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28 April 2017

Dear Anthony,

**Citizens Advice response to Ofgem's open letter - notifying of our intention to launch a project to protect consumers from back billing**

We strongly support Ofgem's decision to launch a project to examine the regulatory framework governing back billing, and its minded-to position that licence obligations are required to tackle problems in this area.

*Ofgem's minded-to position on back billing*

Billing issues remain the number one area of complaint to both Citizens Advice and Ombudsman Services: Energy, and catch up bills (of any length) make up 15% of energy cases dealt with by the Citizens Advice consumer service.<sup>1</sup> Our research last year showed that as many as 2.1 million consumers a year receive some sort of catch up bill, with more than 15% of these costing more than £250.<sup>2</sup> The back billing principle - that consumers should not be charged for usage more than a year ago if the supplier is at fault for not billing properly - is designed to protect customers from the worst impacts of catch-up bills.

Our evidence backs up Ofgem's concerns that as the number of suppliers in the market has grown, the principle is no longer being applied consistently and proactively by suppliers. The Extra Help Unit (EHU), our service to support vulnerable customers with energy complaints, has seen an increase in cases where the principle

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<sup>1</sup> See Appendix 1 for consumer service case data

<sup>2</sup><https://www.citizensadvice.org.uk/about-us/how-citizens-advice-works/media/press-releases/millions-of-energy-customers-hit-by-back-bills> full research available on request.

has not been applied. These cases have often taken extended periods of time to resolve, compounding the distress caused to the consumers involved.<sup>3</sup> Consumer service cases related to back bills have also increased (both in absolute terms and as a percentage of all energy cases) since 2014.

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### **Extra Help Unit case study**

The consumer received an email advising her direct debit payment would need to increase from £94 to over £249. The consumer could not understand this as she was never late with payments, provided regular meter readings and also had her meter read by meter operators. The supplier told her that they had been billing on the wrong tariff since 2011, and this had led to a debt of £1,300 accruing on the account when they re-billed it accurately.

The consumer asked about the back billing limit being applied in this case, and the supplier claimed - incorrectly - that the back billing principle only applied to new bills, and that it therefore wouldn't in this case.

With the help of the EHU, £500 was eventually deducted from the account for back billing, and a further £100 was deducted as goodwill. The consumer agreed for her direct debit to be increased, but by a smaller amount that had been originally requested.

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Back bills of more than a year are relatively rare, but where they occur can cause a high level of detriment to the consumers involved. We agree with Ofgem that the back billing principle is an essential minimum standard for consumers, and support Ofgem's minded-to view that prescriptive rules are appropriate in this area (in line with the approach to enduring prescription set out in the Future Retail Regulation consultation).<sup>4</sup>

We will consider the detail of Ofgem's proposals, including the level of detail required in any new licence condition, as the review proceeds. However, our initial view is that any licence condition should cover both domestic and micro-business consumers, as these groups share many of the same characteristics and suffer similar detriment through poor billing practices.

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<sup>3</sup> See appendix 2 for a selection of recent cases.

<sup>4</sup> <https://www.ofgem.gov.uk/publications-and-updates/future-retail-market-regulation>

## *Smart back billing*

We were disappointed that the information on back billing policies published by Ofgem shows no progress by suppliers towards a six month back billing limit for smart meters.

It is more than a year since suppliers, through Energy UK, committed to voluntarily introduce this limit.<sup>5</sup> In this time the number of smart meters has increased to over 6 million - equivalent to more than 10% of all domestic meters. It is unacceptable that the consumers with these smart meter could be back billed for up to a year - especially when they accept these meters on the basis of promotional material that says they will end estimated bills.<sup>6</sup> Our research has also shown that this is the smart meter benefit which consumers consider is most useful.<sup>7</sup>

While smart meters reduce the risk of estimated bills, other factors such as communications failures, problems with suppliers' internal systems or processes mean that the risk is not entirely removed.



### **Consumer service case study (February 2017)**

The consumer has a smart meter and pays by direct debit. His supplier recently asked him for a manual meter reading, after which he received a bill for £450. After querying this bill, the supplier informed him that his smart meter had not sent meter readings for the past 4 years. As a result, he had been underpaying and had built up a debt. He was unhappy it has taken the supplier 4 years to identify this issue with the meter. He wanted to know his rights since this issue was not his fault. We advised the consumer about the back billing principle.

