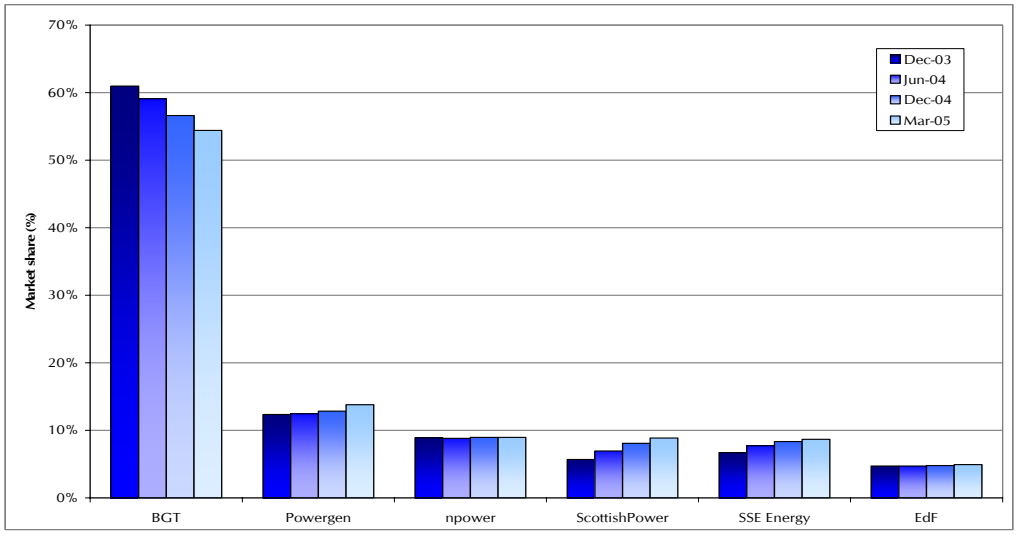
3.13. Figures 3.2 and 3.3 below illustrate the change in domestic electricity and gas market shares of the six largest suppliers. These graphs only reflect the net change. They do not show the significant underlying level of activity in terms of the gross gains and losses of each supplier. Some of the movement over the last 15 months is undoubtedly a result of relative price changes between suppliers over the same period.

Figure 3.2: National electricity market shares between December 2003 and March 2005



Source: Distribution companies

Figure 3.3: National gas market shares between December 2003 and March 2005



Source: Gas suppliers

3.14. Figures 3.4 and 3.5 in Appendix 4 illustrate that, while gas and electricity prices have risen over the last 15 months, customers can still make substantial savings by switching, in particular, away from the gas and electricity incumbents. These data confirm that there is active price competition between suppliers.

3.15. In their super-complaint energywatch states that:

"The market only appears to work properly for that small proportion who have switched more than once"[14].

However, Ofgem has found no evidence to support this claim and it is relevant here to discuss how switching empowers customers to deal with billing problems.

3.16. Recent customer survey data indicates 67 per cent of electricity switchers and 70 per cent of gas switchers changed supplier because of price[15]. Poor service from a previous supplier accounted for six per cent of electricity switchers and five per cent of gas switchers. This suggests that although poor service is not the main driver of switching it is an important driver. The same survey evidence also shows that 63 per cent of electricity customers and 60 per cent of gas customers stay with their existing supplier because they are satisfied and see no reason to change. This suggests that if an existing supplier offers poor service then this can prompt the customer to move to another supplier.

3.17. There is also some correlation between trends in market shares and customer service records. For example SSE has increased market share and become the third largest electricity supplier nationally. SSE has had the lowest level of account and billing complaints to energywatch over the last seventeen months. npower, the company it replaced as the third largest electricity supplier, has suffered the most complaints. Although there are a range of factors affecting market share, such as service, price and marketing activity, it shows some relationship between market share and measures of customer service.

3.18. Regardless of why customers choose to switch, it is clear that the ability to switch empowers the customer and that the view that the market in general is "*fundamentally one-sided and prejudiced against the customer*"[16] does not appear to be supported by the evidence.

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[14] energywatch super-complaint, page 35.
[15] Accent (2005) "*Customer Experience Survey*", May 2005, commissioned by Ofgem.
[16] energywatch super-complaint, page 9.

3.19. Customers can also benefit without switching supplier. Savings can be made, for example, by switching to direct debit or switching both fuels to the same provider. Direct debit is the payment method used by around 47 per cent of gas customers and 43 per cent of electricity customers. Of those households with access to both gas and electricity, survey evidence[17] suggests approximately 67 per cent of households (13.9 million) now receive both fuels from the same supplier.

3.20. The extent of the opportunities open to customers and their uptake of them itself calls into question concerns about the adequacy of information provided to customers. While there may be scope for customers to get better information than they do at present, the role of brands, word-of-mouth marketing, other forms of marketing and independent third party information providers all present customers now with various sources of information on supplier performance on price and service levels.

3.21. Suppliers' responsiveness to customer demand is demonstrated by the range of services and products they offer. New products such as fixed price deals, internet offers, vulnerable customer tariffs, dual fuel and green tariffs continue to be developed and offered. This suggests that retail competition remains healthy and continues to drive suppliers to innovate to meet their customers' demands.

[17] Accent (2005) "*Customer Experience Survey*", May 2005, commissioned by Ofgem.

4. Assessment of scale of consumer detriment

4.1. This chapter assesses the detriment faced by customers from industry billing processes. It sets out Ofgem's approach to assessing detriment, the measures Ofgem uses to come to an overall view on the extent of detriment, Ofgem's views on what each measure actually suggests about the level of detriment experienced by customers, and Ofgem's view in aggregate of the total level of consumer detriment.

Approach to the assessment

4.2. Assessing the level of detriment to an individual customer is largely a subjective process and detriment is therefore difficult to quantify. The degree of harm experienced by any one customer from poor service will vary depending on that customer's own circumstances. This complicates the task of making any meaningful calculation of the total level of detriment across an industry with over 47 million domestic energy supply points.

4.3. As direct calculations are not available, Ofgem must rely on measures that it is confident are proxies for measurement of detriment or harm. These come from different sources and capture detriment in different ways. Following a review of a portfolio of different measures, the data sources and measures used in Ofgem's assessment are:

- contact data as reported to energywatch by suppliers
- enquiry data (excluding formal complaints) received by energywatch from customers
- complaint data received by energywatch from customers, benchmarked, where possible, with complaint data from other countries/markets
- case study data, based on Ofgem's assessment of case studies provided by energywatch and Citizens Advice Bureaux
- independent survey evidence, which covers what customers actually say about their billing experience, and

- trends in the level of customer debt and debt objections by suppliers.

4.4. Ofgem's primary data source is complaint data and variations on complaint data such as customer enquiry data and case study data. This is appropriate since these measures are driven by customer feedback and they reflect what customers actually think and say about the service they receive. However, survey evidence is also useful as this covers a broader cross-section of customers, including those who may not have raised any enquiries or complaints. This is supplemented with reference to measurement of customer debt and debt objections, two measures that appear likely to fluctuate in line with any trend in consumer detriment but will also be affected by other factors.

4.5. There is no commonly-used standard for what constitutes a complaint, and therefore comparing and collecting complaint rates from different sources can pose problems. The British Standard for design and implementation of Complaints and Management Systems (BS8600) defines a complaint as:

"…any expression of dissatisfaction by a customer, with a product or service, however small, whether justified or not…"

4.6. However, few suppliers have designed their processes around this standard and energywatch's complaints data do not use this definition. Of those suppliers that do not operate to the BSI definition, some rely more heavily on evidence from surveys and focus groups to gauge customer satisfaction. Customer satisfaction ratings are arguably as good a measure of consumer detriment as complaint rates. Moreover, two similar complaints can of course be consistent with two customers experiencing very different levels of detriment. As a result of this inconsistency Ofgem has not used data provided by suppliers on their respective complaint levels.

4.7. The only common standard definition of a 'complaint' available to Ofgem is that which is catalogued by energywatch and published each quarter. energywatch complaints are defined as a situation where customers have approached their supplier at least once in order to resolve the issue but have not received a satisfactory outcome.

4.8. No single metric is available that gives an accurate measure of the level of consumer detriment arising from the billing processes of suppliers. Therefore no single indicator is likely to provide conclusive evidence on the scale of any detriment, although after detailed inspection it may be appropriate for Ofgem to place more weight on some pieces of evidence than others. However, the value of these indicators lies in the extent to which they, together, help paint a coherent picture of the scale of detriment faced by customers arising from account and billing processes.

Measurement of detriment

Contact data as reported to energywatch by suppliers

4.9. In March 2004, energywatch asked gas and electricity suppliers to provide the number of "contacts" they received from domestic customers relating to account and billing issues each quarter between April 2002 and December 2003. energywatch defined "contacts" as any form of contact that suppliers received where the customer had a query with either the content or their understanding of their bill or had an issue with the management of their account.

4.10. In its super-complaint, energywatch stated that this contact data from suppliers suggested that the gas and electricity supply companies receive around 60 million contacts per annum from customers to query or complain about their bill or account. Based on this figure and the cost to energywatch of handling customer calls to their call centre, energywatch estimated the cost to the industry to be £90 million per annum.

4.11. The underlying data provided by suppliers to energywatch suggests that this contact data does not provide a robust basis upon which the level of detriment can be assessed. A customer making contact with its supplier is not necessarily a sign of consumer detriment or dissatisfaction. One would not expect even a high performing company to generate no account and billing enquiries whatsoever from its customers.

4.12. Furthermore, there are extremely large variations in the number of contacts relating to account and billing issues submitted to energywatch by the six main suppliers. Suppliers may have provided the data based on different

understandings of definitions of account and billing contacts. It appears that some suppliers may have simply provided contacts in total. For example, in quarter four of 2003, of the six main suppliers, the supplier with the highest contact rate had 542 contacts per 1,000 customers, while the supplier with the lowest had three contacts per 1,000 customers – 162 times lower. Despite a clear request from energywatch, the different ways in which suppliers classify or record customer contacts complicates the data. It is therefore inappropriate to aggregate the six responses received as a basis for a further calculation.

4.13. In response to Ofgem's concerns about the 60 million and £90 million figures, energywatch has since stated that an incorrect figure was inadvertently used and has recalculated their estimate of the number of contacts suppliers receive from domestic customers relating to account and billing issues to be 35 million per annum, rather than 60 million, and the revised estimated cost to the industry to be £53 million. Despite this significant adjustment, Ofgem remains concerned that such figures are based on an inconsistent definition of 'contact' and considers that the assessment of harm to the (revised) 35 million customers not to be a robust basis to conclude that there is significant consumer detriment.

Enquiry data received by energywatch

4.14. Part of energywatch's role is to provide advice to energy customers. This may take the form of general advice on energy matters, advice on resolving issues with suppliers and taking up formal complaints with suppliers on behalf of the customer. When a customer contacts them about an issue for the first time (with the exception of especially vulnerable customers) energywatch advises them to go back to their supplier to allow the company the opportunity to rectify the problem. At that stage energywatch would record the contact as an enquiry. If the supplier fails to rectify the problem energywatch will take up the matter as a formal complaint with suppliers on behalf of the customer. Therefore enquiries can be defined as any customer contact that is not a formal complaint (Figure 4.1 provides the enquiries received by energywatch each month).

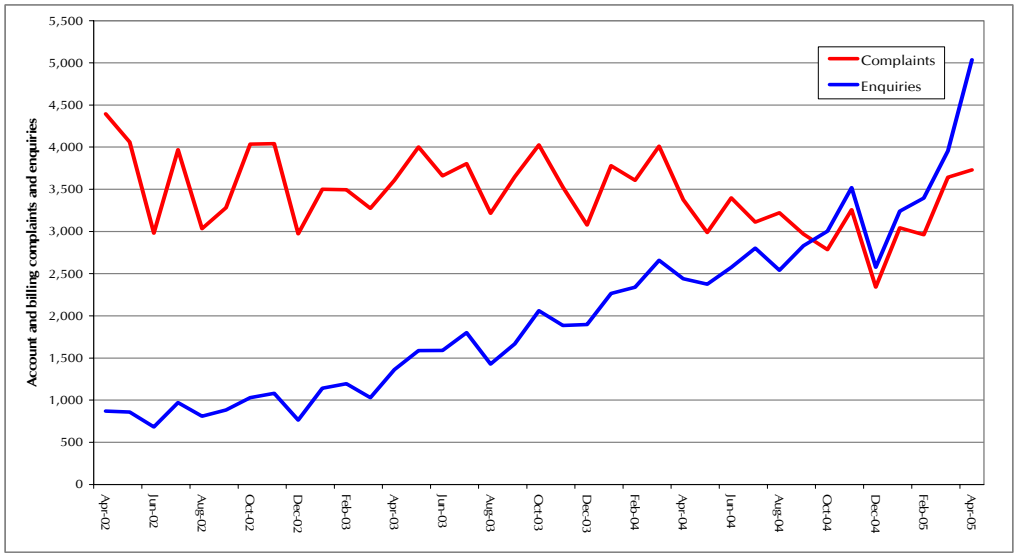
4.15. In the super-complaint energywatch notes that these figures show an upward trend and suggest that this is indicative of the extent of consumer detriment in the area of accounts and billing. Without a more definitive link between this category of customer contact and consumer detriment, the notion of an 'enquiry'

as an indicator of detriment is problematic. Changes in the level of this variable can be attributed to any number of factors, including for example, increased awareness of energywatch which has doubled recently to 4 per cent and increased customer concern at a time of rising prices, both of which might be expected to lead to more calls to energywatch. Therefore, Ofgem does not view energywatch enquiry data as a robust basis to conclude that there is significant consumer detriment in this case.

