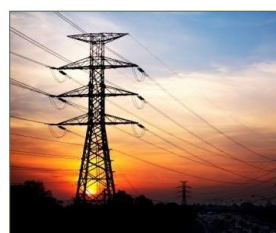


**Consultation on the implementation of
an Energy Supplier Marketing Code of
Practice in Northern Ireland
(Pursuant to September 2012 IME3
Licence Modifications**

**UR's Second Consultation Paper
October 2013**



About the Utility Regulator

The Utility Regulator is the independent non-ministerial government department responsible for regulating Northern Ireland's electricity, gas, water and sewerage industries, to promote the short and long-term interests of consumers.

We are not a policy-making department of government, but we make sure that the energy and water utility industries in Northern Ireland are regulated and developed within ministerial policy as set out in our statutory duties.

We are governed by a Board of Directors and are accountable to the Northern Ireland Assembly through financial and annual reporting obligations.

We are based at Queens House in the centre of Belfast. The Chief Executive leads a management team of directors representing each of the key functional areas in the organisation: Corporate Affairs; Electricity; Gas; Retail and Social; and Water. The staff team includes economists, engineers, accountants, utility specialists, legal advisors and administration professionals.

Our Mission

Value and sustainability in energy and water.

Our Vision

We will make a difference for consumers by listening, innovating and leading.

Our Values

Be a best practice regulator: transparent, consistent, proportional, accountable, and targeted.

Be a united team.

Be collaborative and co-operative.

Be professional.

Listen and explain.

Make a difference.

Act with integrity.

Abstract

This paper sets out as a second consultation, the Utility Regulator's (UR) amended proposals for the Energy Supplier Marketing Code of Practice following Stakeholder feedback received to the February 2013 consultation on the proposed Marketing Code of Practice. The Code of Practice will apply to all licenced electricity and gas suppliers in NI.

This paper provides an overview of that stakeholder feedback as well as the resulting changes to the UR proposals for the Marketing Code of Practice. Feedback was received in the form of written responses as well as from the stakeholder workshop which was held at the UR offices in March 2013. All Stakeholder feedback has been considered in detail.

The latest version of the Marketing Code of Practice also forms part of this paper.

Following responses to this second and final round of consultation, final decisions will be taken early 2014.

Audience

This document is most likely to be of interest to regulated supply companies in the energy industry, consumer organisations, community and voluntary organisations, natural gas and electricity consumers, government and other statutory bodies. The Utility Regulator welcomes stakeholder views and comments on all the proposals set out in this consultation paper.

Consumer impact

This paper sets out the latest UR proposals for the Energy Supplier Marketing Code of Practice to help protect NI customers. Once the consultation process is complete, the decision paper will be issued. This will therefore have a direct impact on the customer sales experience in NI, with all suppliers of energy being compelled by their licence obligations to comply with this Code. Failure to do so will result in a licence breach and enforcement action.

Contents

Executive Summary	
1. Introduction	7
2. Overarching themes	14
3. Third Parties	24
4. Recruitment and Training	25
5. Doorstep Selling	30
6. Face-to-Face Selling/Contact	39
7. Telesales	42
8. Website/Telephone	46
9. Marketing Material/Literature	49
10. Marketing by email/via text message or Social Media	51
11. Marketing by Post	53
12. Summary of questions	55
Appendix I: Marketing Code of Practice for Domestic Customers	
Appendix II Marketing Code of Practice for Domestic Customers – Track Changed Version	
Appendix III: Marketing Code of Practice for Business Customers	
Appendix IV: Marketing Code of Practice for Business Customers – Track Changed Version	
Appendix V: Consultation Responses	

Executive Summary

Feedback to the February Consultation

The UR published a Draft Marketing Code of Practice in February 2013 and invited respondents' views. The Code covered such areas as Doorstep selling, Face-to-Face selling and telesales. The Code set out requirements for suppliers when carrying out these activities. Following the publication of the consultation document, the UR held a workshop in March 2013 on our proposals. The UR received responses from 11 stakeholders, one of which was marked confidential. The non confidential Stakeholder Responses are contained in Appendix V of this document.

Overview of Changes to the Draft Code

As noted above, the UR received a large number of responses to the February consultation. This has resulted in the need for a detailed review and response in this paper to the feedback received both from written responses and from the stakeholder workshop. This was expected given the detailed nature of the Code. As such there have been a number of changes made to the Code which are discussed in full throughout the paper.

In this context the Executive Summary deals only with the higher impact changes or decisions in relation to the draft Code which was consulted on in February 2013.

There were a number of general overarching themes/issues which were reflected across a number of the responses. These are dealt with in more detail in Section

2 of this document.

The most fundamental change to the Code which was consulted on in February is that it has now been split into two Codes of Practice, one for Business Customers one for Domestic Customers. The UR has taken into account the feedback from stakeholders and we have proposed two separate Codes, each Code providing the appropriate guidance on marketing to business or domestic customers. This guidance includes areas such as treatment of vulnerable customers, times which customers can be contacted, the exclusion of VAT from unit rate quotes for business customers and the fact that a 'cooling off' period' only applies to domestic customers. It was also anticipated that the Code would cover all energy users, even large business users. However, based on stakeholder feedback we are proposing that the Business Code of Practice for business energy customers should cover all businesses under 70KVA for electricity and 723,000KWh for gas.

Another significant change to the draft Code relates to the requirements originally laid out in Section 2 of the Code relating to Recruitment of sales staff. The majority of the section relating to recruitment has now been removed. Again, the UR took into account the significant feedback with regards to this and accepted that this area is covered already by existing employment legislation. We have also removed references to specific areas of existing legislation and codes and state that suppliers must comply with current legislation in these areas.

The original draft Code required suppliers to hold information in relation to customer contact (including specific "quote" information) for a period of two years, even where no sale has taken place. However, suppliers were strongly opposed to this on the basis of practicality. The UR considered this issue carefully and has

decided that information should be held for a minimum period of two years only where a sale or sign up has taken place. However, the Code stipulates that where no sale has been made, enough information should be retained to identify the sales agent, for a minimum of one year.

We have also removed the requirement for suppliers to contact customers within seven days of a sale/sign up (regardless of the method of sale or sign up) to ensure that the customer is content and understands what they have agreed to. Stakeholders highlighted that this would be an issue in terms of both practicality and cost. They also raised the point that it may be confusing.

