



## **REAL Consumer Code's response to DECC's consultation on a domestic RHI scheme (URN 12D/330)**

The REAL Consumer Code was set up in January 2006 by Renewable Energy Association. It is approved under the OFT's Consumer Codes Approval Scheme. Following the forthcoming 'Consumer Landscape' changes responsibility for approving the Code will pass to Trading Standards Institute. The Code has for the first time established high standards of consumer information, protection and redress in the small-scale renewable generation sector. It dovetails with the Microgeneration Certification Scheme standards for products and installers. You can find full details about the REAL Consumer Code at: [www.realassurance.org.uk](http://www.realassurance.org.uk).

REAL currently has 5,000 member businesses, the majority of whom have been active in the solar PV market. The sector is witnessing a shake-out following the restructuring of the solar PV Feed-In Tariffs. It is uncertain how many businesses will remain active in the sector, but many of them are looking to expand their businesses to include heat technologies, very often air source heat pumps (ASHPs). While the overall level of measured satisfaction remains high in the sector, REAL has received a high level of complaints over the past year.

DECC's consultation on the Renewable Heat Incentive domestic scheme contains important proposals. Given the importance of consumer protection in the proposed RHI for the domestic sector, REAL's responses are principally, though not exclusively, in respect of Chapters 7 (Assurance) and Chapter 8 (Customer Journey), questions 60 – 68.

### **Chapter 1: Objectives and Approach**

#### **Question 1:**

REAL supports DECC's proposals to incentivise the installation of renewable heat technologies. However, it is essential that these are not used as a means of pressurising consumers to install technologies in unsuitable properties. Therefore, it is essential that there are very robust sanctions for miss-selling and for faulty installations, and that consumers have access to redress.

The more complex tariffs are the more scope there is for misrepresenting their lifetime value to consumers. Therefore, REAL considers it essential that the tariffs are constructed in a transparent manner, and that they are clearly set out on the DECC / EST websites. Where the lifetime of a tariff is extended over a long period, the more uncertainties there will be over, for example, future inflation rates and energy prices. Advising about the value of these tariffs thus becomes more like providing financial advice than energy advice. The provision of financial advice is a regulated activity; energy installers are not regulated, but yet they provide such advice. REAL favours a shorter tariff lifetime to allow consumers to make a more informed decision.

## **Chapter 2: Eligible properties**

### **Question 6:**

REAL supports DECC's proposals for taking account of RHPP and other grants paid to consumers who have installed eligible technologies since July 2009. We favour the option whereby the total length of time over which payments are made is shortened to take account of the amount already received.

REAL stresses that every effort must be made to trace eligible consumers and inform them of the relevant cut-off dates and the procedures required for application. It is particularly important that the energy efficiency requirements are clearly understood. Given that many of the businesses will have ceased trading it will be important to use every available channel to trace such consumers and provide them with the requisite information. This process needs to start as soon as the Government has announced its final decisions.

## **Chapter 3: RHI technologies**

REAL has a number of comments about GSHPs, AHSPs and solar thermal hot water heating based on the complaints we have received about these technologies since 2008.

As regards solar thermal, REAL receives a number of technical complaints about solar thermal installed pre-2009. No-one is responsible for resolving these as far as we can see. Formerly, the Clear Skies programme investigated these complaints, but once the programme closed they had no further role in resolving them.

There is currently an ambulance-chasing company going around promising consumers compensation if they have solar thermal systems installed that do not work. In practice this

company will only follow up a faulty system that was paid for by credit card, by relying on Section 75 of the Consumer Credit Act.

In the past two years we have witnessed solar PV companies contacting customers of previous solar thermal companies, with which they had directors in common for example. The purpose of the contact was to sell them solar PV. REAL is concerned that going forward solar PV customers will be targeted with high pressure offers of solar thermal systems. It is essential that there are very strong sanctions against the miss-selling of any technology eligible for the RHI.

**Question 15:**

Thermodynamic panels are being heavily marketed as 'solar thermal systems that work 24 hours a day and provide the total hot water requirements'. If they are to be eligible for RHI payments in the future, the certification requirements need to be made very clear. For example, it is important to set out what claims can be made about them, what their actual performance is, what skills are required to install them, what properties are they suitable for, and what hot water systems they will work with.