Complaint data received by energywatch

4.16. In addition to enquiries, energywatch also receives complaints from customers regarding their gas and electricity suppliers. energywatch compiles these data and publishes them on a monthly basis on their website. A complaint to energywatch is defined as a situation where the customer has raised an issue with their supplier but the supplier has failed to resolve the matter to the customer's satisfaction, so the customer goes to energywatch for assistance.

Figure 4.1: Number of account and billing complaints and enquiries received by energywatch per month from April 2002 to April 2005



Source: energywatch

4.17. Figure 4.1 shows the trend in energywatch complaint data. In the month of April 2005 a total of 3,740 account and billing complaints were recorded by energywatch. In 2004 as a whole 39,000 account and billing complaints were received by energywatch. This suggests that monthly complaints in 2004 were on average around 0.07 per thousand customer accounts or 0.007 per cent of

total accounts. On an annual basis, complaints in 2004 were around 0.9 per thousand accounts or 0.09 per cent of total accounts.

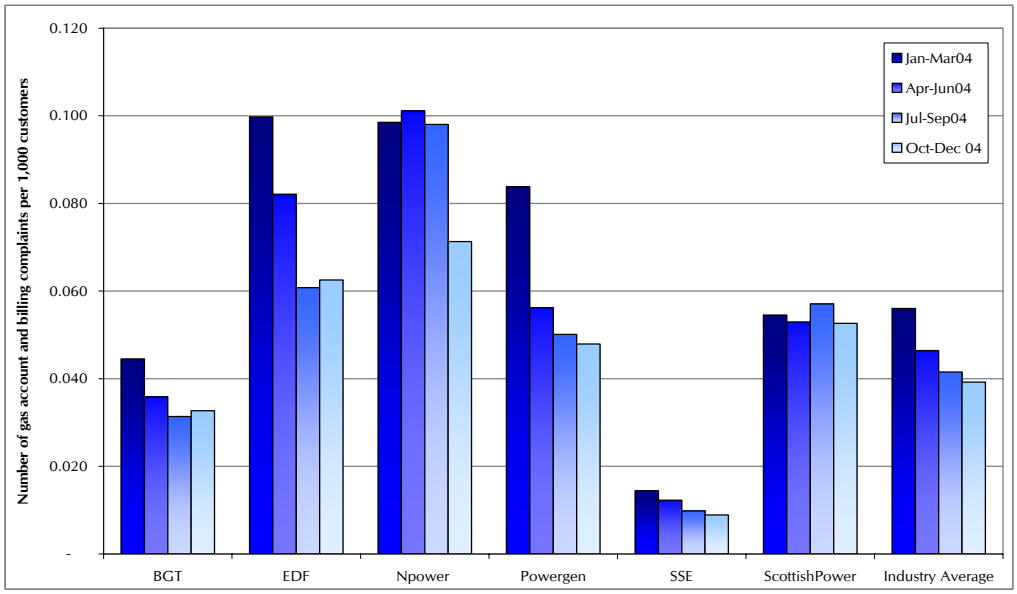
4.18. Account and billing complaints have fallen by nine per cent over the 12 month period ending in December 2004[18]. However, in March and April 2005 energywatch has seen an increase in the number of account and billing complaints. The increase is over a two month period and given that complaint rates tend to exhibit seasonal fluctuations it is too early to say whether this is part of a trend. It may be the result of the super-complaint announcement which has itself raised awareness of energywatch. There has also been a sharp increase in the number of enquiries which may also be a result of a heightened awareness of energywatch.

4.19. A valuable dimension to the energywatch data is that a consistent definition of "complaints" is used to register complaints by supplier, separately for gas and electricity. This data is shown in Figures 4.2 and 4.3 below. This provides evidence of a significant variation in the performance of different suppliers in respect of billing. According to energywatch's published figures, the electricity complaint rates of the supplier with the highest complaint rate, npower, is about twelve times that of the best performer, SSE. For gas, npower's complaint rates are about eight times that of SSE.

Figure 4.2: Gas domestic account and billing complaints per 1,000 customers by supplier (monthly average) [19]

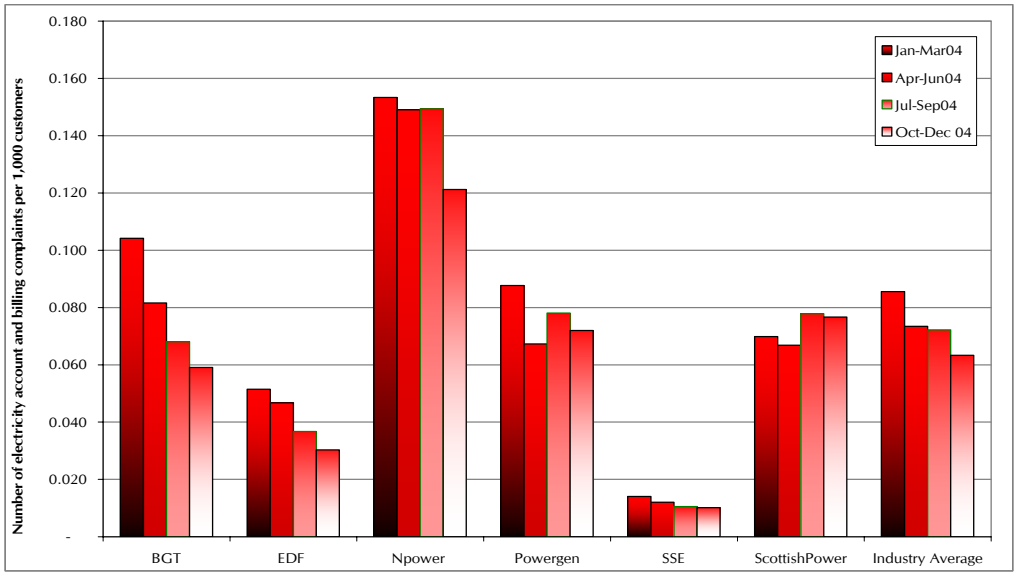
[18] The fall in account and billing complaints is calculated by taking the total number of complaints in 2003 and the total number of complaints in 2004 and calculating the percentage change between these two periods.

[19] energywatch calculates the number of account and billing complaints per 1,000 customers by dividing the sum of the account and billing complaints for a given quarter by the sum of the number of customers for a given quarter two months before. For example, account and billing complaints for January, February and March are divided by the total number of customers in November, December and January. This therefore equates to an average monthly complaint rate per 1,000 customers across the given quarter.



Source: energywatch

Figure 4.3: Electricity domestic account and billing complaints per 1,000 customers by supplier (monthly average)



Source: energywatch

4.20. These data suggest that whatever detriment is experienced due to billing, customers do not experience the same levels of detriment regardless of their choice of supplier. This suggests that to the extent there is a need identified to improve the customer's billing experience, part of the solution may involve increasing customer awareness of the fact that they are able to choose supplier on the basis of who provides the best service.

4.21. In its super-complaint, energywatch raised a concern that suppliers rely too much on central systems and processes to bill and transfer customers from one

supplier's billing system to another. The differences in supplier performance and complaint rates show that dependence on central systems and processes to support billing has only a limited impact on overall billing performance.

4.22. To understand the extent to which the energywatch complaint rates are high or low in relative terms, Ofgem has reviewed complaint levels in other countries and sectors where comparable competitive markets operate. However, such data are not readily available. Furthermore the usefulness of the available comparator data is limited by the need to take into account market specific factors. For example, awareness of local complaint bodies and the effects of local market characteristics and regulations on the customer's propensity to complain will affect complaint rates. Keeping in mind these caveats, the comparisons that can be made are set out in Figure 4.4 below.

Figure 4.4: Domestic billing complaints received by energy customer associations per 1,000 customers (monthly average)[20]

	Texas, USA	Victoria, Australia	New South Wales, Australia	Sweden	Great Britain
Gas	n/a	0.02	0.04	n/a	0.05
Electricity	0.09	0.03	0.02	0.04	0.07
Total	n/a	0.03	0.03	n/a	0.07

Source: 2004 annual report of the Texan Public Utilities Commission www.puc.state.tx.us, the 2004 annual reports of ENOV and ENON which can be found on www.enov.com.au and www.enon.com.au, the Swedish regulator and energywatch.

4.23. The conclusions that can be drawn from this comparison are limited but, at the very least, it suggests that supplier complaint rates in Great Britain are not significantly higher than in comparable markets. Two states in Australia where competition has been introduced (Victoria and New South Wales) report lower complaint rates per thousand domestic customers (0.03) than the average for GB suppliers (0.07) while Texas (where only electricity complaint figures are available) reports complaint levels of 0.09. In respect of complaints received

[20] The monthly average is taken over slightly different periods for each consumer association. The monthly average in Texas is taken for the period September 2003 to November 2004. In Victoria and New South Wales it is July 2003 to June 2004 and in Great Britain it is January 2004 to December 2004.

about communications services, information received from Ofcom puts complaint rates at a level not dissimilar to the rates set out in Figure 4.4.

Case study evidence

4.24. energywatch's selection of cases in the super-complaint was intended to illustrate the extent of individual detriment rather than to be a representative sample of a full range of issues. Ofgem has reviewed the case files in respect of these complaints. In addition, Ofgem assessed over 200 further case studies to broaden the analysis. Around 100 of these cases were selected at random from specified complaint categories from energywatch's files. Ofgem also obtained from the National Association of Citizens Advice Bureaux those cases that relate to account and billing issues that were escalated to their central office over the month of April 2005. Two of the cases are set out in Appendix 5 in order to illustrate the type of individual consumer detriment that may arise through account and billing issues.

4.25. Some caution is required in using the conclusions from the case studies to draw inferences about how widespread the consumer detriment actually is. Ofgem's sample of over 200 cases is small relative to the number of customers in the industry and a much bigger study would be required to draw wider inferences about the extent of detriment. Attempting to execute such a study would lead straight back to the energywatch complaint data, which is the obvious source for attempting to assess how widespread the problems are.

4.26. However, Ofgem considers that the case studies do provide insights into how severe individual detriment can be. This detriment tends to be higher when the customer involved is vulnerable. In the majority of the cases considered suppliers had the opportunity to rectify the issue but often failed to accept that there was a problem. This led to suppliers being slow to deal with issues, with many cases going on for a number of months. In addition, sometimes more than one element of the billing process had gone wrong, which may have been a result of the supplier's unwillingness to accept there was a problem to begin with. However, in a minority of cases it was not clear how suppliers could have prevented the complaint occurring.

4.27. Case studies indicate that there are many examples of suppliers causing significant individual consumer detriment. Since a disproportionate number of the cases tend to concern vulnerable customers, the individual detriment suffered in these cases can be high. The cases reviewed did not suggest any particular sets of circumstances associated with subsequent detriment, except the general point that account and billing problems tend to be associated with "change events" such as a change of supplier.

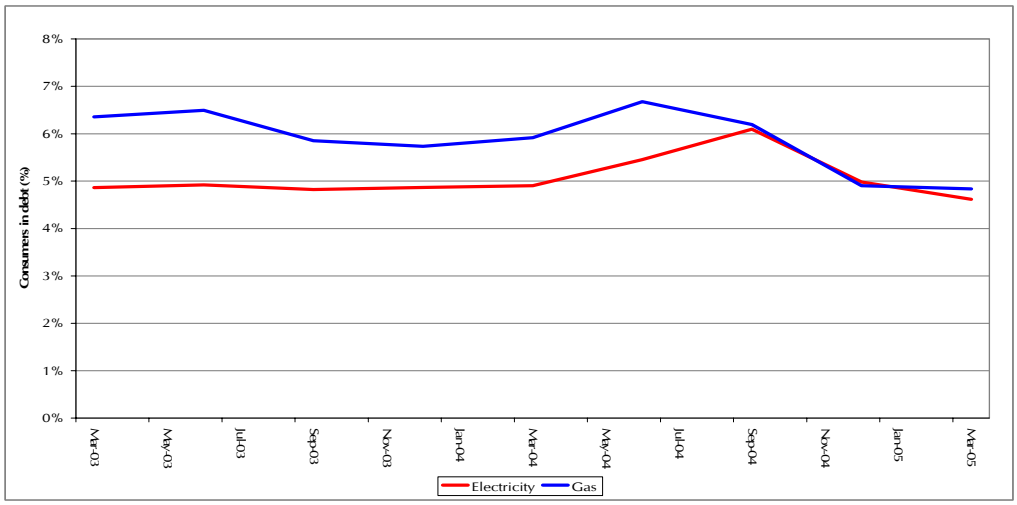
4.28. In most of the cases it would appear that had suppliers followed their own procedures and had their systems worked effectively, the detriment would have been less significant. When one checkpoint or verification test fails, the next checkpoint in the supplier's process should identify a fault and remedy it. Ultimately suppliers' processes are only as good as the procedures and systems they have set up, and the training for the staff who run them. It is apparent from the evidence considered that there are numerous examples where these processes do not deliver the result intended by the supplier. As a consequence some individual customers may suffer significant harm.

Trends in the extent of debt and debt objections

4.29. energywatch associate customer debt with detriment arising from suppliers' billing practices. Customers can find themselves in debt for a variety of reasons. Some of these reasons may ultimately be partly or wholly the responsibility of the supplier. For instance, if a customer's account was consistently estimated on what turned out to be a low assumed annual consumption figure, the customer may have suddenly been confronted with a large bill which he was unable to pay. However, there may equally be other reasons for the debt for which the supplier is not at all or only partially responsible, notably when the customer chooses not to pay one or more bills.