Monitoring and Enforcement of the Code

For the avoidance of doubt, it is the view of the UR that it is the supplier's responsibility to ensure that they have put in place the necessary internal processes to ensure that they can comply with all sections of the Code. We expect that these should be embedded into internal business processes and information systems.

In terms of monitoring compliance with the Code the UR intends to carry out proactive monitoring of whether licensees are fully complying with the Code on an ongoing basis. This could include (but not be limited to) liaison with other organisations such as consumer representatives, third sector organisations, and OFT. It may also include activities such as mystery shopping. In the event of a breach of the code suppliers will be asked to demonstrate that they do have the necessary internal procedures in place to ensure compliance.

Next Steps

This consultation is due to close on Friday 20th December 2013. The UR is keen to receive feedback on the updated Code from stakeholders. These will influence

our final decisions paper which we plan to publish early 2014. However, given the full consultation and engagement process undertaken to date and the subsequent analysis on all stakeholder contributions, this consultation only seeks comments on the changes and updates that have been applied to the draft Marketing Codes. The UR intends to only consider comments regarding changes to the original draft of the code. We would ask that generic or repeat comments that have already been made in responses to the original consultation are not included again in responses.

1. Introduction

1.1. In February 2013, the UR published a consultation paper which presented a proposed Marketing Code of Practice for electricity and gas suppliers. The consultation aimed to collect and discuss stakeholder views in relation to the content of the proposed Code and ensure that energy Suppliers, and other stakeholders, were aware of the importance we place on customer protection via the Marketing Code. The consultation also indicated the importance of Supplier responsibilities to adhere to the Marketing Code under their licence conditions. In addition to this Code, the UR is currently developing guidance on Codes of Practice covering areas such as: Payment of Bills; Complaints handling Procedure and Prepayment Metre Customers etc. These codes are also pursuant to suppliers licences. This is the subject of a separate consultation which will be issued in due course.

1.2. As stated in the initial consultation, at an overall level the Code should:

- protect consumers against unwanted, unfair or misleading marketing methods;
- ensure that a Supplier adopts best practice when marketing its products and services;
- ensure that Suppliers take all reasonable steps to make sure their marketing material is accurate and clearly specifies the product being marketed;
- ensure that the appropriate training is provided on the Marketing Code, to their staff (including agents/third parties) if they are carrying out marketing activities on behalf of the supplier;
- ensure that Suppliers make all reasonable efforts that employees or agents do not misrepresent the firm or portray rival Suppliers in a negative way; and

- make it mandatory that Suppliers provide the option for customers (current or future) to opt out of future marketing activities.

1.3. One of the key elements of the Marketing Code of Practice is ensuring that sales agents do not misrepresent the savings that customers can make by switching. It will be incumbent upon any sales agent or representative of the company to demonstrate how any individual customer will save money when switching to that company.

1.4. The UR sought views and comments on the proposed Marketing Code of Practice. Following the publication of the consultation document, the UR held a workshop in March 2013 on our proposals. A wide cross section of industry, third sector and consumer groups were in attendance.

1.5. The consultation period closed on 17th May 2013. The UR received a total of 11 responses from a variety of stakeholders, one of which was confidential. These included responses from:

- Power NI;
- Firmus Energy;
- Electricity Association of Ireland (EAI);
- National Energy Action NI (NEA);
- Electric Ireland;
- Consumer Council NI (CCNI);
- Airtricity;
- Phoenix Natural Gas Ltd (PNGL);
- Energia; and
- Advice NI

1.6. The responses which were not marked as confidential are contained in Appendix V to this report.

1.7. In June and July 2013 the UR, on request, met with industry and consumer representatives to discuss some of the issues raised via the consultation responses. We have given due consideration to the responses received to the February 2013 consultation, including where they relate to the potential for undue burden or cost on market participants. Suppliers also requested that there be a second opportunity to assess new proposals before the UR comes to a final decision on the Code. Given the feedback we have received and the resultant changes to the initial proposed Marketing Code of Practice, we feel it is appropriate to consult on this new Draft Marketing Code of Practice before issuing a final decision paper. The UR always envisaged that a document as detailed as the code would require refinement. The consultation process would allow suppliers, who are the parties directly involved in marketing to customers, to indicate where the code would be perhaps unworkable or require changes to make it more effective. A second round of consultation reflects this. This second consultation however does not see the UR deviate from any of the core principles that we have tried to ensure are upheld by the implementation of this code.

1.8. Given the full consultation and engagement process undertaken to date and the subsequent analysis on all stakeholder contributions, this consultation only seeks comments on the changes and updates that have been applied to the Marketing Codes which are contained in Appendices I to IV. The UR will only consider comments regarding changes to the original draft of the code. Generic or repeat comments that have already been made in response to the original consultation will not be assessed. Responses will be most useful if framed in direct response to the questions asked although further comments and evidence are also welcome. Reasoning and evidence to support your answers will be particularly helpful.

1.9. This paper will address some of the overarching themes which emerged during the consultation alongside specific responses to questions and comments on individual segments of the proposed Marketing Code of Practice.

1.10. It should be noted that, in this paper, where section references of the Code are given with respect to the stakeholder feedback these references relate to the Draft Code which was consulted on in February 2013.

Monitoring and Enforcement of the Code

1.11. For the avoidance of doubt, it is the view of the UR that it is the supplier's responsibility to ensure that they have put in place the necessary internal processes to ensure that they can comply with all sections of the Code. We expect that these should be embedded into internal business processes and information systems.

1.12. In terms of monitoring compliance with the Code the UR intends to carry out proactive monitoring of whether licensees are fully complying with the Code on an ongoing basis. This could include (but not be limited to) liaison with other organisations such as consumer representatives, third sector organisations, and OFT. It may also include activities such as mystery shopping. In the event of a breach of the code suppliers will be asked to demonstrate that they do have the necessary internal procedures in place to ensure compliance.

Equality considerations

1.13. Section 75 of the Northern Ireland Act places a duty on public authorities to have due regard to the need to promote equality of opportunity and regard to the desirability of promoting good relations between different categories.

1.14. We aim to promote equality of opportunity between nine categories of persons, namely between persons of different religious belief, political

opinion, racial group, age, marital status or sexual orientation; between men and women generally; between persons with a disability and persons without; and between persons with dependents and persons without.

1.15. As part of the consultation exercise we asked whether any of the nine groups defined above are significantly affected, either positively or negatively, or did the policy under consideration create differential impacts between groups within each Section 75 category and was this impact adverse or beneficial.