**Questions 16 and 17:**

REAL agrees that heat pumps should meet a Seasonal Performance Factor of 2.5, although we consider this must be an absolute minimum. In the light of the European Commission's guidance, regular monitoring will be required to ensure that all heat pumps do in fact meet this SPF rating.

REAL agrees that, as part of this, properties will definitely need very high standards of insulation if the heat pumps are to be effective. The danger otherwise is that consumers will simply be replacing heating fuels with carbon-intensive electricity, especially off the gas grid. This has been at the root of many of the complaints REAL has received.

The most recent MCS heat pump standard is thorough but rather complex. MCS Certification Bodies must be required to carry out frequent, random spot checks on installations to ensure that all installers have complied with the standard. REAL would also like these to include inspections of electricity bills over a period.

Salesmen need to be very careful when informing consumers that heat pumps will provide space heating and hot water heating; given that the heat is low-grade it is more difficult to heat hot water to a sufficient temperature effectively.

Most consumers are not aware about the potential performance of heat pumps, and so they will not necessarily have misgivings about it. On the contrary, our evidence shows that consumers are likely to over-anticipate the performance of heat pumps, and thus be disappointed at the heating levels achieved and the cost of back-up electricity. Retired people on fixed incomes are not always prepared for this. It is therefore essential that consumers understand very clearly, and before they sign a contract, that heat pumps will use considerable amounts of electricity, and that their electricity bills will therefore increase as a result of having a heat pump installed.

For all these reasons, REAL considers it essential that objective information must be available on the DECC / EST website so that consumers can make factual checks.

## **Chapter 7: Assurance**

### **Question 60: MCS**

REAL supports DECC's proposal to require RHI-eligible products and installers to be MCS-certified or equivalent. However, there some important ways in which MCS certification must be boosted if it is to provide effective consumer protection.

In particular, the scrutiny that MCS Certification Bodies (CBs) provide for installers must be substantially increased in the following ways.

#### **1) Enhanced, frequent, random inspections of installations**

Requiring a product to be MCS-certified will not be enough to protect consumers. What is equally, if not more, important will be the suitability of the property for the product. The sizing and configuration of the technology will be a key part of this. Therefore, CBs will have to carry out random inspections to ensure that installers they certify have not installed technologies in unsuitable properties. They will also need to check that the performance information provided to consumers was correct.

Given that the installer standards are fairly complex, DECC must be confident that all MCS certified installers are capable of applying and willing to apply them correctly. To test this, CBs will need to carry out their random checks on a regular basis.

## **2) Rigorous sanctions for non-compliance**

Where CBs discover that systems have been installed in unsuitable properties they must apply rigorous sanctions on those installers. There will also need to be a clear route for consumers who have been miss-sold technologies to seek redress.

Currently there is a crossover between the MCS standards and the REAL Consumer Code in the area of pre-contractual information. The MCS standards set out the performance calculation that needs to be carried out, whereas REAL sets out the requirements about selling methods, misleading advertising and claims and other pre-contractual information. It would be helpful if there could be a structure for disciplinary action across both schemes. In this way, it will be possible to ensure seamless compliance with the standards. It will also send a message to installers that selling and installing a technology in an unsuitable property will not be tolerated.

## **3) Enhanced co-operation between CBs**

In the past installers have moved between CBs more or less at will, thereby managing to evade disciplinary action. MCS has put in place procedures to ensure that installers with active complaints cannot move from one CB to another. However, it is important going forward that each certified installer has a central profile so that its MCS and REAL history is immediately accessible to all relevant parties. This would include any non-conformities, any audit outcomes and any complaints registered, both resolved and unresolved.

## **4) Clarity on liability for faulty or dangerous installations**

The business that signs the contract must be the business that registers the installation on the MCS database and thus generates the MCS Certificate. That business must take full responsibility for the whole installation including the pre-contractual elements of it.

Where it is found that the installation is faulty, and particularly where it is found to be dangerous, it is essential that the liability of all parties is clarified. Business must have the requisite insurance, and this must be clearly set out. The extent, if at all, that the CB, MCS, DECC or REAL could be held to be liable for having certified the business must be made clear. Where there is a requirement for these parties to have exercised due care and attention, it must be clear what level of scrutiny this could constitute. Some heating technologies are potentially dangerous, and the greatest level of care needs to be exercised by installers.