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The lack of progress in voluntarily introducing a smart back billing limit demonstrates the need for Ofgem to now step in and obligate suppliers to do so. This will ensure that all consumers with smart meters receive the benefit of more accurate billing, and limit the potential for poor smart meter experiences during the rollout.

There is already a broad consensus across industry that the current twelve month back billing limit does not go far enough for smart meter users. Ofgem's 2015 consultation on Smart Billing identified six months as the appropriate initial limit on back bills for smart meters, as balancing consumer interests and supplier processes early in the roll out.<sup>8</sup> In their response to this consultation, Energy UK said that they

<sup>5</sup> <https://www.ofgem.gov.uk/publications-and-updates/smart-billing-smarter-market-our-decision>

<sup>6</sup> See Smart Energy GB's webpage, 'Smart Meter Benefits'

<https://www.smartenergygb.org/en/about-smart-meters/benefits-for-you>

<sup>7</sup> <https://www.citizensadvice.org.uk/about-us/policy/policy-research-topics/energy-policy-research-and-consultation-responses/energy-policy-research/early-consumer-experiences-of-smart-meters/>

<sup>8</sup> <https://www.ofgem.gov.uk/publications-and-updates/smart-billing-smarter-market-our-proposals>

'agree the current domestic 12 month back billing threshold is too long for customers with smart meters', and committed to introduce a six month limit on these bills.<sup>9</sup> Compelling new evidence would be required for us to resile from our view that a six month limit for smart back bills is the minimum protection that should be introduced following this review. We consider that this limit should be reduced over time to three months, to meet Ofgem's ultimate policy objective of no back bills where the customer is not at fault.

In addition, we consider that the limit should apply to smart (both SMETS1 and SMETS2) and advanced meters, as all of these technologies should enable suppliers to bill accurately every time. As with back billing for traditional meters, we consider that the limit should apply to both domestic and micro business consumers.

#### *A single back billing limit*

We support Ofgem considering whether it is appropriate for different back billing limits to apply on the basis of metering technology. However, we would expect that if a single limit is favoured it should be set at a level based on the capabilities of smart meters, rather than a lowest common denominator approach based on the limitations of dumb meter technology.

This would imply a six month limit for all consumers. As such, further consideration of the costs and benefits of a shorter back billing limit for all consumers (regardless of meter type) should form an important part of Ofgem's review. Such a policy could help drive continuous improvement in billing, especially as suppliers face little competitive pressure to improve billing in a market driven by price more than customer service.

We look forward to engaging closely with Ofgem as this project progresses, including sharing more of our evidence to demonstrate the consumer impact of back billing, and the failure to apply the current principle by some suppliers.

During the period of the review we would expect suppliers to continue to apply the back billing principle, and to continue work towards implementing the six month limit for smart meters they previously committed to. If we become aware of suppliers not acting in line with the current principle we will pass this information to Ofgem.

Yours sincerely,

Alex Belsham-Harris

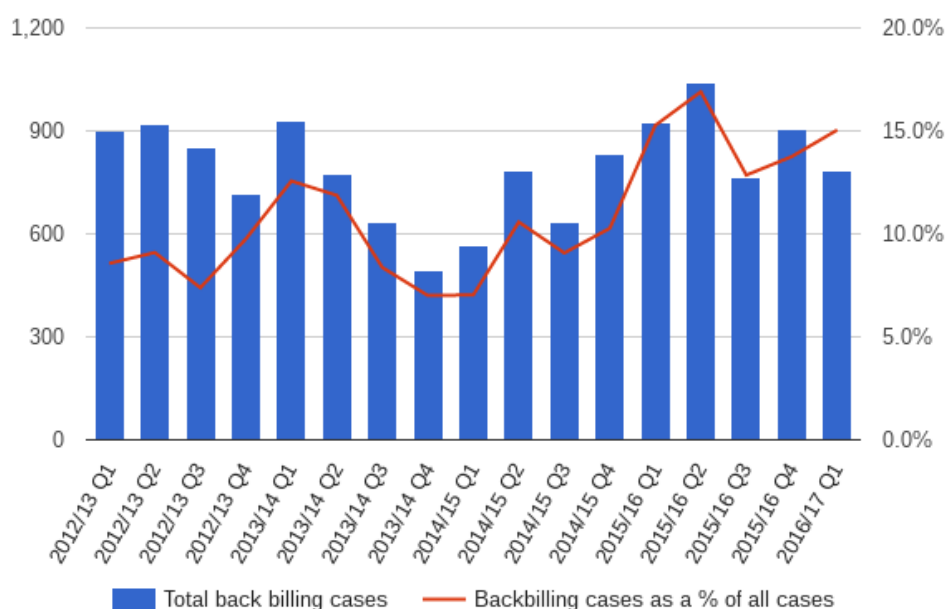
Senior Policy Researcher, Citizens Advice