1.16. Having considered the initial responses, the UR considers that these proposals, which are intended to have a positive impact on those groups affected, do not need to be subject to an Equality Impact Assessment.

How to Respond

1.17. The UR welcomes industry and other stakeholder views and comments on all the proposals set out in this consultation paper. The consultation period will close on Friday 20th December 2013.

Responses to this consultation should be forwarded to reach the UR on or before 4pm on Friday 20th December 2013 to:

Nicola Sweeney
The Utility Regulator
Queens House
14 Queen Street
Belfast
BT1 6ED
Email: Nicola.Sweeney@uregni.gov.uk

1.18. Your response to this consultation may be made public by the UR. If you do not wish your response or name made public, please state this clearly by marking the response as confidential. Any confidentiality disclaimer that is automatically produced by an organisation's IT system or is included as a general statement in your fax or coversheet will be taken to apply only to information in your response for which confidentiality has been specifically requested.

1.19. Information provided in response to this consultation, including personal information may be subject to publication or disclosure in accordance with the access to information regimes; these are primarily the Freedom of Information Act 2000 (FOIA) and the Data Protection Act 1998 (DPA). If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things with obligations of confidence.

1.20. In view of this, it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Authority.

This document is available in accessible formats. Please contact: Nicola Sweeney on 028 9031 6622 or nicola.sweeney@uregni.gov.uk

Next Steps

1.21. Once all the responses to this second paper are received and analysed, the UR intends to finalise the two Marketing Codes and issue a

Decision Paper. It is expected that electricity and gas supply companies will be required to comply with the Marketing Code from the date of publication or such other date as directed by the UR. The UR will continue to work with stakeholders and partners such as the Consumer Council and the Trading Standards Service on marketing and consumer issues.

2. Overarching Themes/Issues

- 2.1 As stated above, the UR issued a draft Marketing Code of Practice (the Code) in February 2013 for consultation. This Code was intended to cover suppliers in both the Electricity and Gas markets.
- 2.2 The responses received by the UR, and the feedback from the June workshop, raised a number of areas for consideration for the UR.
- 2.3 The responses were returned in varying formats, with some providing general overall feedback to the Code whilst others addressed the specific consultation questions or specific areas within the initial draft Code.
- 2.4 There were a number of general overarching themes/issues which were reflected across a number of the responses. The UR has decided to address the general themes within this section of this second consultation.

One Code for all energy users

UR Proposal/Position in February 2013 Consultation

- 2.5 At the initial consultation stage, it was anticipated that the code would cover all energy users right up to Large Energy Users (LEUs) therefore including both domestic and business energy users.

Responses to the February 2013 Consultation

- 2.6 A large number of respondents raised concerns on both the necessity and the practicalities of having one code for all energy users (or indeed the requirement for Code for business users). They highlighted a number of areas within the code which they felt may be relevant for domestic customers but not for business customers.
- 2.7 In this context, suppliers highlighted such requirements as Section 3.8 where the Code stipulates that VAT must be shown separately to the unit rate. In the case of business users there may be different rates of VAT or indeed they may not be registered for VAT dependent on their level of

turnover. Therefore, to include VAT may not be appropriate or relevant in the context of business customers.

2.8 Stakeholders also referenced Section 3.16 where the customer has the right to cancel the contract i.e. exercise their 'cooling off' period. Airtricity in their response stated that the UR:

"has introduced requirements that do not exist and are not provided for in legislation"

Energia also expressed concern in relation to this requirement and whether (in the context of a business customer) a cooling off period should form part of the Code. This point was made in the context of a supplier offering a contract to a large customer at a fixed price and the supplier's requirement to purchase hedges on that day to cover the customers forecast demand. In a scenario such as the one described, if the customer had the right to cancel after a period of 7 days then the supplier could potentially be left with stranded costs.

Suppliers have also stated that the parts of the Code referencing vulnerable customers are not applicable to business customers.

Furthermore, it has been suggested that a single Code with areas that apply to some customers and not others may lead to confusion.

2.9 Stakeholders have argued strongly that these sections, amongst others, are not relevant to business energy customers.

The UR Current/Revised Position

2.10 Taking this stakeholder feedback into consideration the UR has decided to propose that there should be two separate Codes. We are proposing that there is a Marketing Code of Practice which will apply where a supplier is selling energy to a domestic customer and a separate Code where a supplier is selling energy to a business customer.

2.11 The other issues raised above will be dealt with in the relevant sections relating to the revised Code in this paper.

Customer Coverage of the Code

UR Proposal/Position in February 2013 Consultation

2.12 The February 2013 consultation proposed one Marketing Code of Practice which would cover all types of customers who purchase energy from suppliers. It was anticipated that the Code would cover all customers from domestic users right up to LEUs (Large Energy Users).

Responses to the February 2013 Consultation

2.13 As stated above, stakeholders have highlighted that, as a minimum, there should be a separate Code for domestic and business energy users. A number of respondents stated that there may not be a requirement for a Marketing Code of Practice for business users, particularly LEUs. The EAI stated:

"EAI can categorically state that the proposed Code is both unworkable and wholly unnecessary for large business customers who often procure and enter into bespoke arrangements with their supplier"

2.14 Energia suggested that the Code should not apply to electricity business consumers with:

- half hourly meters; or
- with a connection of greater than 70kVA; or
- with annual consumption $\geq 150\text{MWh}$ (per site, or in aggregate for customers with multiple sites).

2.15 In respect of gas customers, Energia suggested that the Code should not apply to natural gas business consumers with an annual consumption of greater than 73,200kWh.

The UR Current/Revised Position

2.16 The UR is of the firm view that all energy users (domestic and business) have the right to be protected against mis-selling. However, we

do recognise that there are differences between domestic users and business users.

2.17 The Industrial and Commercial (I&C) customer base contains customers which are small (in terms of energy usage) as well as medium and larger users. These customers, whilst non domestic, would have similar usage and characteristics to a domestic customer. The type of businesses this sector may include are those such as small shops (sole trader), hairdressers or a small workshop. They may have a single owner and as such may not be as energy aware as a larger business and therefore should be protected under the Code.

2.18 The issue then becomes where the scope of the coverage of the Code for Business users should fall. As stated previously a number of stakeholders have stated that they do not believe that a code for LEUs is required.