## **5) Clear rules on warranties and their protection**

Currently the MCS standards do not specify the guarantees / warranties that are required to be provided to consumers. The REAL Consumer Code requires installers to provide a workmanship warranty valid for at least 2 years, and this must be protected in the event the installer is no longer trading. It would be helpful if the MCS standards could give greater clarity as to what guarantees / warranties must be provided.

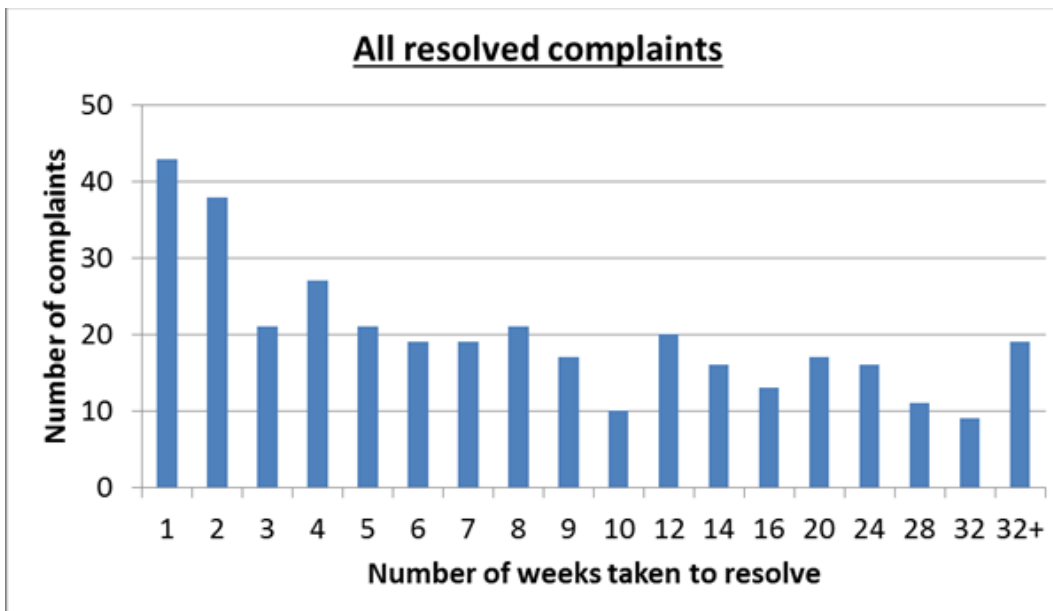
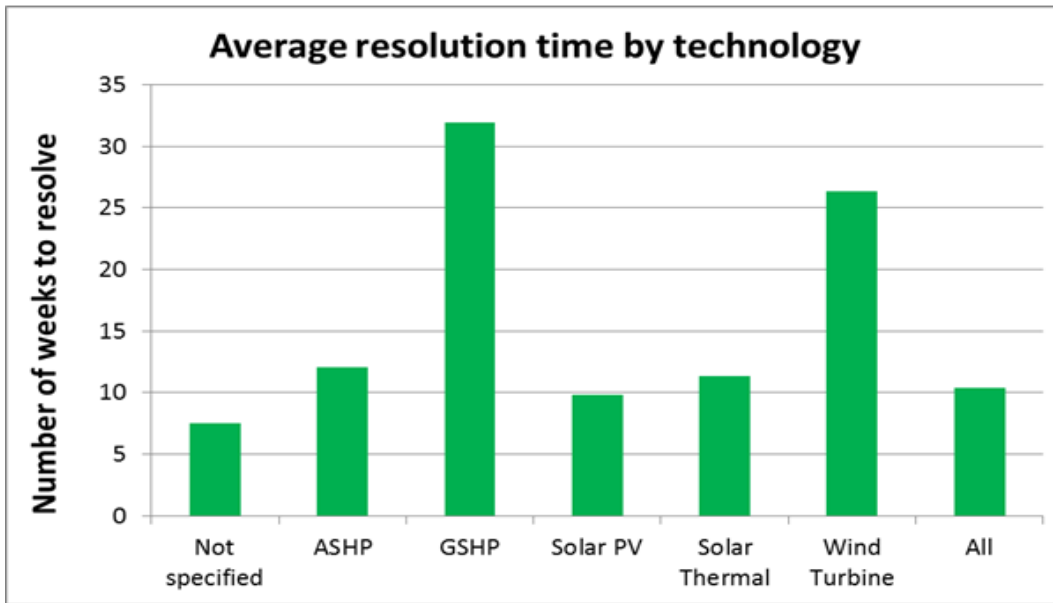
A fail-safe way to ensure that all consumers are adequately protected would be to require a 7-year 'Kit and Fit' insurance-backed warranty for all domestic RHI installations. Ideally, this would be activated automatically when the installer registers an installation with the MCS database.