4.30. Figure 4.5 below shows the proportions of gas and electricity customers in debt. The percentage of gas customers in debt has fallen between March 2003 and March 2005, while the percentage of electricity customers in debt has also fallen but only marginally. All other things equal, this trend in debt does not suggest that consumer detriment owing to this source is on the increase.

Figure 4.5: Domestic gas and electricity customers in debt[21] as at the end of each quarter between March 2003 and March 2005

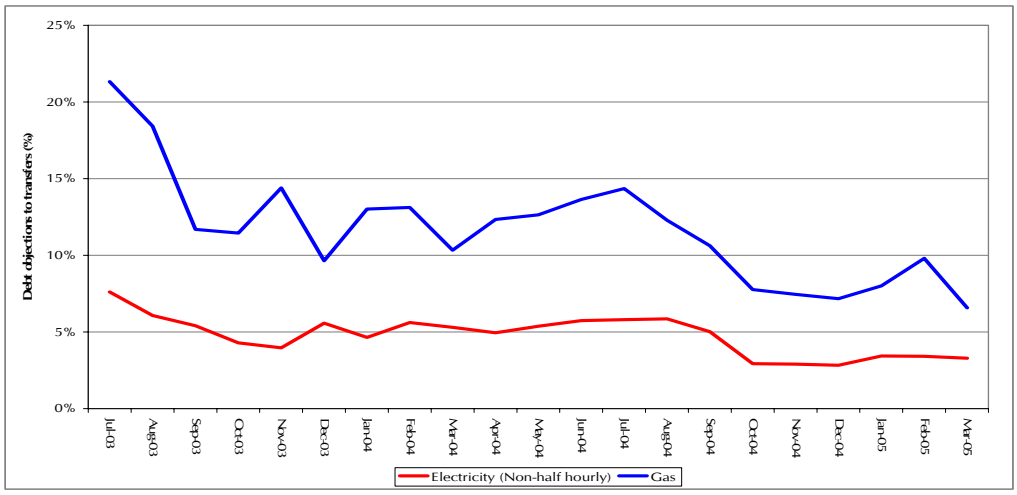


Source: Gas and electricity suppliers

4.31. Figure 4.6 below shows that the percentage of transfers that suppliers object to on the grounds of outstanding debt has fallen considerably. The main reason for the fall is likely to be the recent financial penalties Ofgem placed on some suppliers for inappropriately objecting to transfers on the grounds of debt. These penalties appear to have increased the focus of some suppliers on ensuring their procedures are fully compliant with regulatory requirements. Again, the falling trend in debt objections does not suggest that consumer detriment is increasing compared to the level it was at two or three years ago.

[21] The definition of a customer in debt used in collecting these data is where the customer has entered into a debt repayment plan with the supplier.

Figure 4.6: Percentage of domestic gas and non-half hourly electricity transfers objected to on grounds of outstanding debt



Source: Gas and electricity suppliers

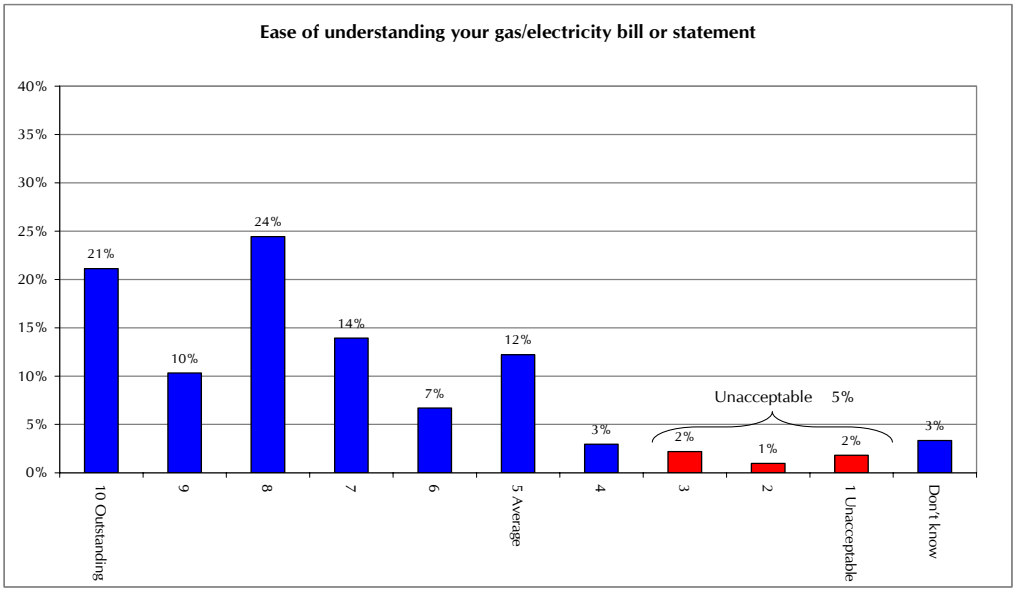
Independent survey evidence

4.32. A further indicator of consumer detriment is available from survey evidence. Ofgem has looked at two different surveys[22]. J.D. Power and Associates 2003 gas and electricity surveys[23] and the Accent[24] customer experience survey. These all survey domestic customers to gauge their views on a range of areas related to energy supply. Figures 4.7 and 4.8 illustrate evidence from the J.D. Power and Associates 2003 survey and the Accent survey.

4.33. Figure 4.7 shows that a low proportion of customers reported difficulty in understanding the information on bills. Ofgem has found that this result is supported by other customer surveys.

[22] Ofgem has also considered the National Opinion Poll (NOP) 2003 survey commissioned by energywatch and discussed in its super-complaint. However, the findings from this survey are not published in this document.
[23] J.D. Power and Associates (2003) "*United Kingdom Gas Supplier Domestic Customer Satisfaction Study*" and "*United Kingdom Electricity Supplier Domestic Customer Satisfaction Study*", November 2003.
[24] Accent (2005) "*Customer Experience Survey*", May 2005, commissioned by Ofgem.

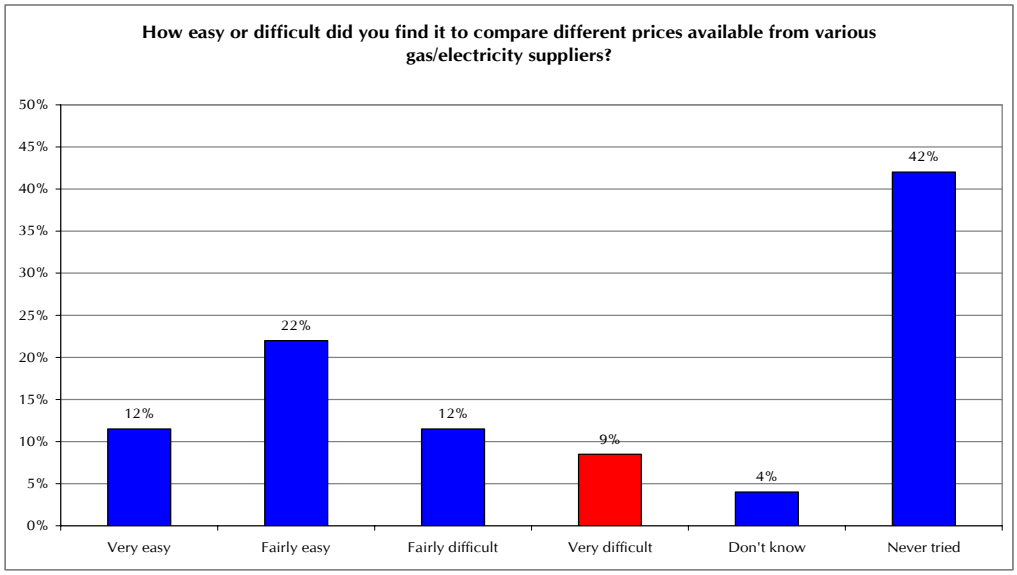
Figure 4.7: Clarity of bills – J.D. Power and Associates 2003 survey



Source: J.D Power and Associates 2003 survey

4.34. Indicators of the ease of comparing competing offers and customer rating of supplier billing and payment processes are relevant to assessing the concerns raised by energywatch about the extent of customer confusion. Figure 4.8 shows higher percentages in response to questions about customer concerns in the area of price comparisons, with around nine per cent in the Accent survey indicating they found price comparison '*very difficult*'. This figure was also supported in the J.D. Power and Associates 2003 survey where eight per cent of customers found it 'not at all easy' to compare offers.

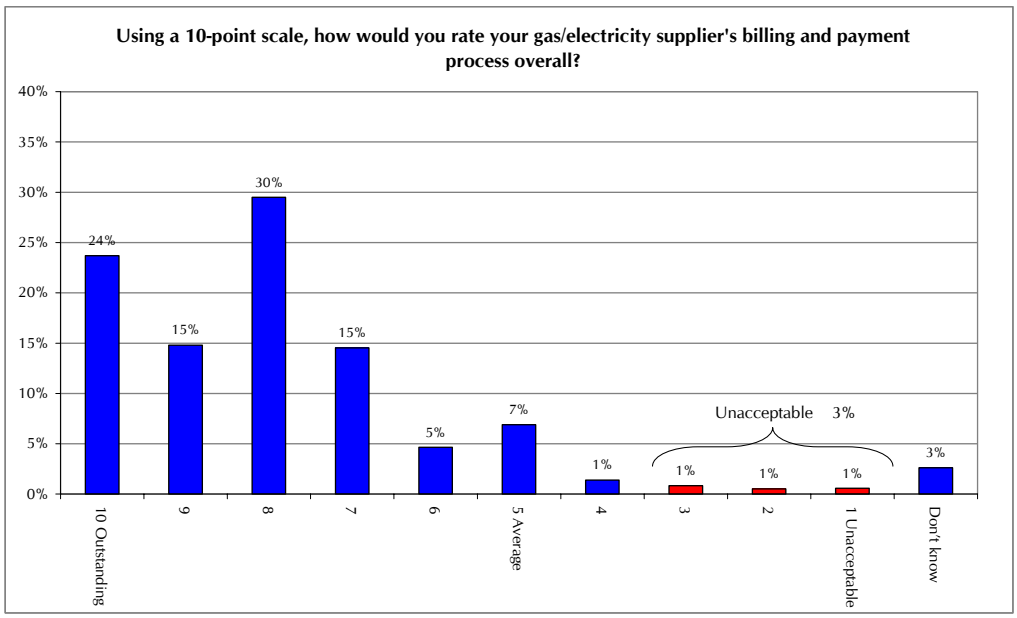
Figure 4.8: Ease of price comparisons – Accent survey 2005



Source: Accent survey

4.35. Figure 4.9 illustrates customers' overall rating of billing and payment processes of suppliers which show only around three per cent of customers find this an area of material concern.

Figure 4.9: Customer views on billing and payment – J.D. Power and Associates 2003 survey



Source: J.D. Power and Associates 2003

4.36. This survey evidence provides no support for the case that there is wide scale consumer detriment.

4.37. energywatch submits a number of other pieces of evidence to suggest that the scale of consumer detriment as a result of billing processes is significant. However, Ofgem has some concerns with the validity of this evidence. A summary of this evidence and Ofgem's concerns are presented in Appendix 1.

Summary

4.38. Of the evidence reviewed, Ofgem attaches the greatest weight to the energywatch complaint data. These are compiled on a systematic basis and generally demonstrate some consistent level of consumer detriment. The complaints data suggest that there is not widespread detriment across the industry as a whole. It also suggests that the level of complaints in Great Britain is not significantly higher than in comparable markets in other countries. Comparing data on complaints for individual suppliers suggests that billing problems are not driven by the central systems and processes that all suppliers must use.

4.39. The individual customer case studies provide insight into the degree of detriment in the relatively small number of cases of particular customers, especially vulnerable customers who are often less able to communicate effectively with their supplier to resolve complaints and therefore suffer greater harm. For those customers who do experience detriment, the personal detriment experienced is likely to be high, particularly where the vulnerable are concerned.

5. Assessment of alleged root causes

5.1. In its super-complaint energywatch suggests a wide range of causes which they claim are linked to customers ultimately experiencing detriment. This chapter looks at the evidence available to support the claims in the main areas identified by energywatch. These areas are supplier estimated reading practices, frequency of billing to customers, contractual terms, tariff complexity and bill clarity.

Estimated readings

5.2. energywatch has raised concerns about the extent of supplier reliance on estimates of consumption to bill customers and the accuracy of bills that rely on these estimates. To support an assessment of those concerns Ofgem has considered:

- supplier practices
- approaches in other countries, and
- the extent of customer concern about estimated reads, as evidenced by independent surveys.

Supplier practices

5.3. If the supplier is to bill based on an actual meter read, the supplier either requires his agent to have access to the customer's home or requires the customer to provide an own read[25]. Customers are unlikely to be concerned whether bills are based on an actual or estimated meter read so long as the bill is accurate. Since customers are likely to be more satisfied if their bills are accurate, suppliers have an incentive to improve accuracy, while taking into account the trade-off between better service and higher price. The greater the inaccuracy, the greater the customer dissatisfaction which may lead to greater customer switching.

[25] This is true for as long as remote reading technology is not installed in domestic premises.

5.4. The cost of visits for meter reads and the barriers to gaining access to homes suggest that suppliers will encounter diminishing returns at some point if they simply rely on increasing the frequency of home visits to improve billing accuracy. This is confirmed by evidence from the six main suppliers which shows that all have special procedures in place where the customer has received three or more consecutive bills based on estimated reads. For example, many suppliers telephone or write to customers who have been subject to two or three consecutive estimated reads. In addition, many suppliers have further escalation procedures if they continue to fail to get a read, for example by making an appointment with the customer for a meter reader to visit. However, without legal means to force a read from the customer, any set of procedures is unlikely to deliver 100 per cent actual reads within a particular time frame. In this context, there is a valid role for estimated reads.