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<sup>9</sup> <https://www.ofgem.gov.uk/publications-and-updates/smart-billing-smarter-market-our-decision>

## Appendix 1: Consumer service data (England and Wales)

Following a period of decline between 2012 and 2014, back billing cases (related to back bills of any length) have increased, both in absolute number and as a proportion of all energy cases dealt with by the consumer service.<sup>10</sup>



## Appendix 2: Extra Help Unit (EHU) back billing cases

These case studies demonstrate where suppliers have failed to apply the back billing principles (either initially or on an ongoing basis). Emphasis has been added to highlight where suppliers have refused to apply back billing protections.

### Case study 1

The first thing the consumer knew about a catch up bill was a letter from a debt agency demanding £1,287. She had left [Supplier A] late in December 2016. In the apology letter sent to the consumer the supplier told her that her the direct debit had failed for a technical reason and that it was the supplier's fault. The direct debit was not taken for 17 months. **The supplier didn't offer to apply back billing in the initial response to the consumer, and the EHU had to go back to them and argue for back billing to be applied, despite this being a clear back billing case.** The EHU went back to the supplier and after the case was reviewed they agreed that the back billing principle should apply, meaning an extra £309 was deducted from the account balance.

<sup>10</sup><https://www.citizensadvice.org.uk/about-us/difference-we-make/advice-trends/consumer-advice-trends/consumer-advice-trends-201617/>

### *Case study 2*

The consumer moved into a property in January 2013 and [Supplier A] was the supplier. She changed supplier so that [Supplier B] supplied her from February 2013. The consumer has now received a letter from a debt collection agency saying she owes approximately £652.45 to [Supplier A]. She did not receive any bills from [Supplier A] before this. [Supplier A] admitted they had the wrong address registered in their system so no correspondence was sent to the consumer. We have asked them to apply back billing and essentially wipe the balance as they failed to bill the consumer. **In response [Supplier A] said it was a data entry issue so back billing would not apply.**

### *Case study 3*

The consumer left [Supplier A] in September 2015, but the supplier is pursuing a balance of £514.72. He has received a letter recently saying the balance was overdue. There was a period of time in 2015 where [Supplier A] changed their billing system, during which collections letters were suspended. They have recently begun to collect debt owed.

The billing period for final bill was between 06/07/2014 to 11/07/2015. The consumer was not pursued for this debt until recently, and he feels back billing should apply due to the time taken to chase debt.

[Supplier A] acknowledge that back billing could have been applied for earlier period, from 23/06/2013 to 29/09/2013. They further stated that **“we were not signed up to the Energy UK back billing code at this time... on this principle we would decline [to apply] the back billing [principle]”**. They argued that the issue had already been raised and resolved with a £100 goodwill gesture on 20/11/2014”.

### *Case study 4*

The consumer set up a direct debit with [Supplier A], the payments initially came out and the consumer then changed bank account, at which point the direct debit was no longer being taken. The consumer was not aware of this and [Supplier A] did not alert the consumer that the payments were not being made. As a result of this, the consumer's direct debit was also not being reviewed and a balance of £3,318 had accumulated by the time that he moved out of the property. The consumer had been in touch with [Supplier A] in between via phone call and email, but he'd never been able to get a response.

The consumer ended up paying the balance off as he felt threatened by the debt recovery activity, however he has now revisited this and is looking to see whether the back billing code can apply. [Supplier A] told the EHU that a small balance of around £6 had been cleared as part of the resolution, however the consumer was under the impression that he had paid the full balance previously. **[Supplier A] have confirmed that they aren't part of the Energy UK Billing Code, and are not willing to look at or apply the spirit of the back billing principle, even on a case by case basis.**

[Supplier A] closed the complaint and issued a £100 goodwill refund despite the EHU considering the case as still open.

#### *Case study 5*

The consumer lives at the property with her partner and three children. She suffers from arthritis and as a result is in receipt of the Personal Independence Payment. She moved out of a property, where she paid for her electricity via a prepayment meter, in September 2015, and informed the energy supplier. Months later the consumer received a bill for £519. The consumer phoned the supplier and was told that the balance needed to be paid.