## **6) A co-ordinated complaints procedure with an independent backstop**

Currently the system for handling complaints is complicated. REAL is responsible for handling those that involve 'contractual issues' while the MCS CBs are responsible for handling complaints that involve the technical aspects of the installation. Greater clarity and a more streamlined approach to complaint handling will improve the consumer experience greatly. It is also important to co-ordinate closely with Trading Standards and the Advertising Authority.

It will also be important to have in place a fund for independent inspections of installations where there is a complex and technical complaint. As part of this a call-off list of independent experts to carry out these inspections will be required. This is the lynch-pin for resolving technical and complex complaints. Such an arrangement existed under the Clear Skies Programme and was administered by EST.

The charts below provide some information about REAL's complaint handling work including the time taken to resolve complaints, broken down by technology.



REAL considers that DECC should put in place a ‘backstop’ for complaints, such as an ombudsman scheme (as in the Green Deal) or an ADR scheme. REAL has an independent arbitration service, provided for us by IDRS Ltd. We subsidise this service and will continue to do so. However, this will not be sustainable going forward if we provide the only backstop for RHI-related complaints that are likely to be technical and complex.

Please be aware that an EU Directive on Alternative Disputes Resolution (ADR) will shortly be implemented in the UK. The aim to ensure that quality ADR schemes exist to deal with contractual disputes arising from the sale of goods and the provision of services to consumers by traders. This may apply to MCS.

## **Question 61: Maintenance**

The technologies covered by RHI generally require regular maintenance. This is different from solar PV panels which require minimal maintenance and some cleaning. The REAL Consumer Code requires installers to provide consumers information about maintenance, servicing and fuel sources before the contract is signed. It is essential that consumers are informed in advance of any servicing and maintenance requirements. We therefore propose that this information be placed on the DECC / EST website as well so that consumers can verify that the information they have been provided is correct.

REAL has some evidence of installers of these technologies seeking to tie consumers into long-term service contracts at a high cost. To avoid consumers being at the mercy of companies seeking to tie them in to expensive servicing arrangements which may not be appropriate, it is essential that there is objective information available on what the reasonable cost of a servicing contract would be.

REAL also has evidence of companies contacting the customers of other companies that have ceased trading with a view to persuading them to sign expensive maintenance contracts. Consumers must therefore be clear as to what the position will be in the event the installer they signed a contract with ceases to trade.

Subject to the comments in the three paragraphs above REAL considers that an annual self-declaration by consumers is a realistic way to ensure that systems have been regularly maintained. Consumers will need to be reminded in good time of their responsibilities. This will be particularly important where a property has changed hands since the installation.

## **Question 62:**

REAL has the following comments on the mitigation DECC is proposing in order to prevent, or at least minimise, fraud taking place.

### **1) Use of non-MCS certified installation business**

It is essential that only MCS-certified businesses sign contracts with consumers. In the solar PV market we have seen non-compliant businesses approaching consumers and using high-pressure selling tactics. They then sub-contract to certified installers who carry out the installation. This practice is outlawed in MCS 001. Nonetheless, we know that it continues, for example with the use of 'joint' contracts. Consumers are not certain in these circumstances which business it is signing the contract with, since both are shown on the contract. It is essential that only MCS-certified businesses sign contract with consumers.



In addition, it is essential that the rules on sub-contracting are clearly understood and rigorously enforced. In particular, it is essential that MCS-certified businesses are not permitted simply to 'sign off' an installation carried out by a non-certified business. To this end, the same business that signs the contract should register the installation and apply for the MCS certificate.

## **2) RHI payments for non-existent system**

REAL considers it essential that consumers fill in and sign their own RHI application forms. To enable them to do this, it is important that the forms are not too complex. In the case of Feed-in Tariffs applications, some installers have offered to complete application forms on behalf of consumers, and this has led to problems. For example, there have been missed deadlines and incorrect information supplied. It is then not clear whose responsibility it is. In some of the fraud cases consumers were unaware that they had submitted application forms fraudulently.