5.5. The evidence received from suppliers on the extent of estimated reads shows a steady decline in the proportion of estimated reads to total reads used by suppliers over the past two years. Five of the six major suppliers are either in the process of increasing the frequency of meter reads to four reads per annum or already operate such a policy.

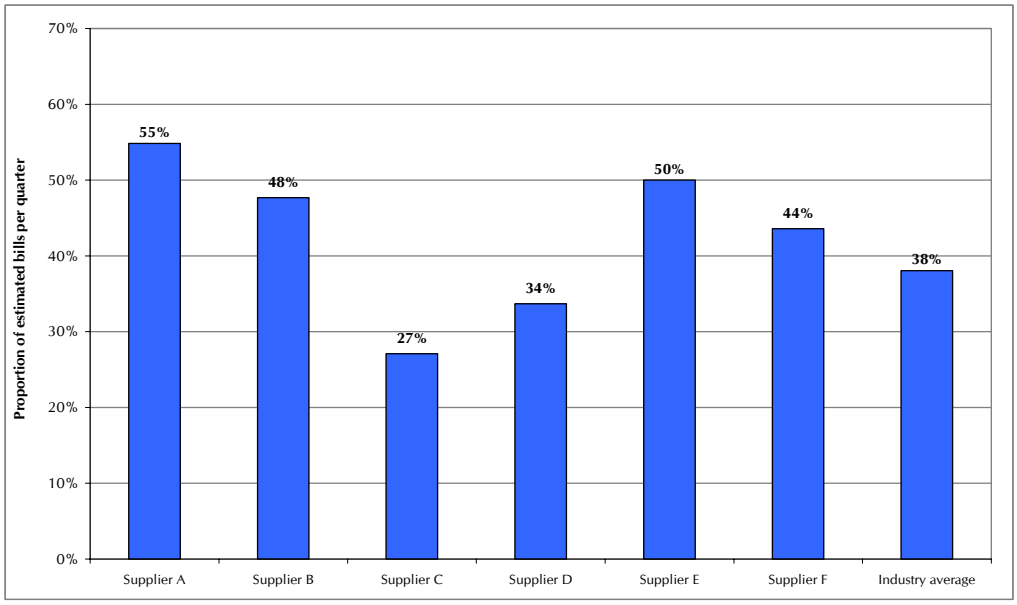
5.6. Customer own-reads are another means of reducing the extent of estimated reads. Sending a meter reader to visit a customer's house costs suppliers money, as evidenced by the fact that one supplier now offers a price discount for customers that provide their own reads. Moreover, for customers who are infrequently at home, providing an own read might be their preferred solution. Suppliers are increasingly using customer own-reads, although reliance on them by supplier is variable and in most cases is starting from a low base. The extent of reads accounted for by customer own-reads currently varies between two per cent and 21 per cent. Customers' willingness to provide own reads is supported by survey evidence and there is undoubtedly untapped potential in this area (for example, potential growth in provision of reads over the internet)

5.7. Figure 5.1 shows the proportion of bills sent out per supplier that rely on estimated reads. The six main suppliers have been anonymised in the table. Ofgem's analysis by supplier suggests that some suppliers with lower than average complaint levels rely to a greater extent on estimated readings than

other suppliers. Likewise, some suppliers with higher than average complaint levels rely to a lesser extent on estimated readings than other suppliers. This evidence suggests that suppliers' effectiveness in gathering actual reads is not correlated with their overall customer service effectiveness.

5.8. In the light of the preceding discussion, this is not necessarily a surprising conclusion. Suppliers may find that it is relatively easy to obtain actual reads from a segment of their customers. However, suppliers' ability to get accurate meter reads for those rarely at home is likely to be more related to the effectiveness of the supplier's procedures to get a read following a number of consecutive estimated reads than their overall ability to get a high proportion of actual meter reads. This is because for the average customer, whether their account is estimated once or twice out of the four quarterly attempted read visits it is unlikely to make a decisive impact, providing an actual read is used at least relatively regularly (i.e. at least once or twice a year).

Figure 5.1: Supplier reliance on estimated reads



Source: Suppliers

Approaches in other countries

5.9. To provide some context Ofgem has looked at meter reading regulations in other countries. Figure 5.2 sets out a comparison of the obligation to read the meter of domestic customers in different countries. Requirements appear to vary a great deal. In Texas there is a three month requirement. In the Netherlands it is three

years and in Great Britain there is a requirement to read and inspect meters every two years.

Figure 5.2: International comparison of requirements on meter reading

	Texas, USA	Victoria, Australia	Netherlands	Sweden	GB
Legal requirement to read meters	Once every three months.	Once every three months.	Once every three years, but desired once a year.	Once a year but from June 2009 will be once a month.	Read once every two years.

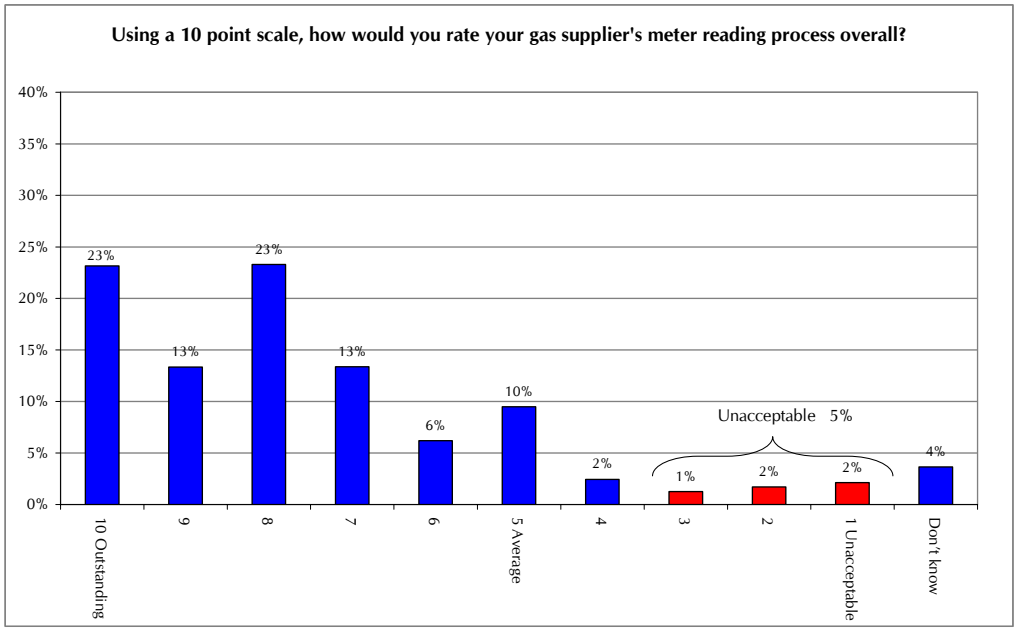
Source: The Texan Public Utilities Commission website, www.puc.state.tx.us, the Essential Services Commission of Victoria, Australia, website, www.esc.vic.gov.au, the Swedish regulator and Ofgem.

5.10. However, as with complaint data, cross-country comparisons on isolated rules should be undertaken with caution. A key consideration in looking at the merits of any rule on meter reading is, for example, the ability of the supplier to require access to the customer's property to obtain a read and the supplier's means of recourse if denied access. In the Australian state of Victoria if the customer's meter is not accessible for the purpose of taking a meter read for three consecutive bills, this is ultimately grounds for the supplier to disconnect the customer.

Extent of customer concern

5.11. Surveys provide evidence on customer perception of the adequacy of estimated bills. J.D. Power and Associates 2003 gas and electricity surveys show around five per cent of customers indicate that they believe the accuracy of estimated reads is poor, and nine per cent indicate that they have material levels of concern about the frequency of meter reads. Figure 5.3 below illustrates customers' views on the overall performance of suppliers in the area of meter reading processes. Less than ten per cent find the process "below average", including five per cent who rate it as unacceptable.

Figure 5.3: Customer views on overall meter reading process



Source: J.D. Power and Associates 2003

Frequency of billing

5.12. energywatch has raised concerns that suppliers' failure to bill leads to customers facing financial uncertainty and being unable to budget properly, leading to a number of problems for customers. To support an assessment of these concerns Ofgem has sought to understand:

- supplier billing practices
- approaches in other countries
- the extent of customer concern about frequency of billing, and
- evidence from case studies.

Supplier billing practices

5.13. According to supplier responses, the vast majority of domestic customers that are not on prepayment meters receive bills on at least a quarterly basis. Certain suppliers have provided evidence that they successfully issue over 99 per cent of their domestic customers with bills each quarter, and for all of the six suppliers the number of their customers who have not received bills for more than six and 12 months respectively are very low. Prepayment customers generally receive

an annual statement, though some suppliers do provide prepayment customers with a statement on a more frequent basis.

5.14. When suppliers do fail to bill and it is their fault, each one has a slightly different approach to how far back they bill. One supplier, for example, reserves the right to require payment up to six years (five years in Scotland), as permitted by the statute of limitations. However, the longer the back-billing, the greater the discount to the customer's bills, such that customers are effectively not asked to pay for the first year or two of the energy delivered. Most suppliers reserve the right to back-bill as far back as the statute of limitations permits, although several state that in practice they would be unlikely to back-bill that far.

Approaches in other countries

5.15. Figure 5.4 below sets out a comparison of the requirement not to back-bill in different countries. By this international comparison, suppliers in Great Britain have relatively unconstrained rights to back-bill. As discussed in paragraph 5.10, suppliers and customers are both generally bound by tougher obligations in markets such as Texas and Victoria. Nevertheless, the rules in Great Britain do give customers exposure to a dimension of financial uncertainty not seen in most other markets – even if in practice most suppliers claim not to fully use the legal flexibility that they have.

Figure 5.4: International comparisons of requirements on back-billing

	Texas, USA	Victoria, Australia	Sweden	GB
How late suppliers can back-bill following their own billing error	Shall not collect charges that extend more than six months from date error discovered.	Limited to nine to 12 months prior to the date on which the customer is notified of undercharging, depending on what gave rise to the undercharging.	Cannot bill a customer more than three years back.	An action cannot be taken to recover an amount more than six years after the amount was incurred.

Source: The Texan Public Utilities Commission website, www.puc.state.tx.us, the Essential Services Commission of Victoria, Australia, website, www.esc.vic.gov.au, the Swedish regulator and Ofgem.

Extent of customer concern

5.16. Survey evidence from J.D. Power and Associates 2003 reports over 97 per cent of customers as stating that they receive a bill at least on a quarterly basis (excluding prepayment customers).

Evidence from case studies

5.17. Evidence from case studies suggests poor quality information during the transfer and registration processes can occasionally lead to circumstances where a customer either does not receive a bill for a significant period of time, leading to the accumulation of debt, or where they continue to receive bills from both the old and new supplier.

Contract terms

5.18. Suppliers provide energy to customers on the basis of sets of standard terms and conditions which vary by product and by supplier. Within the 90 days available, Ofgem, in the first instance, has not been able to perform a detailed review of all suppliers' terms and conditions and the extent to which particular contract terms may or may not be associated with consumer detriment.

5.19. However, evidence from case studies has highlighted issues with some contract terms that Ofgem believes suppliers should review. In particular, evidence from case studies suggests that suppliers are requiring the customer to pay the disputed part of a demand for payment. Ofgem believes there may be issues about the compatibility of this term with the Unfair Terms in Consumer Contracts Regulations 1999 (UTCCR), although in the time available it has not reached a definitive view on whether any particular supplier's terms covering this area are in fact unfair.

5.20. The UTCCR apply a test of fairness to standard terms (those that have not been individually negotiated) in contracts between businesses and customers. A standard term will be unfair "if, contrary to the requirement of good faith, it causes significant imbalance in the parties' rights and obligations arising under the contract, to the detriment of the consumer". Such imbalance may, according to the UTCCR, arise wherever a term gives safeguards or powers to the supplier which could put the customer at a disadvantage, whether or not actual harm is caused. Ofgem does not however have the power formally to decide that a term is unfair. That is a matter to be ultimately decided by a court.

5.21. The contract term referred to above operates particularly to the disadvantage of more vulnerable customers, who are in general less likely to be able to pay a

large bill for which they have not incurred. They may also be less well-placed to effectively represent themselves to their supplier. This means that more vulnerable customers may on average take longer to get their complaints remedied by their supplier, and therefore have to wait longer until the disputed amount is refunded.

Tariff complexity

5.22. energywatch alleges in its super-complaint that customers face a complex array of tariffs without adequate means to assess them. However, as identified in Chapter 3, one advantage of a competitive market is precisely that there should be an increase in product diversity and innovation. This may mean more complex products, but Ofgem believes that customers are better off with these choices than without them.

5.23. While the increased array of products can make it harder for customers to work out what suits them best, there are services available which make it easier to make choices. For instance, telephone and internet comparison services are available to help customers make informed choices. energywatch also offers a tariff comparison service through their website or by telephone. In addition, a number of these services do not require actual consumption data in order to make a tariff comparison (the amount spent on energy per month can be sufficient).

5.24. Furthermore, Ofgem and energywatch together work to promote the benefits available to customers through the EnergySmart campaign (see Chapter 6). Customer survey evidence suggests that around 58 per cent of customers who have tried to compare prices find it fairly easy or very easy to compare tariffs[26].