Once the EHU contacted the supplier they investigated the matter properly. It was discovered that the consumer's debt had not been added to the meter for over 12 months and as a result the supplier agreed to write off some of the bill, leaving a balance of £150.

#### *Case study 6*

In June 2009 a consumer had an electric prepayment meter fitted for a debt of £217. The consumer moved out of the property in 2014. In November 2016 she started to receive debt recovery letters for debt relating to the electricity supply. It turned out that due to a systems issue the debt had never been added to the meter. The supplier in question had never billed the consumer for the debt, so the first she was aware of the situation was when the Debt Collection Agency contacted her. **The supplier accepted that back billing should have been applied, recalling the debt from DCA and writing it off.**

### Appendix 3: Cases related to smart back billing<sup>11</sup>

#### *Consumer service case study 1*

The supplier did not receive any meter readings from the consumer's smart meters. As a result, they have been estimating the consumer's bills. The consumer is now in debt to the amount of nearly £500.

#### *Consumer service case study 2 (via webform)*

"I was led to believe a smart meter gave my supplier an accurate reading and not an estimated one! I am at a loss with them. After installation, my monthly payment started off at £85 for four consecutive months. It was then reduced to £37 as they only recently started receiving accurate readings. It then appeared my direct debit would increase to £120 because my previous bills had been underestimated. They are

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<sup>11</sup> Indicative consumer service cases from January to March 2017. Call notes are drawn directly from the case notes made by Consumer Service call-centre workers, and as such represent events from the caller's perspective. Contacts via webform are in the consumer's own words, but may have been edited. Local Citizens Advice notes are written by an adviser.

wrongfully advertising smart meters as accurate they are no more than guess work. When I rang them, they could not give me a reason for this erratic billing..."

### *Consumer service case study 3*

In 2014, the supplier installed smart meters for the consumer. A year after the installation, the smart electricity meter broke but the consumer did not know this at the time. When the supplier came out to replace the meter it was unable to do so.

In December 2016, the consumer received a bill for £1,400. The consumer disputes the bills as the supplier did not instruct her to read the meter correctly. As a result, her readings were incorrect. The consumer is finding this stressful and cannot afford the bill. She is on a low income. This case was referred to the EHU, who enquired about how the back-billing code reduction had been calculated. The case is ongoing.

### *Consumer service case study 4*

The consumer has a smart electricity meter. In the past the consumer has received highly varying bills. For example, in September he had a bill for £50 and in October he had a bill for £450. One month after querying this, the supplier asked him to supply meter readings.

During a conversation today, the consumer was informed his smart meter has not been providing meter readings for the past 4 years. As a result, he has been underpaying for this period. The consumer is not happy it has taken the supplier 4 years to identify this issue. In the next couple of days, the supplier will call the consumer to discuss a payment plan. The consumer would like to know his rights since this issue was not his fault.

### *Consumer service case study 5*

At installation, the supplier did not set up the consumer's account or smart meters properly. As a result, the gas meter was set up in prepayment mode, whilst the electricity meter was set up in credit mode. The supplier now state there is a debt of over £380 for electricity. This case was referred to the EHU. The supplier stated that the online account was the problem as the electricity meter wasn't added and electricity meter was left in credit mode. They have now removed £50 from the balance.

### *Local Citizens Advice case study (February 2017)*

The consumer is not able to work, at the moment and his wife works part-time. He has been with his current supplier for the last two and a half years. His payment method has been direct debit, where he has been paying £45 per month. During this period he has provided meter readings, when requested, despite the fact he had a smart meter installed. His direct debit did not increase whenever he gave a meter reading. Last week, the consumer received an email from the supplier informing him he was in debt by £2,300. As a result, his direct debit was set to increase by over 5



times. This caused the client a great deal of distress and worry, made worse by the fact he could not speak to the supplier til the next day.

The consumer has disputed the bill and does not understand the evidence he has been sent regarding his energy usage. It is not clear whether the underpayment relates to electricity or gas or both. The supplier has informed the consumer his smart meter was not functioning appropriately in 2015. The consumer was not informed and the meter was not replaced. The debt has been recalculated to be £1800.

So far client has disputed the alleged underpayment and complained to them. He does not understand the evidence they have sent him regarding his energy usage and is not sure if the underpayment relates to electricity or both gas and electric. They have recalculated the underpayment to now be £1,837. The consumer feels overwhelmed by the problem.