## **3) False energy efficiency documents**

Installers can be complicit with making false energy efficiency declarations. It is extremely important that consumers understand what their responsibilities are, and what the consequences will be of making false declarations. Once again, the provision of objective information and advice on the DECC / EST website will assist to ensure that consumers are not at the mercy of unscrupulous salemen.

## **4) RHI payments for unoccupied homes**

REAL considers DECC's proposed mitigation of this risk to be sensible.

## **5) RHPP support not declared**

REAL considers DECC's proposed mitigation of this risk to be sensible.

## **6) Heating use prompts overpayment**

REAL considers DECC's proposed mitigation of this risk to be sensible.

## **7) Continued use of fossil fuel system**

So far as we can see this would only be relevant in the case of biomass boilers, since dedicated radiators and / or underfloor heating is required for heat pumps. It could be an issue for solar thermal if consumers continue to use an electric pump in their shower. Metering would resolve the issues if the cost was proportionate.

## **8) Replacement of renewable system**

It is essential that the rules for the provision of warranties are clear and rigorously-enforced if this risk is to be effectively mitigated. The mitigation depends on consumers having warranties in place. Even if the consumer has manufacturers' warranties in place, it would still require the installer to access them. Therefore, it is important that arrangements are in place in case the manufacturer or installer ceases to trade. Without these safeguards, the consumer would be expected to install the cheapest option particularly if it is winter-time and they have no heat or hot water.

## **9) Consumer moves home**

Once again, REAL considers it essential that consumers clearly understand their responsibilities in this respect. It would be helpful if there was also a prompt provided at the point of house transfer.

## **10) Other risks**

REAL is concerned that consumers may install systems in unsuitable properties, and therefore the output would not be optimised. For example we have been informed about air source heat pumps being installed in properties on the gas grid. It is essential that consumers can easily access objective information about performance, and that installers understand that miss-selling will not be permitted.

## **Chapter 8: Customer Journey**

### **Questions 63 and 64:**

REAL considers that the best way of ensuring that consumers are not misled is to provide extensive factual information on the DECC / EST website (and on the <https://www.gov.uk>) against which they can check any claims being made. This information should cover:

- suitability of different technologies for different property type / locations;

- indicative costs of different technologies;
- likely output of different size of systems; how deeming works in practice;
- servicing and maintenance requirements;
- behaviour changes required to maximise system performance;
- operating instructions;
- how the tariffs are constructed;
- typical payback periods using an online RHI calculator;
- rights and responsibilities of consumers
- mechanisms available for seeking redress.

Given that many consumers do not have access to a computer, installers must be obliged to advise them how they can access the information. For example, this could be through a friend or family member, at the library or from some other trusted source.

**Question 65:**

REAL points out that domestic consumers will generally find out about the RHI and the technologies it covers directly from a company salesman, so the information they receive will not necessarily be objective or reliable. Unless there are strict sanctions for miss-selling, and unless consumers have sufficient information to enable them to make an informed decision, they risk acting on impulse or under duress. DECC must not allow consumers, especially older and vulnerable consumers, to be at the mercy of salesmen in this way. The customer journey is not likely to be typical in all cases.

REAL is of the view that there are so many issues to be considered when deciding to install a renewable heat system that signing 'on the night' under pressure is very likely to lead to incorrect decisions being made. In addition, salesmen are usually paid on commission and thus they are incentivised to close a deal, irrespective of the suitability of the property for the technology being sold. Those businesses that are keenest to close a sale 'on the night' will generally not employ technical experts as salesmen. Even where the technical site survey is carried out afterwards, experience shows that it can be very hard for consumers to cancel contracts further down the line once they have signed and paid a deposit.

REAL advises consumers to seek at least three quotations before signing a contract. This may not always be practical, for example in the case of biomass boilers. REAL considers it essential that the strongest possible sanctions are applied to those who miss-sell renewable heating systems. This includes factors such as: the likely output, the likely income and more specific issues such as the amount of mains electricity a heat pump is likely to use.