Bill clarity

5.25. energywatch has raised concerns that bills are unduly complex and difficult to understand. Customer survey evidence suggests that around 91 per cent of customers find the ease of understanding their gas or electricity bill or statement

[26] This survey evidence is taken from Ofgem's Accent Survey 2005. The evidence is replicated in chapter 4,

outstanding or average, while only five per cent of respondents found it unacceptable[27]. However, while this suggests that a considerable number of customers understand their bills, Ofgem is aware that some elderly customers and those with learning difficulties may have particular problems understanding their energy bills.

5.26. Ofgem does not believe that adherence to a BSI billing standard is essential for suppliers to demonstrate their commitment to bill clarity. However, Ofgem agrees that certain information should be shown on all customer bills in the interests of comparability and that bills should be clear and easy to understand. As a result of standard gas and electricity licence conditions and a draft European Directive, there are already a number of mandatory elements of information that are, or will be, required on customers' bills. However, it is necessary to strike a balance between essential information for customers and the flexibility that suppliers need to market their services in response to their customers' needs. Suppliers will want the flexibility to innovate and to use their bill to differentiate themselves from their competitors.

5.27. The Energy Retail Association (ERA) announced in February 2005 that they plan to improve billing through the development of a customer service code of practice[28]. Ofgem understands from the ERA that the forthcoming code will include, among other things, an attempt to address areas around the format and clarity of the bill. When formulating this part of the code, Ofgem encourages suppliers to engage with representative bodies for advice on the particular issues some groups of customers face. In this regard, Ofgem is looking to suppliers to demonstrate that minimum billing standards will be identified and implemented.

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figure 4.8.

[27] This survey evidence is taken from the J.D Power and Associates 2003 survey. The evidence is replicated in chapter 4, figure 4.7.

[28] The ERA's press release 'Energy suppliers announce plans to improve billing' can be found at http://www.energy-retail.org.uk/february05_03.htm

6. Current industry initiatives

6.1. In its super-complaint, energywatch states that suppliers are "*aware of the huge problem with billing but have done almost nothing to resolve it*"[29]. However, there are many Ofgem, energywatch and industry initiatives underway that will help to address issues associated with customer bills. This chapter discusses a number of them and examines how they may help improve billing processes of suppliers, and therefore the level of service customers receive. The purpose of this discussion is to be clear about what progress has already been made in some areas, and what future improvements are likely, regardless of Ofgem's response to the super-complaint. This then positions Ofgem to explore the scope and need for further action on top of that which is already in process.

6.2. The following initiatives are considered:

- Customer Transfer Programme (CTP)
- Erroneous Customer Transfer Charter
- identifying vulnerable customers
- preventing debt and disconnection
- EnergySmart, and
- suppliers' investments in their billing systems

Customer Transfer Programme

6.3. In its super-complaint energywatch states that "*there is a whole body of complaints about billing that have nothing inherently to do with the transfer process and which will still remain regardless of the CTP*"[30]. While it is true that one project is not going to fix all the root causes of billing problems, it is nevertheless clear that suppliers will have at their disposal new customer data

[29] energywatch Super-complaint May 2005, page 5.
[30] energywatch Super-complaint May 2005, page 18.

sources that will enable them to significantly improve the accuracy of bills as a result of the CTP.

6.4. The CTP was established in June 2003. It encompasses suppliers, distributors, transporters and industry bodies such as energywatch, ELEXON, Ofgem and Gemserv. Over the past two years, the CTP has undertaken an extensive project of issue identification and root cause analysis. The CTP solutions are expected to be fully implemented by February 2006.

6.5. The solutions introduced by the CTP will improve a new supplier's ability to obtain an accurate opening meter read. This has implications for the quality of billing, since without this the chances of poor account data leading to a complaint are significantly increased. The CTP addresses these issues by developing a process that allows a reading to be obtained at an early stage and by providing the new supplier with an accurate historic reading obtained by the old supplier. The purpose of this meter reading data is to enable the new supplier to validate reads provided during the change of supplier process and to improve the new supplier's ability to accurately estimate a change of supplier meter read.

6.6. A further initiative of the CTP provides a new supplier with the data upon which the old supplier has based its billing to the customer, once they have requested to take over a customer's supply. A summary of the areas where the CTP is likely to have a positive impact on billing is given in Figure 6.1 below.

Figure 6.1: Customer Transfer Programme initiatives relating to billing

Billing issue	CTP initiative	Impact of CTP initiative
Accuracy of bills and timely delivery of bills	When the new supplier announces it is to take over a customer's supply, it will be provided with access to relevant data about that customer from the old supplier in advance of the transfer date.	The new supplier will have more timely access to - and greater control over - the data needed to establish the new billing account. It will allow the new supplier to identify problems and resolve them quickly. Early identification and resolution of problems by the new supplier will also enable the old supplier to issue an accurate and timely final bill to the customer.
Accuracy of bills	A new supplier will be able to utilise a meter reading obtained at the point of sale to improve the quality of an estimated transfer meter reading.	New suppliers will be able to base subsequent bills on an acceptable estimated opening read. This should lead to reduced customer queries.
Accuracy of bills and timely delivery of bills	The old supplier will provide the new supplier with an estimated read for the transfer date in advance of this date.	This will enable the new supplier to validate their transfer read, or to use the old supplier's estimate as a transfer read. This will remove the need for later iterations between the suppliers on an acceptable transfer read and improve the accuracy and timeliness of customer billing.
Timely delivery of bills	The CTP establishes clear backstop processes so that data omissions and errors will not prevent the timely exchange of data between metering agents that is essential for an accurate customer bill.	This will allow bills that would otherwise not have been sent to customers on time to be dispatched in a timely fashion following a customer transfer.

6.7. It is clear that the process of putting together the CTP has already improved suppliers' understanding and focus on managing the transfer process on behalf of

customers. There has, for example, been a fall in transfer complaints to energywatch of 60 per cent during the lifetime of the CTP. This has provided benefits for suppliers as well as customers in terms of the cost of administering the process and resolving exceptions. The CTP provides an example of how an industry-led group can effectively address difficult technical issues and take big steps towards improving billing effectiveness across the industry as a whole.

Erroneous Customer Transfer Charter

6.8. Poor quality information during the transfer process can lead to customers experiencing problems with billing frequency. In a number of cases looked at by Ofgem this was a result of the inability of the acquiring supplier to check key pieces of data relevant to that customer, leading to incorrect site registration and confusion between an old and new supplier as to which of them was responsible for billing that customer.

6.9. The Erroneous Customer Transfer Charter has dealt with this issue by putting in place procedures to ensure that a customer's supply is returned to their original supplier quickly following an erroneous transfer. Should erroneous transfers arise, the Charter now ensures that confusion over which supplier is responsible for the customer is quickly addressed. This enables billing to the customer to resume without delay.

6.10. Ofgem's last report in this area in October 2004 indicated that suppliers continue to improve their performance against the standards set by the code of conduct. There is evidence of a continued decrease in the level of complaints in this area (down from five complaints per thousand in February 2002 to 0.87 complaints per thousand in July 2004).

Identifying vulnerable customers

6.11. Ofgem has a number of initiatives currently underway through the Social Action Strategy to address the problems raised in ensuring that vulnerable customers receive the level of service they merit. Ofgem's research suggests around three quarters of vulnerable customers are unaware that suppliers operate a Priority Services Register (PSR) under which, for example, eligible customers are entitled

to quarterly meter readings. While Ofgem accepts that identifying and communicating with vulnerable customers is not straightforward for suppliers, there is clearly much more they can do by working with government and voluntary organisations to identify those who need additional help and more careful handling should they encounter billing problems.

6.12. Ofgem's research has highlighted a number of examples of good practice by suppliers. These include the training of external staff to identify vulnerable customers, establishment of special in-house teams, and helplines for intermediaries. One important initiative the industry is developing is a fuel poverty helpline to provide a 'one stop shop' for customers and intermediaries on advice. Ofgem welcomes these initiatives, but continues to stress that more needs to be done.

6.13. The PSR is an important vehicle for identifying vulnerable customers and communicating with them. Each domestic electricity and gas supplier has licence obligations to maintain a register and to offer special help to customers who are of pensionable age, disabled (including customers who are blind or partially sighted, or deaf or hard of hearing) or chronically sick[31]. Services suppliers must provide free of charge include password schemes, the repositioning of meters, appropriate communication facilities, redirecting of bills to third parties, quarterly meter readings and the provision of special controls and adapters for appliances and meters[32]. Gas suppliers must also provide on request a free gas safety check for customers where all adult members of the household are either of pensionable age, disabled or chronically sick. As part of the Social Action Strategy and as an input to Ofgem's Review of the Supply Licence, Ofgem is proposing to review the effectiveness of the PSR.

[31]Ofgem, *"Priority Service Research Project",* December 2003, p2.

[32] Gas and electricity suppliers must provide communication services to meet the requirements of customers who are blind or partially sighted or deaf or hard of hearing under SLC 38. Although these services are not strictly required under the PSR (which derives from SLC 37), in practice they are delivered by suppliers as part of their PSR services.

Preventing debt and disconnection

6.14. Joint work conducted by Ofgem, energywatch and the industry in the area of debt and disconnections noted that one way of improving supplier performance on debt and disconnections is to minimise billing complaints by providing accurate bills. Good Practice Guidelines on these issues were published in January 2003 and incorporated a section on initiatives open to suppliers to minimise billing errors. Suppliers have ongoing improvement programmes to give effect to these guidelines.

6.15. An independent review by SOHN Associates in March 2005 concluded that following this work a number of new initiatives relating to debt and disconnection have been trialled and implemented by suppliers. It also found that the guidelines have had a positive effect in stimulating activity in this area. However the study did highlight outstanding areas of concern, which will be taken up as part of the Social Action Strategy.

EnergySmart campaign

6.16. EnergySmart, a joint Ofgem/energywatch initiative, aims to provide customers with clear information and advice on how they can make considerable savings on their gas and electricity bills. This includes advice on switching supplier, switching to cheaper payment methods and being more energy efficient. This is one example of many instances in which Ofgem is active in drawing the attention of customers to the benefits of the competitive market available to them. Such initiatives increase customer awareness of the market, and highlight their options if they are dissatisfied with their current supplier in any way.

Investment in billing systems

6.17. Ofgem has considered some high level evidence about the extent of suppliers' investment in their own customer service systems, given that energywatch claims to see no evidence of any supplier commitment to remedy the problems that arise either in the short or long term. Such evidence is anecdotal, and cannot be directly linked to the remedy of any particular detriment now or in the future. However, in Chapter 3, Ofgem reiterated the long-held view that in a

competitive market, suppliers would be expected to have their own motivations to invest to solve customer problems. Ofgem discusses here the extent to which that presumption is borne out by the evidence, ie, are suppliers attempting to address the structural problems that their systems may have, which may in fact be the underlying root causes of the various problems their customers can sometimes face?

6.18. To understand suppliers' investment needs, it is important to understand the number of mergers between domestic suppliers since the gas and electricity markets opened to competition, as shown in Figure 6.2 below. These mergers should have brought the benefit of scale economies to suppliers, but in most cases they also brought the additional complexity of managing and developing the customer service systems of the companies they acquired, whilst continuing to develop their own existing systems.

Figure 6.2: Mergers between domestic gas and electricity suppliers since competitive market opening

Date	Purchasing supplier	Supplier purchased
June 1999	EDF Group (London)	SWEB
August 2000	TXU (Eastern)	Norweb
August 2000	SSE (North Scotland)	Swalec
February 2001	Npower (Midlands)	Yorkshire
August 2001	Npower	Northern
March 2002	TXU	Amerada
July 2002	EDF Group	Seeboard
December 2002	Powergen (East Midlands)	TXU
April 2004	SSE	Atlantic

Source: Ofgem research

6.19. Most suppliers appear to have invested considerable sums of money into the introduction of new systems to improve their billing processes and the level of service they provide to their customers. However, the complexity of integrating new acquisitions on to existing systems has been managed with varying success by different suppliers.

6.20. In some cases investments to improve systems have failed completely, leading individual suppliers to write off large sums of money. Others have had integration issues, but have not taken on major new supply business acquisitions

in recent years and so have had time to establish a stable company-wide customer service platform. Others are now in the process of re-engineering their customer service systems.

6.21. One supplier that falls into the latter category is currently in the midst of a £400 million customer service investment project. Many benefits should flow from the investment, which is ultimately about the supplier having means to enhance its customer service and improve customer retention.

6.22. However, projects of this type are inherently risky and necessarily take time to deliver benefits. This requires regulators sometimes to be patient about the speed with which service improvement can be made. If customers choose not to be patient, they are free to choose those suppliers that in their view are performing better right now. This helps to discipline the companies and provides reassurance that if the companies' investments do not ultimately deliver what they promise, they will be punished by the market.

6.23. The evidence available certainly appears to confirm this, since the suppliers with relatively high complaint levels now are also those who have faced the biggest challenges in merging new supply businesses. Moreover, those who have run into serious difficulties with their investments and have had to write-off large sums of money are equally those who appear now to have the biggest customer service problems (judging by energywatch complaint data).

7. Conclusions and proposed actions

Conclusion 1

On the basis of the evidence analysed and the scale of the task undertaken by the industry's billing process, there does not appear to be widespread or excessive consumer detriment. However, there is cause for concern when individual customers with complaints seek to resolve them. This is an area requiring further attention and action.

7.1. From the most robust source of data (the energywatch complaint data) there are 0.07 account and billing complaints per thousand energy customers per month. This, taken with the other data presented in this report, cannot be characterised as systematically excessive detriment across the entire energy supply industry. Customer complaints are a feature of any retail market and the evidence does not suggest that the level of complaints in the energy supply markets is excessive. Customers who receive poor service on billing can take action directly by switching or threatening to switch supplier. Given that nearly half of all customers have switched supplier at least once since retail competition began, it is clear that customers are increasingly willing and able to exercise such rights to switch.