2.19 On this basis, the UR has decided to propose that the Marketing Code of Practice for business energy customers should cover all businesses under 70KVA for electricity and 723,000KWh for gas. Having considered feedback and discussed the matter at length with various stakeholders we believe that energy users above these thresholds do not require the protection of a marketing code of practice. This is based on the view that these energy users are likely to be more proactive and understanding of the issues involved in their purchase of energy and indeed those largest customers often have staff that will deal specifically with energy contracts. We do not however agree that the code should not apply to any customers with a half hourly meter, as there is the potential that all customers could have half hourly meters in the future regardless of consumption or connection.

Cost Benefit Considerations

UR Proposal/Position in February 2013 Consultation

2.20 The UR did not include a formal Cost Benefit Analysis as part of the initial consultation on the Code in February 2013.

Responses to the February 2013 Consultation

2.21 A number of stakeholders raised the issue that they considered the code to be onerous and overly prescriptive and as such that there would be a burden of cost to the supplier which could outweigh the benefit to the customer. Stakeholders such as Power NI, EAI and Airtricity all make reference to this. They also state that they would like a Cost Benefit Analysis to be carried out by the UR. Airtricity stated that they felt there were significant costs to implementing some of the proposals. They also stated that they were disappointed that no Cost Benefit Analysis had been carried out.

The UR Current/Revised Position

2.22 The UR is of the view that the requirements of the Code, whilst detailed, in the main should be part of the “good practice” processes already carried out by suppliers (particularly if they have already signed up to the CCNIs’ voluntary “Marketing Code of Conduct for Natural Gas and Electricity Suppliers in Northern Ireland”).

2.23 The UR has considered the implications of the proposed requirements of the Code and whether they are likely to induce a significant cost to suppliers. During the consultation process on IME3 which introduced the licence condition on the Marketing Code, there was no suggestion by suppliers that the resulting Code would incur significant costs¹. Our opinion is that there should not be any significant additional costs to supplier (particularly in light of the amendments to the original draft proposals). However, we welcome stakeholder views on this. Where stakeholders can produce robust rationale and quantifiable analysis as to

¹ <http://www.uregni.gov.uk/uploads/publications/IME3 - Final Decisions - September 2012.pdf> (pg 53)

significant additional costs they may incur, as a result of implementing the Code, we will take this into consideration in line with the customer benefits.

Overlap, reference or Conflict to other legislation or Codes

UR Proposal/Position in February 2013 Consultation

2.24 The consultation and the draft Code issued in February made reference to a number of other areas of legislation or overseeing bodies where appropriate. These included such references as those in Section 7.4 to the Committee of Advertising Practice's Code² (The CAP Code) and the Office of Fair Trading (OFT) guidance on 'Banned Practices'³.

Responses to the February 2013 Consultation

2.25 Stakeholders raised concerns that there were references to specific pieces of legislation. Airtricity stated (in reference to the CAP Code) that it was an issue to make something the subject of a licence requirement that neither the UR nor suppliers had input into or influence on.

2.26 Stakeholders (such as EAI) stated that they were concerned that there may be areas of overlap in the Code with other areas of legislation and how this would be dealt with. Areas such as employment law were cited as a potential area where conflict may exist with the initial draft Code consultation in relation to Section 3.

2.27 EAI also wanted clarification on how the overlap would be 'policed' and if there was the potential that a supplier could face action from two bodies. They stated:

"in the event that the Regulator considers it appropriate to duplicate the work of other bodies, the processes around this should be clearly set out."

² <http://www.cap.org.uk/The-Codes/CAP-Code.aspx>

³ http://www.offt.gov.uk/shared_offt/business_leaflets/cpregs/oft1008.pdf

The UR Current/Revised Position

2.28 In relation to Section 3 of the Code, the UR has recognised the significant overlap with employment legislation. This will be discussed in further detail in Section 4 of this paper entitled Recruitment and Training.

2.29 In terms of the specific references to legislation and codes such as CAP and OFT Banned practices, the UR has taken into consideration that it may not be appropriate to include them in the UR Marketing Code of Practice. Therefore, the updated UR proposal is that areas within the Code that make specific reference to other codes and legislation will be removed.

Detail of the Code

UR Proposal/Position in February 2013 Consultation

2.30 The UR draft Marketing Code covered a number of areas which relate to marketing and selling and contained the following sections:

- Third Parties;
- Recruitment and Training;
- Doorstep selling;
- Face-to-Face selling/contact;
- Telesales;
- Website/Telephone;
- Marketing Material/literature;
- Marketing by e mail or via text message or Social Media; and
- Marketing by Post.

2.31 The UR set out detailed requirements within each of these sections which suppliers would be required to comply with when carrying out any sales or marketing activity.

Responses to the February 2013 Consultation

- 2.32 There was significant feedback from stakeholders in relation to the level of detail contained within the Code.
- 2.33 CCNI were extremely positive about the comprehensiveness of the Code. They stated they were satisfied that the Code in the proposed form will have a positive impact on the level of protection afforded to all consumers, particularly the most vulnerable. They also stated that they wanted the Code to be sufficiently prescriptive.
- 2.34 They went further to highlight that from their experience of speaking to suppliers that the majority do already meet the proposed requirements.
- 2.35 NEA also expressed their support for the Code. They stated that whilst they realised not all suppliers engage in poor selling practice, formalised requirements would ensure good practice. They also highlighted that the essential part of the Code is the universal approach which will be adopted.
- 2.36 However, suppliers in their consultation response were less positive in relation to the inclusion of significant detail in the marketing code.
- 2.37 A number of suppliers, such as Electric Ireland, expressed the opinion that the approach should be based on targeted outcomes. These should cover supplier performance in marketing and selling rather than a 'prescriptive approach'.
- 2.38 Firmus stated that they felt that:
“the level of detail is at times overly prescriptive and sometimes repetitive. firmus energy believe the focus of the Code should be outcome focused to ensure that negative, anti-consumer practices do not occur.”
- 2.39 EAI expressed a similar view that the focus should be on outcomes and not be excessively specific. Power NI and Energia echoed this opinion.

The UR Current/Revised Position

2.40 The UR are of the firm view that the code needs to be sufficiently detailed so that there can be no ambiguity as to what is expected. It leaves the Code being clear and less likely to be open to interpretation. It should also help to cultivate a uniform “good practice” approach adopted by all suppliers engaging in marketing and selling activities.

2.41 The ongoing issues experienced in GB over a number of years, in relation to doorstep selling and marketing, highlight the need for a robust mandatory Code. This will help ensure similar problems do not emerge in the NI market. The detailed nature of the Code will give suppliers, customers and their representatives confidence in the market and ensure protection against mis-selling. This is something that all stakeholders in their responses stated that they wanted to see. A more ‘open- ended’ approach would create risk to both the supplier (and the customer) that they may fail to comply with the code and as such their licence requirements.

