



ACS Submission: Protecting consumers who receive backbills

ACS (the Association of Convenience Stores) welcomes the opportunity to respond to Ofgem's consultation on protecting consumers who receive backbills. ACS represents 33,500 local shops across the country including the Co-op, One Stop, Spar, Costcutter and thousands of independent retailers. There are 49,918 convenience stores across the UK, employing over 370,000 people¹.

The nature of convenience retail, with long operating hours, intrinsic use of refrigeration and other equipment, means that energy costs are a significant burden despite retailers investing in making their business being more energy efficient. For example, 28% of retailers have smart meters, 46% have chillers doors and 25% have invested in LED lighting².

We responded to Ofgem's call for views on the open letter which outlined proposals to protect consumers who receive backbills earlier this year. In our submission, we welcomed the proposals to introduce a new licence obligation and urged Ofgem to include microbusinesses within the scope. Our submission can be found [here](#). We welcome Ofgem's decision to include microbusinesses within the scope of the licence obligation for backbilling, following our calls that the regulator should play a more active role to ensuring that the backbilling limit is robust, adhered to, and enforced.

Please see below for ACS' response to the relevant questions.

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

We agree with Ofgem's assessment of consumer harm. As stipulated in the case studies 4,5 and 6, microbusinesses face significant costs from backbills. The costs of energy are a critical factor in the viability of convenience store businesses, especially to small and microbusinesses, and it is therefore crucial that they are protected by a backbilling limit.

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

We mostly agree with Ofgem's proposed implementation of the backbilling limit and licence obligation, however, we have some points for clarification:

- **“We have also included the possibility to extend the circumstances where the backbilling limit does not apply.”**³ If Ofgem are to extend the circumstances where the licence obligation does not apply, this must be agreed in consultation with industry and consumers and be well communicated.

¹ ACS Local Shop Report 2017

² ACS Local Shop Report 2017

³ Ofgem Protecting Consumers Who Receive Back Bills (Page 32)

- **“We expect suppliers to inform consumers of the backbilling limit in plain and intelligible language.”**⁴ We would welcome clarity whether Ofgem will require suppliers to inform consumers of the changes to the backbilling limit. It is important that the changes are well communicated to microbusinesses to ensure that they are aware of their rights and that they are not further burdened by lengthy backbilling limits.
- **“Our intention is to exclude cases where the consumer prevents more than one reasonable attempt to gain access to its meter(s).”**⁵ We have concerns that microbusinesses acting lawfully may be ineligible to receive the protection of the new backbilling limit if the supplier cannot access their meter following more than one reasonable attempt. Independent convenience retailers have significant constraints on their time, with 20% of shop owners working more than 70 hours a week⁶. As such, they may be unavailable to respond to requests for meter readings quickly. Therefore, we would welcome clarification that the burden of proof would fall on suppliers to demonstrate that they have made more than one attempt to access the meter(s). In these instances, we believe that microbusinesses should have the right to appeal a decision by scrutinising the evidence presented by the supplier that the consumer is at fault.
- **“We therefore propose to introduce a 12-month limit on backbilling.”**⁷ ACS previously called for the backbilling limit to be set at six-months in cases of supplier fault. We understand that the 12-month limit is in line with the current voluntary arrangements which will reduce the burden on suppliers, however, we believe there should be an ongoing review of the limit to understand the cost incurred by businesses and whether the backbilling period should be reduced to six months. We believe an absolute restriction on backbilling is feasible in the future, particularly for smart meters.

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

We have concerns that ahead of the implementation date there may be an increase in backbills of more than 12 months being issued to microbusinesses. The consultation currently states that “it is not the intent that the licence condition will apply in any circumstances where a bill or demand for payment is issued or made prior to the implementation date”. Therefore, we believe that suppliers may decide to issue lengthy backbills before the licence obligation comes into effect. We would welcome assurances from Ofgem the role they will play in mitigating the impact on microbusinesses from the potential increase in backbills being issued ahead of implementation.

For more information, please contact Julie Byers, ACS Public Affairs Manager, by emailing Julie.Byers@acs.org.uk or calling 01252 533008.

⁴ Ofgem Protecting Consumers Who Receive Back Bills (Page 33)

⁵ Ofgem Protecting Consumers Who Receive Back Bills (Page 18)

⁶ ACS Local Shop Report 2017

⁷ Ofgem Protecting Consumers Who Receive Back Bills (Page 18)