7.2. However, those customers who do have complaints – although relatively few in number – too often find themselves in difficult and protracted discussions with their supplier with no certainty of a timely or fair resolution of their problem. Moreover, where billing errors do occur, considerable pain and aggravation can result particularly for vulnerable customers, who are often less able to resolve billing issues or represent themselves effectively in discussions with suppliers.

Conclusion 2

The evidence does not suggest that there are any particular areas in the billing process that are a significant cause of errors passed on to customers through their bills. Nor does it indicate that there are any systemic failures that materially undermine the effectiveness of competition in protecting customers' interests. It is the overall effectiveness of each individual supplier's billing

process that determines the effectiveness of its customer service. There are few, if any, barriers preventing customers who receive poor service switching supplier.

7.3. Suppliers have strong commercial incentives to ensure that, at each stage of the billing process, they are offering the service their customers want and expect. However, in the energy markets, unlike in many other retail markets, all suppliers have to rely on a number of central systems and processes that relate to metering and settlement. If these central systems and processes were the cause of widespread billing problems then it is possible that there could be an industry-wide problem that suppliers could only address through collective, rather than individual, action.

7.4. However, the evidence does not suggest this to be the case in the energy supply markets. There are significant variations in complaint levels between individual suppliers. This suggests that factors that relate to a common industry infrastructure are not the primary driver of complaints. The increasing product diversity similarly confirms that suppliers are offering genuine choice to customers.

7.5. Incentives may also break down where suppliers stop customers switching through debt blocking. However, following fines levied by Ofgem on some suppliers for breach of rules on debt blocking, the percentage of transfers objected to on grounds of outstanding debt has fallen significantly in gas and electricity. There is little evidence to suggest that competition does not offer effective choice for the vast majority of customers.

Conclusion 3

There is a range of initiatives already underway – many involving suppliers themselves – that aim to improve the effectiveness of billing processes. In relation to the handling of individual customer's complaints, however, more needs to be done by energy suppliers. Key amongst them should be the management of cases where there is a dispute between the customer and the company which can mean that the customer might face significant financial uncertainty if their supplier does not recognise and resolve the dispute quickly. There are currently no common complaint handling and compensation

arrangements across the energy industry unlike in other industries such as telecommunications.

7.6. Many of the issues raised by the super-complaint are already being considered or acted upon through existing industry initiatives. This underlines the importance of suppliers delivering results from these actions, notably:

- in February 2006 the next set of solutions from the Customer Transfer Programme will be implemented. These solutions should significantly improve the data available to suppliers when new customers transfer to them, reducing the risk of billing errors when a customer changes supplier
- the Social Action Strategy will continue the collaboration between Ofgem, energy suppliers and other stakeholders on methods to improve identifying vulnerable customers. The role of the suppliers in this initiative is crucial
- customers will be better informed through projects such as the joint Ofgem and energywatch EnergySmart campaign which will increase awareness of the ability for customers to get better customer service and cheaper prices through switching, and
- the planned improvements in the billing systems and customer service of some suppliers offer real prospects for further improvement. For example, one supplier is in the midst of a £400 million customer service investment programme. And, of course, evidence suggests that suppliers' performance on billing will impact upon their customer retention rates.

7.7. Nonetheless, the evidence of detriment for the relatively small number of those who become involved in a complaint suggests that further action is needed as a matter of urgency. Ofgem proposes that suppliers respond to the following actions, set out below, within specified time limits.

7.8. Ofgem is committed to the principles of better regulation. Ofgem is therefore challenging the industry to address these actions within 12 months rather than seeking to introduce regulation in this area. If, however, suppliers do not deliver

these actions either collectively or individually within 12 months, Ofgem will seek to introduce new conditions into suppliers' licences to implement them.

Proposed further actions

Back-billing

7.9. ***Energy suppliers should, by July 2006, stop seeking payment from customers for any energy supplied where the supplier is at fault for not billing the customer for two years. From July 2007 energy suppliers should stop seeking payment for unbilled energy where a supplier has failed to bill for over 12 months and is at fault for this failure.***

7.10. Most suppliers currently reserve the right to back-bill over a long timescale (in some instances up to five or six years) although some claim that, in practice they would rarely, if ever, back-bill so far. The measure proposed here by Ofgem seeks to mitigate one dimension of potential financial uncertainty that a customer can face in dealing with their energy supplier. This should simultaneously have the effect of increasing suppliers' incentives to reconcile and update their customers' accounts in a timely fashion. While suppliers should in general already have this incentive, the prospect of being obliged to write off debt in the event of failure to bill within the new permitted deadlines should further motivate suppliers to manage their billing expeditiously.

A dispute resolution body for energy customers

7.11. ***Energy suppliers must establish by July 2006 a dispute resolution body that will provide a means for customers to seek consistent and independent resolution of account and billing disputes that they have been unable to resolve with their suppliers. The new body should be financed by suppliers at a satisfactory level to ensure effective and efficient operations. It should have the ability to award compensation to individual customers through a complaints handling procedure.***

7.12. A significant element of the evidence presented by energywatch has been based on the reported experiences of individual customers. While there is no evidence that the case studies are indicative of problems more generally experienced by

large numbers of customers, they highlight the issue of what options customers have when problems arise, particularly when, for whatever reason, switching suppliers does not or cannot solve the problem.

7.13. Customers are, as a matter of principle, entitled to compensation when they are exposed to unnecessary inconvenience, aggravation and financial uncertainty as a result of supplier billing errors – all the more so if they have not been quickly recognised and resolved by the supplier. When complaints are directly handled by energywatch, the customer's issue appears to stand a better chance of satisfactory resolution.

7.14. energwatch can apply pressure on suppliers in general and on individual cases, but the outcomes for customers vary from case to case. Individually pursued cases may be treated less systematically and more slowly than those being pursued, for example, by energywatch or similar organisations. Cases that are identical in terms of the detail of the complaint may be dealt with by suppliers within different timeframes and with different approaches to and levels of compensation. While the customer's ability to switch supplier provides a strong general discipline on suppliers to achieve high standards of customer service, this is of little comfort to an individual faced with a large, unexpected bill (all the more so if it turns out to be due to supplier error). While many customers will vigorously pursue complaints to ensure a quick settlement, in some cases even the more assertive may find themselves in lengthy discussions with no certainty of an acceptable solution within a reasonable timeframe.

7.15. There is a role for a formal, independent dispute resolution body that will be of service to both suppliers and their customers. It would bring consistency across all suppliers in the way complaints are dealt with; provide customers with an impartial body, funded by the energy industry, to deal with disputes; and give stronger incentives for suppliers to prevent billing disputes from arising. This body will be able to consider, on a case by case basis, the appropriate action and the merit (and extent) of any compensation that should be paid to the customer.

7.16. The precise scope, organisation and financing of such a body is a matter for energy suppliers, in discussion with energywatch, to determine. It should

consider only complaints where the customer can demonstrate prior efforts to resolve the problem with their supplier.

7.17. A possible model for such an approach is to be found in the telecommunications industry[33].

Unfair contract terms

Suppliers must review their contractual terms for domestic customers for simplicity and clarity and ensure that none of the terms they employ are potentially unfair under the Unfair Terms in Customer Contracts Regulations 1999. For example, the requirement on a customer to pay the disputed part of a demand for payment and the implied exclusion of the customer's right to set-off may raise issues of fairness.

7.18. Ofgem has identified one or two terms that may exist in some suppliers' contracts with domestic customers that may be prohibited under the Unfair Consumer Contracts Terms Regulations 1999, such as the requirement on a customer to pay the disputed part of a demand for payment. Suppliers should review these issues, at the same time as more generally reviewing their terms and conditions for simplicity and clarity.

[33] The telecommunications ombudsman, Otelo, provides such a service. Furthermore, the government's thinking on the development of effective customer representation is clearly relevant. See for example, *"A Fair Deal for All: Empowered Customers, Successful Business"*, Department for Trade and Industry, June 2005.

Appendix 1 - Concerns with evidence presented by energywatch

Where Ofgem has particular concerns with the evidence presented by energywatch they are summarised in the table below.

Table A1.1 – Evidence presented by energywatch in the complaint on billing processes

energywatch's evidence	Ofgem's analysis
Contact data as reported to energywatch by suppliers energywatch estimates that suppliers receive 60 million contacts from customers querying or complaining about an account or billing issue a year.	♦ this figure is also discussed in Chapter 4 of the main document ♦ one supplier's data was inadvertently misused. Once corrected it reduced the average estimated contacts a year to 35.3 million ♦ some contacts to query a bill may not be from dissatisfied customers, and ♦ the variation in the number of contacts received by suppliers is so wide that it suggests suppliers are not capturing the data in the same way.
Contact data as reported to energywatch by suppliers Based on an estimated 60 million contacts a year, energywatch estimated that this costs suppliers £90 million a year in total.	♦ see bullets above, and ♦ based on their revised figure of 35 million contacts energywatch revised the £90 million down to £53 million.
energywatch enquiry data energywatch states they received 32,000 account and billing enquiries in 2004. It states that there was a 202 per cent increase in the number of account and billing enquiries between April-December 2002 and April-December 2004.	♦ enquiry data is also discussed in Chapter 4 of the main document, and ♦ this refers to account and billing enquiries received by energywatch rather than complaints. Any number of factors could be responsible for the increase in enquiry data including general awareness of energywatch. Therefore Ofgem considers that energywatch complaint data is more relevant for an assessment of detriment.

energywatch's evidence	Ofgem's analysis
Percentage of total complaints to energywatch that are related to customer accounts and billing problems energywatch states that it is highly significant that account and billing complaints have always been the highest complaint category. In 2004 energywatch received 39,000 account and billing complaints. energywatch states that the proportion of total complaints attributable to account and billing complaints has risen and therefore conclusions should not be drawn from the fact that complaints have dropped numerically.	♦ energywatch complaint data is compiled on a systematic basis and does generally relate to some level of consumer detriment. Therefore this has been used to assess the scale of consumer detriment ♦ other energywatch complaint categories include transfers and mis-selling. Given that the number of transfers and sales that go through each year are clearly lower than the number of bills issued it is not surprising that account and billing represents the highest complaint category, and ♦ other categories of complaint, such as transfers and mis-selling, have clearly fallen faster than account and billing complaints, following a number of Ofgem, energywatch and industry initiatives. Therefore, this trend is not necessarily an indication that account and billing complaints have worsened in absolute terms.

energywatch's evidence	Ofgem's analysis
energywatch interpretation of customer survey data energywatch refers to the following results from the NOP customer survey 2003[34]: (a) nine per cent of those surveyed had experienced debt due to estimated billing. energywatch claims this could equate to at least two million customers, and (b) 35 per cent of those surveyed said that they received estimated bills frequently or very frequently.	♦ the specific question the NOP survey asked was "has a late or estimated bill ever put your account into debt?". This is a very wide timeframe and therefore it is not possible to say what proportion of customers fall into debt on an annual basis ♦ other survey evidence[35] suggests that only around three per cent of customers find supplier billing and payment processes as an area of material concern, and ♦ with regard to the frequency with which customers receive estimated bills, it appears that the definition of 'frequently' is not defined. Therefore different respondents will have interpreted it in various ways.
energywatch interpretation of SOHN Associates research energywatch refers to the SOHN Associates research[36].	♦ the conclusions of the SOHN research suggested that all but one supplier had begun implementing a number of initiatives to minimise billing errors. The super-complaint does not mention this activity.

[34] energywatch super-complaint, page 24, paragraph 4.16.
[35] J.D. Power and Associates 2003 surveys found that only three per cent of customers rate suppliers overall billing and payment process as unacceptable.
[36] energywatch super-complaint, page 25.

energywatch's evidence	Ofgem's analysis
energywatch interpretation of SOHN Associates research energywatch refers to the focus groups employed by SOHN Associates. energywatch suggested that evidence of the extent of billing issues could be taken from these focus groups because all in the groups had experienced billing problems**.**	♦ there were only four or five people in each of the two focus groups ♦ the main selection criterion for participation in the SOHN Associates' focus groups was that individuals had been in recent contact with their energy supplier, and ♦ therefore this sample is not representative of the population as a whole.
energywatch interpretation of J. D. Power and Associates 2003 customer survey energywatch refers to a number of results from the J. D. Power and Associates Gas Survey 2003[37]. In particular, that "22% don't know how to find the exact amount to pay on their gas bill".	♦ for this question the J.D. Power and Associates 2003 gas survey suggests that only five per cent of customers find the ease of understanding their gas or electricity bill 'unacceptable' whilst about 60 per cent of respondents find it 'outstanding' ♦ the 22 per cent figure which energywatch refers to is the percentage of customers who do not know how easy it is to find the exact amount they have to pay, and ♦ the NOP survey suggests that only four per cent of customers find it very difficult to understand the information on the bill.

[37] energywatch super-complaint, page 26, paragraph 4.20.

Appendix 2 - Desired outcomes requested by energywatch

energywatch sets out a list of outcomes that it wishes to see implemented as a result of its super-complaint. Ofgem comments on each in the following table.