Q1. Do respondents agree that there should be a separate Marketing Code of Practice for domestic customers and business customers?

Q2. Do respondents agree that the scope of coverage of the Code for business should be to cover all businesses under 70KVA for electricity and 72,300KWh for gas?

Q3. Do respondents agree that compliance with the Code will not have a significant cost impact? If not, please provide robust quantifiable analysis and rationale as to the likely cost impact.

Q4. Do respondents agree with the removal of references to specific legislation and codes which the UR or Suppliers have no input into from the Code? If not please provide robust rationale as to why.

Q5. Do respondents agree that the Marketing Code of Practice should have sufficient detail to ensure that it is clear what is expected from energy suppliers and that a uniform approach is taken by all?

3. Third Parties

UR Proposal/Position in February 2013 Consultation

3.1 In our Consultation paper the UR stated that we were of the view that a third party acting on behalf of a supplier was an extension of the licensee. In this context, they will be bound by the Marketing Code of Practice.

3.2 Section 1 of the draft Code reflected this.

Responses to the February 2013 Consultation

3.3 There was not a material amount of specific reference made to this section in the consultation response. However, those that did comment on this section were positive. Airtricity stated that they were fully supportive of Section 1 of the code. This was also reflected in the feedback received in the workshop at the UR offices in March 2013.

The UR Current/Revised Position

3.4 Section 1 will remain in the Code unchanged.

4. Recruitment and Training

UR Proposal/Position in February 2013 Consultation

4.1 The draft Marketing Code of Practice which was issued for consultation in February 2013 contained a detailed section relating to the practice of Recruitment and Training in the context of Sales and Marketing.

4.2 This section of the Code covered the process for the recruitment of an agent and their subsequent training. It included requirements such as:

- Taking account of an applicant's knowledge and skills with reference to the role they will carry out including the relevant principles of consumer law;
- Taking all reasonable steps to obtain all the relevant information and confirmations of the applicants previous experience and activities;
- Proof of address and at least 2 appropriate references (where referee cannot be related to the applicant);
- Once an applicant has been recruited the licensee must ensure that the Agent or the employee is appropriately trained including awareness of the Marketing Code and the compulsory compliance with this.

Responses to the February 2013 Consultation

4.3 This section of the Code received substantial focus in Stakeholder feedback, both at the workshop and in the written responses.

4.4 CCNI stated that, given their research and complaints evidence the section of the code covering the area of recruitment and training is essential to ensure that suppliers adhere to fair, honest and transparent marketing and sales practices.

4.5 They also stated that whilst there were assurances from suppliers regarding their existing training and recruitment practices, this was not

feeding through to doorstep selling behaviours. This is based on practices experienced by consumers, particularly the most vulnerable. They were particularly positive in relation to the training requirements set out in the Code as they felt it would bring a minimum standard of training. They welcomed the provisions made in this area and are fully supportive of it.

4.6 Advice NI also stated that they felt that this section of the Code was fundamental as they had recently had a number of clients who had experienced poor doorstep selling practice.

4.7 Advice NI highlighted that they have developed an NVQ on advice and Guidance in dealing with vulnerable customers. They stated that they would welcome engagement with suppliers on this area.

4.8 NEA were also supportive of the need for appropriate training and stated that It is clear that investment in training pays dividends in relation to establishing good practice. They cited firmus energy as an example where every staff member has been trained in NEA/City and Guilds Energy Awareness standard. NEA view training as a continuous process rather than a 'one off', and that it should be monitored. They felt that training should be delivered by an accredited organisation.

4.9 The supplier feedback on this area of the Code was less supportive. A number of suppliers stated that the area of recruitment is fully legislated and provided for in employment law. PNGL expressed the view that there was the potential for some of the requirements within the Code to contravene employment legislation.

4.10 The EAI stated that the recruitment practices of suppliers and their agents should not be governed under the Code and that the current legal obligations of suppliers under employment law give adequate protection to consumers.

4.11 firmus also echoed this view and highlighted that they felt that certain specific requirements within the section such as:

due regard to: Behaviour and appearance – the important role that the Sales Agent plays as the 'public face' of the industry must be recognised.”

could potentially have repercussions in respect of employment discrimination.

4.12 With regard to the requirements on training within the draft Code the feedback from suppliers was not fully supportive. There was an appreciation for what the Code is trying to achieve with the requirements set out for training, however, a number of respondents such as PNGL stated the requirements were overly prescriptive. PNGL also stated they had concerns over the definition of a 'vulnerable customer'.

4.13 firmus felt that they already had a successful recruitment and training programme and as such felt there was no need to alter it. They stated that it has worked without fault or complaint from CCNI.

4.14 In their response the EAI expressed the view that the proposals with regard to minimum training for sales agents are appropriate. However, they stated that there needs to be greater clarity with respect to minimum training standards and what this entails. Energia also make the point that there should be clarity on the requirements that training will:

Be linked to a verifiable standard of competence measurement.'

And

'include defined monitoring procedures to ensure consistency of training delivery'.

They would like to understand who verifies the training and who would define the monitoring.

4.15 Stakeholders also raised points in relation to references for ‘vulnerable consumers’ and that this was not appropriate in relation to business customers.

The UR Current/Revised Position

4.16 The UR has taken into account the feedback received. We are in agreement with the majority of stakeholders that the recruitment process is adequately covered in existing employment legislation. In addition to this, as some stakeholders have highlighted, the requirements for recruitment in the Code as it currently stands may well contravene employment law.

In this context, the UR is proposing to remove Section 2.2.1 – 2.4.4 from the draft Code for both the domestic and business Codes. We have however kept 2.4.5 which is the requirement for suppliers to ensure that agents ID’s are to be retrieved at the end of their employment.

4.17 With regard to training, UR is in agreement with stakeholders view that appropriate training is fundamental to help ensure that mis-selling does not take place. With this in mind, we are of the view that a consistent approach should be taken to training.