**Question 66:**

REAL is aware that companies are intending to offer 'free heat pumps' in the same way that they have offered 'free solar PV panels'. This model could be very complex for heating technologies, and businesses selling this model would be incentivised to oversize the system so as to maximise the RHI payments. REAL has published a list of information we suggest that consumers request before agreeing to sign lease in this way:

<http://www.realassurance.org.uk/consumers/free-solar-pv> .

REAL is seeing many issues now with 'free' solar PV installations from 2011 and 2012. For example, the counterparty to the consumer's contract is not always easy to identify; there are effects on the value of the property which is proving difficult to sell; it is difficult to end the arrangement; and the expected electricity savings have not materialised.

**Question 67:**

DECC should hold regular briefings with enforcement bodies including Trading Standards departments, Advertising Standards Authority, Citizens Advice. This will ensure that the purpose of the RHI is well-understood and enable these bodies to channel any feedback they receive effectively to the right channels.

The REAL website contains extensive guidance for consumers. It would be helpful if this could be signposted. For example, guidance includes:

- general consumer guidance: <http://www.realassurance.org.uk/consumers>
- top tips for consumers: <http://www.realassurance.org.uk/consumers/top-tips>
- guidance on buying in the home:  
[http://www.adviceguide.org.uk/england/consumer\\_e/consumer\\_different\\_ways\\_of\\_buying\\_e/consumer\\_buying\\_on\\_the\\_doorstep\\_e.htm](http://www.adviceguide.org.uk/england/consumer_e/consumer_different_ways_of_buying_e/consumer_buying_on_the_doorstep_e.htm)
- guidance on what questions to ask when considering free solar PV:  
<http://www.realassurance.org.uk/consumers/free-solar-pv>

**Question 68:**

REAL supports DECC's proposal that consumers should have an EPC carried out by a Green Deal-certified assessor before deciding to install a technology eligible for the RHI. This should mean that consumers apply for the two schemes in parallel, and that the length of time the process takes is reduced. Given that the RHI payments would be calculated on the basis of the Green Deal measures being installed, consumers should be required to confirm that they are in place, whether financed through a Green Deal Plan or independently.

## **Chapter 9: Budget Management**

### **Question 69:**

REAL considers that degression based on either installed capacity trigger points or financial expenditure trigger points would be acceptable. However, it is important that the mechanism is simple and easy to understand. The more complicated the mechanism the more likely it is going to be used by underhand sales companies to confuse consumers by exerting pressure on them to sign a contract on a particular date. In general, REAL favours a degression policy based on regular reviews with small steps announced well in advance.

### **Question 70**

REAL considers that there should be flexibility so that degression is only triggered when a threshold has been reached. There is the possibility of reserving some of the budget for individual technologies so that if they have longer lead times to installation they are given the opportunity to install a significant number of system without the effect of other technologies using up the budget.

### **Question 72**

Short timescales for tariff reductions and short notice periods result in consumers being pressurised to rush their purchases and thus cause huge amounts of consumer confusion and detriment. This was the fallout from the short consultation period regarding the reduction of the FIT tariff for solar PV leading up to the 12 December 2011 deadline. Many consumers entered into rushed agreements under pressure from salesmen on the basis of incomplete and confused information.

REAL is concerned at the proposal that Government could announce a fall in the RHI tariff with just 2 weeks' notice. This would in our view allow salesmen to pressurise consumers into signing contracts, and would discourage long-term planning. Quarterly degressions with 1 month notice periods would be more reasonable although most heating system installations will take considerably longer than 1 month from agreeing a contract to having the system installed. Even the most straight forward installations, which are likely to be solar thermal or ASHP, will take a significant time to specify, design and install correctly.

### **Question 73**

It is important that early adopters are not penalised in anyway which means they should be eligible for whatever tariff is available to new installations now. Whether or not the legacy

claims trigger degression is not particularly important in terms of consumer protection going forward.

REAL supports the proposal for a pre-launch deadline for legacy claimants to make their claim if they are to contribute to the degression targets. The window in which they can register should be as long as possible, and they should be entitled to register for the tariff available at the time of the RHI launch. In this way, if people are not made aware of the deadline they will not suffer long term.

REAL points out that it will be 4 years since domestic consumers were first informed that they were likely to qualify for the RHI. It is essential that DECC does everything in its power to ensure that all relevant consumers are informed about any legacy deadlines. Otherwise there will be many consumers who miss the deadline and end up feeling very aggrieved as a result.

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