Table A2.1 energywatch's desired outcomes from the complaint on billing processes

energywatch's desired outcomes	Ofgem's view
A market that works well for customers with suppliers producing bills that are delivered to an agreed time schedule, that are accurate and are comprehensible to the customer	♦ The market creates strong incentives for suppliers to bill in an appropriate manner. If customers are dissatisfied then it is open to them to switch between suppliers, and ♦ Ofgem's analysis suggests that problems concerning the timeliness and accuracy of bills did not appear to be widespread, although some individuals have experienced detriment as a result of inaccurate and late bills. Ofgem found little evidence that customers found bills incomprehensible.
An investigation by GEMA pursuant to section 11 of the Enterprise Act 2002	♦ Ofgem has considered energywatch's super-complaint in detail and has undertaken its own independent research and analysis of the areas of concern highlighted in the super-complaint. This involved a full review of a wide range of evidence including: evidence submitted by energywatch in its super-complaint, over 200 case studies provided by energywatch and NACAB, information requests to industry, customer survey data and various other sources. On the basis of this research and analysis Ofgem has published this report which forms Ofgem's response to the energywatch super-complaint in fulfilment of Ofgem's obligations under section 11 of the Enterprise Act 2002.
A referral to the Competition Commission if deemed appropriate	♦ Ofgem may make a reference to the Competition Commission[38] where it has reasonable grounds for suspecting that any feature, or combination of features, of a market in the United Kingdom for goods or services prevents, restricts or distorts competition in connection with the supply or acquisition of any goods or services in the United Kingdom or a part of the United Kingdom.

[38] Under section 131 of the Enterprise Act 2002.

energywatch's desired outcomes	Ofgem's view
	Broadly, this power to make such references is concerned, in Ofgem's case, with activities relating to commercial activities connected with the carrying on of activities that Ofgem licences and activities ancillary to these activities[39], and ♦ at this stage it is not apparent that sufficient evidence exists that would support a finding of 'reasonable grounds for suspicion'. That is, the evidence available does not suggest that the billing processes of suppliers are operating in such a manner so as to prevent, restrict or distort competition. Therefore Ofgem does not intend to make a reference at this time.
A full review by GEMA of the current regulatory and legal regime covering supplier obligations on billing. This should encompass the introduction of regulation where required and the restructuring, repeal or relegation of existing unnecessary, redundant or inappropriate requirements	♦ Ofgem has reviewed the legal obligations on suppliers that relate to billing (see Appendix 3). At this stage Ofgem does not consider it is necessary to propose amendments to the licences held by gas and electricity suppliers. Ofgem's preferred approach at this time is for the industry and energywatch to implement the recommendations contained in this response under a self-regulatory solution in accordance with the principles set out by the Better Regulation Task Force (BRTF)[40]. In parallel Ofgem is conducting a comprehensive review of the electricity and gas supply licences in the spirit of better regulation. Ofgem intends to publish proposals for the Licence review in 2006 having consulted with customer representatives and industry.
All suppliers within 12 months adhering to an obligation that has, as a minimum, the eradication of the elements of consumer detriment set out in the super-complaint and the provision of more relevant information in a customer focused manner	♦ Ofgem's analysis has not found evidence of levels of consumer detriment that would indicate systemic problems with the billing and accounting practices of gas and electricity suppliers. Ofgem considers that some individual customers experience detriment and this response therefore calls on the industry to take proportionate action. An obligation on suppliers to address all the issues outlined in the super-complaint is likely to have a number of undesirable consequences. Suppliers' resources could be diverted from responding to other customer requirements, and/or energy bills could increase significantly. The nature of the obligations that would be required to eradicate all of the elements of customer detriment set out in the super-complaint in respect of every customer of gas and electricity would be significant and, in Ofgem's view, not in proportion to the evidence of

[39] Section 36A (2A) of the Gas Act 1986 and section 43(2A) of the Electricity Act 1989.
[40] The five principles of the Better Regulation Task Force are: transparency, accountability, targeting, consistency and proportionality. The details can be found on: http://www.brtf.gov.uk/reports/principlesentry.asp

energywatch's desired outcomes	Ofgem's view
	the scale of consumer detriment arising from the billing and accounting practices of gas and electricity suppliers. Such obligations would be likely to impose significant costs upon industry participants and may present barriers to entry into the retail energy market, and ♦ concerning the issue of the provision of information to customers, Ofgem has highlighted in this response the joint energywatch and Ofgem EnergySmart campaign which aims to raise customer awareness of the benefits of switching and energy efficiency issues.
This obligation should include a supplier commitment to:	
(a) Adopt any BSI standard on utility billing	♦ Ofgem agrees that certain information should be shown on all customer bills. However, suppliers will want to retain some flexibility to innovate and differentiate their bill from their competitors. A BSI standard may form a useful 'backstop' but it should not be over prescriptive. Ofgem understands that suppliers are developing a billing standard through the Energy Retail Association (ERA). It is through this supplier initiative that Ofgem calls on the industry to implement Ofgem's proposals on back-billing.
(b) Make bills more comprehensible and relevant to customers	♦ an independent customer survey[41] indicated that the majority of customers do not have difficulty understanding their bills. Further, Ofgem found evidence that suppliers are working on proposals for more user-friendly bills.
(c) Provide better quality dedicated billing and customer contact arrangements	♦ Ofgem's research indicates that all suppliers have arrangements to deal with customer contact of all types. Some customers undoubtedly experience difficulty in dealing with call centres but some suppliers have taken steps to improve this through, for example, motivational staff training programmes. The quality of these arrangements appears to differ between suppliers. Suppliers with poorer customer service may expect to lose customers as a result.

[41] J.D. Power and Associates 2003 survey.

energywatch's desired outcomes	Ofgem's view
(d) Publicly move towards using estimated bills as a last resort and devise smarter ways of obtaining actual meter readings every time (including the active promotion of more innovative metering)	♦ Ofgem does not consider that estimated meter reads are a root cause of consumer detriment. There does not appear to be any correlation between the proportion of estimated bills and energywatch customer complaints. Evidence from suppliers also indicates that the number of estimated meter reads has been steadily declining over the past two years. The six largest suppliers have also increased the proportion of bills based on customer own reads.
(e) Place warnings upon estimated bills for accuracy	♦ Ofgem found that estimated bills do not in themselves imply problems of accuracy or consequential consumer detriment. However, one supplier has introduced a new bill that clearly states whether a bill is estimated. Another supplier is simplifying their whole bill structure for the benefit of customers.
(f) Improve upon methodologies for the calculation of estimated bills	♦ Ofgem did not find any evidence that suppliers deliberately over or under estimate consumption. Ofgem considers that, in the absence of evidence to suggest that the methodologies currently employed by suppliers to estimate bills are flawed, suppliers are best placed to decide on what process or method they rely upon to estimate bills.
(g) More proactive management of direct debit customers' accounts	♦ Ofgem found that most suppliers appear to have invested considerable sums of money into the introduction of new systems to improve their billing processes and the level of service they provide to their customers. This should, among other things, lead to the improved management of direct debit customers' accounts. In addition, the extended scope of back-billing as recommended in this response will place an incentive upon suppliers to accurately bill in the first instance as they will not be able to recover debt which is outstanding more than one year back, and ♦ in relation to the debt objection of direct debit customers, over the last two years, following investigations, Ofgem imposed financial penalties on three gas suppliers and three electricity suppliers[42]. In these cases the companies were found to have incorrectly objected to direct debit customers switching to another gas or electricity supplier because the company said they were in debt. The number of customers who have been prevented from switching due to being in debt has also fallen.

[42] http://www.ofgem.gov.uk/ofgem/work/index.jsp?section=/areasofwork/sectoralinvestigations

energywatch's desired outcomes	Ofgem's view
Incentives for good supplier practice along the Australian/US models identified in the super-complaint	♦ Ofgem has considered practices in other countries in order to put issues around estimated reads and other issues in context. In regard to estimated reads other models place obligations on customers as well as suppliers. For example, in the Australian state of Victoria if the customer's meter is not accessible for the purpose of taking a meter read for three consecutive bills, this is ultimately grounds for the supplier to disconnect the customer. Therefore, different market characteristics between countries have contributed to the different approaches. There is no universal standard. With regard to back-billing, Ofgem has reviewed the practices of other countries and concluded that a supplier self-regulated rule on back-billing in Great Britain would be an appropriate manner in which to deal with this issue.
Industry embracing smarter metering which at a stroke has the capacity to deal with errors, failure to read meters, accuracy of meter reads, the demise of estimated bills and make a massive contribution towards fuel debt prevention	♦ in response to the challenges presented by mergers and legacy systems some suppliers have invested considerably sums of money into the introduction of new systems. Levels of investment per supplier range up to £400m. Ofgem is of the view that suppliers are best placed to determine whether customers would welcome 'smart' metering. Suppliers are able to consider the costs and benefits to customers and respond to their demands.
A customer impact assessment by GEMA of the current metering service arrangements and the perceived benefit to customers from metering competition beyond just price	♦ Ofgem has recently launched a Competition Act 1998 investigation into contractual arrangements between Transco plc and a number of licensed gas supply companies which concern the provision of gas metering services. Ofgem will also consider a framework for examining how the newly competitive metering market in both gas and electricity is developing.
A best practice direction from GEMA about the complexity of the various tariffs on offer	♦ Ofgem is of the view that suppliers are best placed to decide on the appropriate structure of their tariffs. Ofgem removed price regulation in April 2002 and no longer prescribes tariff levels or structures. An advantage of a competitive market is that product diversity and innovation has increased. While the increased array of products may make it harder for some customers to work out what suits them best, services have emerged in response to the development of competition in supply which make it easier for customers to compare suppliers. For instance, telephone and internet comparison services are available to help customers make informed choices. Some suppliers have also, since deregulation, sought to simplify their tariff structures by, for example, removing standing charges.

Appendix 3 - Regulatory framework

Overview

3.1 This appendix outlines the legal and regulatory framework that relates to the issues raised in the super-complaint.

3.2 There are several areas where the provision of, and access to, information for domestic customers is regulated, particularly where customers and suppliers come into direct contact with each other. These include:

- the Gas Act 1986 and the Electricity Act 1989
- Standard Licence Conditions in the gas and electricity supply licences
- the Utilities Act 2000, and
- relevant European Union (EU) Directives.

Gas Act 1986 and Electricity Act 1989

3.3 Paragraphs 7(1) to 7(4) of Schedule 2B of the Gas Act 1986 (Gas Act) provide for a supplier, having given seven days notice, to install a gas prepayment meter or disconnect a customer where a demand in writing for payment has been made and the customer has not paid the charges within 28 days after making the demand. This provision may not be exercised where any amount is genuinely in dispute[43]. Paragraph 2 of Schedule 6 of the Electricity Act 1989 (Electricity Act) is the mirror provision in respect of electricity.

Standard Licence Conditions

3.4 Standard Licence Conditions (SLCs) in gas and electricity supply licences are the principal means by which Ofgem can require suppliers to meet minimum requirements for the provision of information to customers. There are several specific SLCs which are relevant to the supplier billing process:

[43] Paragraph 7(5) of Schedule 2B.

- SLC 17 (Reading and Inspection of Meters) of the electricity supply licence requires electricity suppliers to use all reasonable endeavours to ensure that, at least once in every period of two years during which the supplier has at all times been the supplier, an inspection of any non-half hourly meters is carried out. SLC 17 (Reading Inspection and Testing of Meters) of the gas supply licence contains an equivalent provision for the supply of gas

- SLC 20 (The Master Registration Agreement) of the electricity supply licence requires the licensee to become a party to and comply with the provisions of the Master Registration Agreement. The Master Registration Agreement itself provides that suppliers may block the transfer of customers who are in debt if the customer fails to pay charges for the supply of electricity after 28 days following a written demand for payment[44]. SLC 46(8) (Termination of Contracts on Notice and Domestic Transfer Blocking) of the gas supply licence contains an equivalent provision for the supply of gas

- SLC 21 (Publication of Information to Customers) of the electricity supply licence requires an electricity supplier to inform each of its customers of a number or numbers (termed the 'Supply Number(s)') relevant to the registration of that customer, under the Master Registration Agreement, with the licensee to the premises owned or occupied by such customer on each bill or statement given to the customer or annually where customer does not receive such bill or statement. SLC 21 (Publication of Information to Customers) of the gas supply licence contains a similar provision for the supply of gas but includes an additional obligation to keep each customer informed of the name and address of the relevant transporter for the customer's premises

- SLC 27 (Preparation, Review of and Compliance with Customer Service Codes) of the electricity supply licence applies to any code of practice to be prepared by the electricity supplier pursuant to SLCs 24, 25, 35, 36, 37, 38 and 39. It requires the electricity supplier to at least once in each

[44] Clause 16 (Procedure for objection by old supplier) of Part IV (Registration Services) of Version 9.1 of the MRA.

year draw the attention of those of its customers covered by these codes to the existence of the code and of each substantive revision of it and how they might inspect a copy of such codes. The electricity supplier has to give or send free of charge a copy of such code to any person who requests it. They are also required to comply with such arrangements or procedures set out by any code to which this condition applies and approved by the Authority or any revision to such code approved by the Authority. SLC 27 (Preparation, Review of and Compliance with Customer Service Codes) of the gas supply licence contains the equivalent provision for the supply of gas

- SLC 37A (Pensioners Not to Have Supply of Gas Cut Off in Winter) of the gas supply licence prevents the disconnection of a domestic customer's gas supply where the customer is of pensionable age during the winter period: a period beginning with 1 October in any year and ending 31 March the following year. There is no equivalent provision in the electricity supply licence

- SLC 40 (Information Given to Domestic Customers) of the electricity supply licence requires, among other things, that suppliers inform their customers of the amount of electricity used (or an estimated usage). This is usually through a bill or statement. SLC 40 (Information Given to Domestic Customers) of the gas supply licence contains an equivalent provision for the supply of gas

- SLC 42 (Domestic Supply Contracts) of the electricity supply licence sets out, among other things, what information must be provided as part of a domestic supply contract. Under this SLC, suppliers must set out all the terms and conditions, including the terms as to the price on which the licensee will supply electricity. Where a supplier offers a domestic supply contract for both the supply of energy and the provision of other goods and services, the domestic supply contract must separately identify the charge for supply from the charge for the other goods and services. SLC 42 (Domestic Supply Contracts) of the gas supply licence contains a similar provision for the supply of gas

- SLC 43 (Contractual Terms – Methods of Payment) of the electricity supply licence requires an electricity supplier to provide, at a minimum, for payment by an electricity prepayment meter, cash, cheque and a range of specified payment intervals and some additional requirements. SLC 43 (Contractual Terms – Methods of Payment) of the gas supply licence contains an equivalent provision for the supply of gas

- SLC 44 (Notification of Terms) of the electricity supply licence requires, among other things, that suppliers take reasonable steps to draw to the attention of the customer the principal terms of the domestic supply contract, and that suppliers must notify customers within ten days of variations to the terms and conditions that are disadvantageous to the customer (including price rises), and advise that customer of their right in these circumstances to terminate the domestic supply contracts. SLC 44 (Notification of Terms) of the gas supply licence contains an equivalent provision for the supply of gas, and

- SLC 48 (Marketing of Electricity to Domestic Customers) of the electricity supply licence regulates the manner in which electricity suppliers can market domestic supply contracts to existing or prospective consumers. SLC 48 (Marketing of Gas to Domestic Customers) of the gas supply licence contains an equivalent provision for the supply of gas.