4.18 PNGL raised concerns about the definition of vulnerable customers. The definition of vulnerable customers which the UR must have regard for is detailed in the Energy (Northern Ireland) Order 2003 which was amended to reflect requirements on vulnerable customers from IME3 regulations⁴

4.19 In terms of the clarification sought by stakeholders regarding verification and monitoring we believe that the suppliers themselves

⁴ <http://www.legislation.gov.uk/nisi/2003/419/article/16>
<http://www.legislation.gov.uk/nisi/2003/419/article/14>

should have the freedom to deliver the training as they see fit on the basis that it will, as a minimum, cover the areas outlined in the Code. Suppliers have the choice to develop or modify their current training either by themselves or through another organisation. The UR is of the opinion that they have the responsibility to ensure that the training is 'fit for purpose'. They should put in place the appropriate monitoring to ensure that their sales representatives are adequately trained to meet the requirements of the Code. This will be linked to the verification method they choose to implement.

4.20 In the instance that an issue or query is raised relating to the standard of the training provided by the supplier they should then be in a position to clearly demonstrate they have a regime in place that meets the requirements as detailed in the Code. However, we are proposing that 2.6.5 and 2.6.7 are removed, from both the domestic and business Codes as these may cross into the area of employment and recruitment.

4.21 We are therefore proposing that other than those sub sections mentioned with regard to training, that Sections 2.5 and 2.6 remain in the Code unchanged in both the domestic and business Codes.

Q6. Do respondents agree with the URs' proposal to remove Sections 2.2.1 -2.4.4?

Q7. Do respondents agree with the URs' proposal for Section 2.5 and 2.6 to remain in the Code?

5. Doorstep Selling

UR Proposal/Position in February 2013 Consultation

5.1 In our February consultation we recognised that Doorstep selling can be a convenient way for energy consumers to switch supplier, but that there were risks attached to it. Potential customers, when engaged at the doorstep, may not understand their cancellation rights and feel under pressure to buy something they do not want or that is not good value for money or meets their specific needs. In light of this, our draft Code set out a number of requirements that any supplier (and by extension agents acting on their behalf) engaged in doorstep selling should comply with.

5.2 This section of the code covered areas such as

- Sales Agents must only make sales calls between 9am and 7pm (Monday to Saturday) unless it is at the customer's request;
- A contact number must be left with any consumer, on request;
- Provision of details of the cooling off period that applies;
- Sales Agent must not exploit a person's inexperience, vulnerability, credulity, loyalties or intimidate a consumer in an attempt to restrict their ability to make an informed choice;
- Must not use high pressure tactics or any Banned Practices (those which are those included in the Office of Fair Trading (OFT) Consumer Protection from Unfair Trading⁵)
- Maintenance of records for two years;
- Must provide evidence of any savings a salesperson claims a customer can make in any price comparisons. Furthermore, any price comparison needs to be in an easily understandable format.

⁵ http://www.offt.gov.uk/shared_offt/business_leaflets/cpregs/oft1008.pdf

This requirement is in keeping with the recent EU guidance in the Energy Efficiency Directive (Directive 2012/27/EU⁶) which says: *“information and estimates for energy costs are provided to consumers on demand in a timely manner and in an easily understandable format enabling consumers to compare deals on a like-for-like basis.”*

5.3 Section 3.1.1 included the stipulation that an agent should be verifiable through the ‘Quick Check’ scheme. Since the consultation, it has come to light that this is no longer an option as the scheme is at capacity. As such they would not cover doorstep sales agents.

5.4 We also asked Stakeholders to give a view as to whether they thought Doorstep selling was appropriate in the Northern Ireland market.

Appropriateness of Doorstep selling in NI

Responses to the February 2013 Consultation

5.5 Stakeholders were supportive of the concept of Doorstep selling and stated that there are advantages to it. However, respondents such as CCNI, NEA and Advice NI highlighted that there were risks and they did have concerns. As such, there is a need for clear guidelines on the practice so as customers would be protected. This was also linked with the need for there to be appropriate guidelines to be followed.

5.6 Suppliers also stated that there was a need for doorstep selling to provide development to the market here in NI. Firmus gave the view that doorstep selling was an essential part of a marketing and sales strategy. Firmus were also supportive of organisations such as the UR ‘clamping down’ on any supplier abusing this technique, as it reduces overall customer confidence.

⁶ <http://eur-lex.europa.eu/JOHtml.do?uri=OJ:L:2012:315:SOM:EN:HTML>

5.7 PNLG expressed the concern that whilst the UR was not banning doorstep selling that 'heavy regulation' could arguably lead to NI suppliers abandoning doorstep selling.

The UR Current/Revised Position

5.8 The UR is of the view that, on balance, doorstep selling is appropriate at this time given the current position of the domestic markets in gas and electricity and it has a role in the development of the market. The UR has not yet formed a view as to whether doorstep selling remains appropriate in more mature retail markets such as GB but notes that suppliers have now largely abandoned the practice in that jurisdiction. However, we are of the opinion that if it is practised it should be carried out under clear guidelines for the protection of customers.

Contact hours for Doorstep Selling

Responses to the February 2013 Consultation

5.9 Suppliers were unhappy with the proposal that agents should only make doorstep calls between 9am and 7pm. Airtricity felt it would compress the contact time to the '*busy teatime period*'. They went further to suggest that the hours of contact should be extended until 9pm. CCNI were supportive of the UR proposal to confine the time allowed for doorstep sales to no later than 7pm. The CCNI Voluntary Marketing Code of Practice proposes a cut off time of 8pm.

5.10 Energia also suggested the removal of 3.6.2 (in the context of business customers). This stipulates that, should there be a message clearly displayed which communicates that the owner does not want doorstep sales callers, agents should respect that.

The UR Current/Revised Position

5.11 We have taken into account stakeholder views and our current proposal is that the hours which an agent may make a doorstep call are between 9am and 8pm. We do not believe it is appropriate to extend

the hours for contact to 9pm. Whilst we note that CCNI made a strong point that they wanted the hours of contact to be shorter, extending the time to 8pm for weekdays would bring the UR Code into line with the current CCNI Voluntary Marketing Code of Practice. Saturday hours of contact will remain as 9am to 7pm. In the context of business customers the hours of contact are not restricted. However, suppliers are asked to exercise reasonable judgement outside the consumer's normal business hours.

- 5.12 We are firmly of the view that where the owner of a business has clearly indicated by way of a notice/sign that they do not want to receive visits from doorstep sellers and agents must respect this.