3.5 Ofgem can investigate possible breaches of licence conditions and if a licensee is found in breach of a licence condition the Authority will make orders as may be requisite for the purpose of securing compliance with the licence condition. The Authority may also impose financial penalties where a licencee is found in breach of a licence requirement. Since its enforcement powers came into effect in April 2002, Ofgem has imposed financial penalties on four suppliers totalling almost £2.5 million.

3.6 Section 11A of the Electricity Act and section 23(1)(b) of the Gas Act provide for Ofgem to make modifications of gas and electricity SLCs respectively. Ofgem has already successfully carried out a number of licence modifications in the electricity and gas supply licences where changes were required to specific provisions. If Ofgem wants to propose changes to SLCs, there is a procedure for

obtaining industry consent known as the Collective Licence Modification (CLM) process[45].

The Utilities Act 2000

3.7 Section 2 of the Utilities Act 2000 provided for the creation of the Gas and Electricity Consumer Council (known as 'energywatch'), with Part III of the Utilities Act 2000 (Functions of the Council) establishing its powers to make proposals, or provide advice and information, about consumer matters and representing the views of consumers on such matters. These functions may be exercised by:

- publishing information in any manner energywatch thinks appropriate for the purpose of bringing it to the attention of those likely to be interested[46], or
- furnishing information to any customer[47].

3.8 If it appears to energywatch that the publication of any advice and information about customer matters (including information about the views of customers on such matters) would promote the interests of customers, energywatch may publish that advice or information in such manner as it thinks fit[48].

EU Directive on fuel mix disclosure

3.9 The European Directive on Common Rules for the Internal Market in Electricity[49] came into force on 3 August 2003 and was to be implemented by all Member States by no later than 1 July 2004. Article 3(6) of this Directive includes a requirement for all suppliers to provide their customers with information on the proportion of different fuels that are used to generate the overall mix of the supplier over the preceding year. Electricity suppliers must also provide at least a reference to existing sources where information on the environmental impact

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[45] In September 2003 Ofgem published *"Guidance on modifying SLCs Guidance on modifying the standard conditions of gas and electricity licences",* 92/03, which explains the process.
[46] Section 20(2)(a) of the Utilities Act 2000.
[47] Section 20(2)(b) of the Utilities Act 2000.
[48] Section 21(1) of the Utilities Act 2000.
[49] Directive 2003/54/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in electricity and repealing Directive 96/92/EC.

of the electricity produced by the overall fuel mix is available. This requirement was given effect in Great Britain in the electricity supply licence by way of a new licence condition, licence condition 30A. This licence condition was inserted by way of statutory instrument that came into force on 18 March 2005.[50]

EU Directive concerning energy end-use efficiency and energy services

3.10 In December 2003 the European Commission (the EC) published a Communication on Energy Infrastructure and Security of Supply[51] which included, among other things, a proposal for a Directive concerning the promotion of energy end-use efficiency and energy services (Energy Services Directive). The proposal provides that the Directive would be implemented by Member States by 1 June 2006. It is worth noting that, at the time of writing, the content of the proposed Directive is not yet final. It is possible that the version which is presently available could be altered.

3.11 Article 13 of the draft Directive relates to metering and informative billing of energy consumption, providing that:

- end use customers must be provided with competitively priced individual meters that accurately reflect the customer's actual energy consumption and actual time of use
- billing reflects actual consumption in understandable terms, with meter reads carried out frequently enough to enable customers to regulate their own energy consumption, and
- the following information should be available to final customers in, or with, bills and promotional materials:

  a) current actual prices and, where appropriate, actual consumption

  b) where appropriate, comparisons of the customer's current energy consumption with consumption for the same period in the previous year, in graphical form

[50] Electricity (Fuel Mix Disclosure) Regulations 2005 (2005 No. 391).
[51] COM(2003) 743 final, Proposal for a Directive of the European Parliament and of the Council on energy end-use and efficiency and energy services 10 December 2003.

c) comparisons with an average normalised or benchmarked user of energy of the same category

d) environmental impact, such as CO_2, of energy distributed or sold for consumption, and

e) contact information, including websites, where information on available energy services, energy efficiency programmes and other energy efficiency measures, as well as technical specifications for energy-using equipment, may be obtained.

3.12 The proposed Directive, should it become EC legislation in its present form, would raise some significant issues for Ofgem. Ofgem has written to the Department of Environment, Food and Rural Affairs who are consulting on the proposed Directive outlining its concerns.

Overall and guaranteed standards of performance

3.13 Overall and guaranteed standards of performance in electricity and gas supply constitute a regulatory mechanism for improving specific areas of customer service such as: making and keeping appointments, responding to queries and offering compensation for missed appointments.

3.14 The Authority may determine overall standards of performance in connection with the provision of gas and electricity supply services by gas and electricity suppliers[52]. Overall standards are concerned with areas of service where minimum general service levels are considered necessary.

3.15 The Authority, with the consent of the Secretary of State, may also make separate regulations prescribing standards of performance in connection with the activities of gas and electricity suppliers in individual cases by guaranteed standards[53]. If the company fails to provide the level of service required it must make a payment to the affected customer(s) where the regulations prescribe that compensation shall be paid.

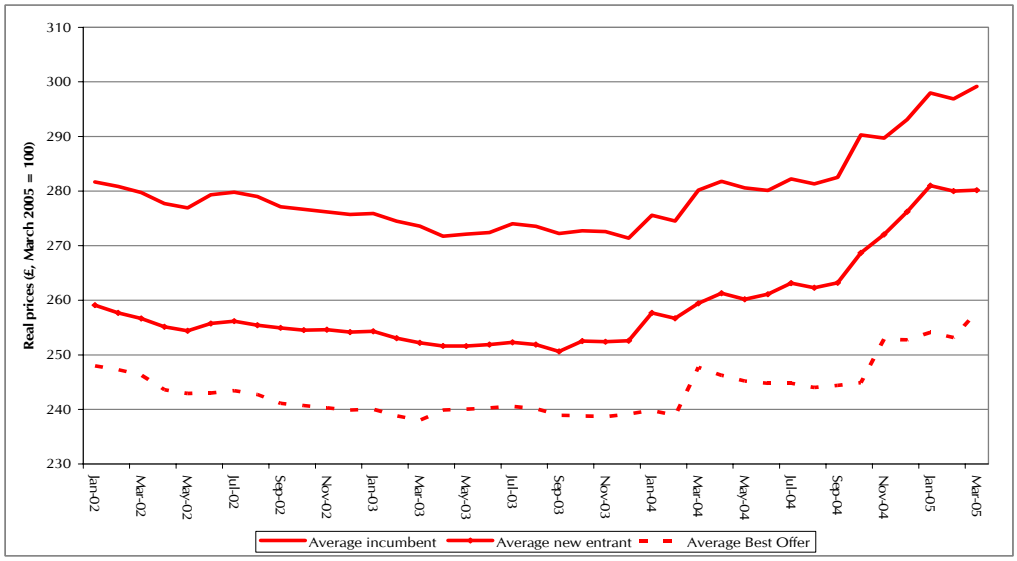
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[52] Overall standards are determined by the Authority under section 40 of the Electricity Act and section 33B of the Gas Act.

[53] Guaranteed standards of performance in individual cases are made by way of regulation and with the consent of the Secretary of State. Provision is made for standards of performance in individual cases in section 39 of the Electricity Act and section 33A of the Gas Act.

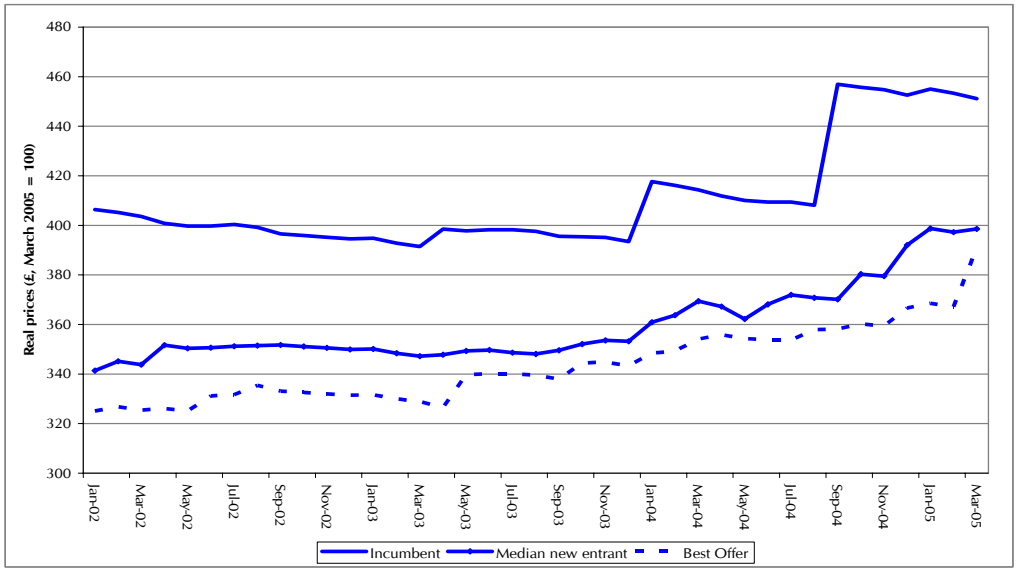
Appendix 4 - Pricing data

Figure 3.4: Electricity standard credit prices (January 2002 – March 2005)[54]



Source: Ofgem

Figure 3.5: Gas standard credit prices (January 2002 – March 2005)[55]



Source: Ofgem

[54] In calculating the average new entrant price, the median new entrant bill was taken for each region and then these were averaged across all regions.

[55] In calculating the median new entrant price, any regional pricing by suppliers was averaged across all regions and then the median new entrant bill was taken.

Appendix 5 - Case summaries

Case summary 1

5.1 In November 2001, Mr D was put on a pre-payment meter when he incurred a debt of £185 for gas. In October 2002, only a year later, he received a letter from his gas supplier which stated that he owed £4158.08. Although Mr D was 74 years old at the time and had an income of £100 a week, he was too distressed to admit that he may have fallen into debt and instead of contesting the amount he tried to make repayments. This situation only came to light in January 2005 when his nephew realised he had been living for about six months without heating or hot water during the winter time because due to a change in circumstances he could not reach his prepayment meter.

5.2 Following the intervention of his nephew who contacted the supplier and energywatch, the supplier admitted that the amount of £4158.08 was incorrect and stated that the large bill had been sent "due to the account being billed on an incorrect meter reading". A credit meter was then reinstalled with £40 credited to his account as a goodwill gesture from the supplier. The supplier acknowledged that too much debt had been applied to the meter which resulted in an overpayment of £1,156. This money was refunded. Since the case was highlighted in the press, the supplier concerned has apologised unreservedly. Mr D has been offered the opportunity to receive free energy for life or an ex gratia payment of £1,000. The outstanding debt of £185 has also been written off and Mr D has now been put on the Priority Services Register.

Case summary 2

5.3 At the end of 2002 Mr and Mrs L had their gas and electricity meters changed. Between this time and March 2004 they received no gas or electricity bills despite contacting their supplier at least eight times. In March 2004 Mr and Mrs L contacted energywatch and asked for help to resolve the issue. energywatch then wrote to the supplier. The customer received a letter from the supplier within ten days of energywatch's letter. After the supplier contacted the customer it transpired that the meter exchange records had not been altered to take into account the change of meters.

5.4 Mr and Mrs L supplied the relevant information and these records were then updated. Bills were then sent out and a repayment plan was put in place so they could afford to pay off the outstanding balances while still being able to afford current consumption. No compensation was given. According to the supplier in question, Mr and Mrs L were "happy" with this outcome.

Appendix 6 - List of respondents

6.1 The following organisations and individuals responded to Ofgem's open letter of 8 April 2005 which invited interested parties to provide comments with regard to the super-complaint.

Aspiren

British Gas Trading

Citizens Advice Scotland

National Association of Citizens Advice Bureaux

EDF Energy

Energy Retail Association

Energy Saving Trust

Good Energy

Heat Light and Power Company (HelpCo)

Powergen

Scottish Power

The General Consumer Council for Northern Ireland

Transco Metering

Whitbread Group Plc

Local Authority and Government Utilities Resource Strategy Committee

Three non-domestic customers and one domestic customer