Unit Rate Detail

Responses to the February 2013 Consultation

- 5.13 In relation to the detailed content of Section 3, suppliers expressed the view that it was too prescriptive. Firmus made the point that by making the Code prescriptive they felt it prevented suppliers from differentiating themselves.
- 5.14 However, stakeholders such as Advice NI, were supportive of the detail in this section. They highlighted that customers can often have difficulty in interpreting prices, and the Code recognises this. They also stated that they felt the rates shown should be inclusive of VAT. Airtricity stated that they were also supportive of a standard methodology for displaying tariffs. Similarly to Advice NI, they thought that rates should be shown inclusive of VAT only, particularly for prepayment meters.
- 5.15 Energia made the point that VAT should not be included for business customers in the breakdown of rates as different rates are applicable. EAI also echoed this view.

5.16 Energia also stated that specific discount types should not be shown in the business customer template for displaying the unit rates. They felt that to include this in the pro forma would create an automatic assumption that a specific type of discount would be offered.

The UR Current/Revised Position

5.17 With regard to unit rate detail, we have considered stakeholder views and whilst suppliers have not been fully supportive of this detail, organisations such as Advice NI and CCNI have been extremely positive about the inclusion of the requirement. We have noted that a number of stakeholders have asked that rates be shown inclusive of VAT, as this is ultimately the price paid by consumers. However, the UR is of the view that detailing out the rates exclusive and inclusive of VAT provides a consumer with greater transparency.

5.18 In terms of a business customer, we agree with stakeholders that it is not appropriate to show VAT for business customers given the different applicable rates. Therefore, we will remove the requirement to include VAT for business customers in the business customers Code.

5.19 Discounts applicable will not be specifically named in the Code (for example direct debit discount) for business customers. Instead, the pro forma table per the Code gives generic headings so that any relevant discount type can be entered.

Maintenance of Records

Responses to the February 2013 Consultation

5.20 Section 3.10 and 3.15 of the Code require that suppliers maintain records for two years, even if the completion of a sale doesn't take place. EAI stated this requirement was a burden on suppliers and they were unclear how the UR would expect suppliers to comply with this. They also disagreed with the requirement to keep records where no sale had been made and there would be disproportionate costs.

Airtricity and Electric Ireland expressed similar views. The issue of Data Protection was also raised by stakeholders.

The UR Current/Revised Position

5.21 The UR is of the view that the requirement to keep records of customer contact offers protection to both the supplier and the customer. The rationale for the timescale of two years relates to the current situation whereby many customers are in a contract that has a two year fixed term period. There is therefore the potential that issues may not arise or become apparent until year two of the contract. An Independent consultant has examined the issue for us and has given the view that there should not be a significant cost burden.

5.22 However, we have considered the concerns of stakeholders (including practicalities and Data Protection) and are proposing that the requirement to store data applies only where a sale has been made (the Code has been clarified to reflect this).

5.23 However, the Code requires that where no sale has been made that suppliers ensure that enough detail be held to enable identification of a sales agent if an issue arises (name/area worked/dates etc). These should be held for a minimum of six months.

5.24 The period of time that data should be held, in the event of a sale, is for a minimum period of two years.

5.25 Section 3.15 has been removed from the Code as 3.10 already reflects the requirements in it.

Contact Post Sale

Responses to the February 2013 Consultation

5.26 A number of stakeholders disagreed with the inclusion of Section 3.14. This section requires suppliers to make contact with the customer, within seven days, again after a doorstep sale has been completed. The EAI felt that this could potentially cause confusion for

customers. They also made the point that for business customers it effectively introduced a seven day 'cooling off' period which does not currently exist for business customers and therefore is not appropriate.

5.27 Suppliers also made the point that it was not practical to contact every 'sign up' by phone call (potential to run into 1000's per month) and would also be costly.

The UR Current/Revised Position

5.28 In relation to Section 3.14, we have considered the view of stakeholders. We have amended the Code (both business and domestic) so that there is no longer a requirement for the supplier to contact customers who sign up on the doorstep by phone call.

5.29 With regard to Section 3.14, we have taken the stakeholders practical feedback into account. We agree that it would not be practical and would be costly to contact every customer within 7 days of a sale. In addition to this, we agree that it may have the potential to cause confusion. We have therefore amended this section. The Code now states that a supplier must take all reasonable steps to ensure that a new customer receives 'written information' within 7 days. The Code sets out the minimum information which this must contain, such as T&Cs, contract length and unit rate etc. This section is present in both the business and domestic Codes but varies where relevant to each customer type.

Other

Responses to the February 2013 Consultation

5.30 There are a number of other areas in Section 3 of the Code where stakeholders raised concerns with requirements in this section.

5.31 PNGL stated that they felt that the inclusion of the requirement to have an expiry date on the agents' ID card was expensive. NEA are very supportive of the use of an ID card.

5.32 EAI highlighted that Section 3.6.1 (requirement to take into account a consumer's personal circumstances) needed further clarity with relation to business customers. Other stakeholders agreed that taking account of vulnerable customers and personal circumstance was not relevant in a business context.

5.33 EAI also highlighted that Section 3.8.3 to 3.8.5 (requirement for detail of tariffs such as tiered tariffs) are more relevant to business tariffs and therefore should not be included in the domestic Code.

5.34 A number of Stakeholders also raised the point that the 'cooling off' period is not relevant to business customers, and should therefore be removed from the Code for business customers.

5.35 Power NI expressed the opinion that the UR should consider imposing restrictions on the number of attempts that should be made to sign the customer up. This was also mentioned by Advice NI in the context of telephone sales. This would limit the number of times a sales agent can make a sales call to a persons' home or premises.

The UR Current/Revised Position

5.36 The UR maintains the view that the expiry date is shown on an agents' ID card as it is particularly important in the instance that it is lost or stolen.

5.37 It is no longer a viable option that suppliers can register with the 'Quick Check' scheme. Therefore, the requirement in Section 3.1.1 for an agent to be verifiable through this has been removed from the Code.

5.38 With regard to issues raised by stakeholders relating to various elements throughout Section 3 such as 3.6.1 and 3.8.2 to 3.8.5, as well as references to 'vulnerable' and 'personal circumstances' (which suppliers feel are not relevant to business customers), as stated in Section 2 the UR has separated the Code so that there is one for business customers and one for domestic. These will include

requirements which are relevant to that customer group only (for example use of the word vulnerable and personal circumstances will not be relevant in the business Code). We have also removed Section 3.6.1 (Sales agents will take account of the consumer's personal circumstances) from the domestic Code, as we are of the view that 3.6.3 adequately covers this area. Section 3.8.3 (which describes how different more complex tariffs be shown) has been amended (in both the domestic and business Code) and Sections 3.8.4 and 3.8.5 have been removed from both the domestic and business Codes. We have also removed references to 'cooling off' period in the business Code.

5.39 In relation to Power NI's point, to put restrictions on calls to a customers home or place of business, we are of the view that the mechanism whereby a customer can request that they are not contacted again should cover this issue.

5.40 Section 3.16 which relates to the cooling off allowance has been removed from the business Code as it is not relevant to business customers.

Q8. Do respondents agree with the current & revised proposals made to Section 3 of the marketing Code of Practice

6.Face-to-Face Selling/Contact

UR Proposal/Position in February 2013 Consultation

6.1 As highlighted in our consultation in February, we defined face-to-face selling and contact with customers as taken to mean any situation whereby a sales representative of the energy supplier comes into contact with a potential customer. There are a number of areas where this could occur such as trade shows or in a shopping centre. We stated that the UR was of the view that the principles overlaying the requirements in the Code would be the same as doorstep selling.

6.2 Section 4 of the Code covers such things as:

- Sales Agent may make sales between 8am and 10pm;
- Sales Agent must avoid the consumer misunderstanding any information given or making false assumptions, in particular over potential savings, and must not act to mislead or make omissions designed to mislead; and
- Sales Agents must provide the consumer in writing or by means of an electronic display the unit rates for any products discussed.

Responses to the February 2013 Consultation

6.3 In terms of stakeholder feedback, on the section of the Code that deals with face-to-face selling/contact a lot of the points made are similar to those which were made for doorstep selling. These include such things as the inclusion of VAT and contact a customer post sale as well as not expecting an agent to make judgement on a person's circumstances or vulnerability.

6.4 Given that requirements for doorstep selling 'flow through' the requirements for face-to-face selling, the comments made in Section 5 of this paper and the UR views on them will be mirrored for this section of the paper and the corresponding section of the Code.

- 6.5 Electric Ireland raised concerns over the requirements set out in Section 4 of the Code. They stated that the requirements were likely to make face to face selling redundant "for all but well targeted business functions". They made the point that the nature of face-to-face sales is that they are conducted quickly as customers are on the move and unlikely to have bill details with them. Therefore, the requirement for comparisons to include current supplier rates and/or discounts is not possible in this context.
- 6.6 Airtricity state that with regard to Section 4.2 they are unclear why a timeframe is required. They cited the example of where an event is run outside the proposed times or a retail premises is open outside these times.
- 6.7 Advice NI are supportive of this section and stated that they advocated the UR monitoring this closely to ensure no breaches. Similar to doorstep selling CCNI welcomed the requirements in relation to providing appropriate comparisons if an agent tells a customer that they can save them money.

The UR Current/Revised Position

- 6.8 The UR is of the view that if an agent is prepared to make a statement that they can save a particular customer money if they switch supplier then they should be in a position to prove it. If they are unable to do this, because the information to do so is not available, then our view is that it is not appropriate for an agent to make such a statement.
- 6.9 With regard to the timeframe which agents can conduct face-to-face sales/contact, we have taken the feedback of stakeholders into account and agree that contact can be made in accordance with the event times or the opening hours of the shopping centre for example.

Q9. Do respondents agree with the current revised proposals made to

Section 4 of the marketing Code of Practice

7. Telesales

12.1 In the consultation paper we stated that in our view telesales is similar to doorstep selling in the respect that it is approaching a person in their own home. As such, similar rules apply. With this in mind the Code includes stipulations such as:

- Unless requested otherwise, a supplier must only contact a domestic consumer for marketing purposes between 9am and 8pm (Monday to Friday) and between 9am and 7pm (Saturday). They will not contact a consumer on a Sunday, any Public or Bank Holiday or Christmas Eve.
- If, at any time during the call, the consumer states that they do not wish to continue, the supplier must end the call. In addition to this, the supplier must also remove the consumer from the contact list if asked to do so.
- Companies should ensure that those households who have signed up to the telephone, mail or fax preference service are not to be approached for sales.

Responses to the February 2013 Consultation

12.2 Again, similarly to Section 6 of this paper on face-to-face sales, comments received on telesales reflected those made by stakeholders in relation to doorstep selling.

12.3 As with face-to-face selling/contact, these comments and feedback have been dealt with in Section 5 of this paper. These will also be reflected in the Code as appropriate based on the revised/current position of the UR.

12.4 Airtricity stated that they thought that the requirements should be built into the process. They feel that it would be difficult to comply with the requirement to provide the potential customer with a copy of the checklist

prior to the commencement of the sale. This could be potentially confusing for a customer.

- 12.5 Firmus also expressed a similar view, and felt that the requirement to comply with Section 3.8 and 3.9 under the telesales section of the Code did not translate well to telesales.
- 12.6 In addition to this, Airtricity also stated that they would like to see the hours of contact for telephone sales extended. This would see contact hours for telesales spanning the time period 9am to 9pm. They also stated that they felt 'not for contact' was not appropriate for business customers.
- 12.7 Electric Ireland were broadly in agreement with the requirements set out within the Code with regard to telesales but did state that further consideration should be given to the context that a sales agents will want to persuade the customer. However, they did recognise that where a customer has clearly indicated they do not wish to continue with the call this should be respected.
- 12.8 Advice NI is extremely supportive of the requirements set out in the Code in relation to telesales. They have stated that they feel there are also broader issues with 'cold calls' being a nuisance to customers. They were pleased to see the inclusion of the stipulation that a customer must be removed from the contact list if they request it. They also went further to state that, they would recommend that a limit of the number of calls is placed on contact attempts by the energy supplier where the agent has been able to get through but has been advised by the customer that they do not wish to proceed at present. They felt this would protect vulnerable customers who may struggle to express assertively that they do not wish to proceed. This would help prevent customers feeling pressurised into switching. The NEA also made the point that telesales should be effectively monitored

12.9 As stated in previous sections, suppliers were not supportive of the requirement to maintain records for a period of two years. This applies to this section also as it was a requirement in the draft Code.

The UR Current/Revised Position

12.10 In relation to the requirement for the checklist to be provided prior to commencement of the telesales pitch, we agree with stakeholder views that this may be confusing and difficult to adhere to. In this context, we are proposing that a copy of the checklist be provided to the customer after the phonecall (if the customer signs up). This copy can be sent via e mail or hardcopy. This should be sent to the customer as part of their 'written information' post sale. This 'written information' should be received by the customer in time to allow them to exercise their 'cooling off' rights (business customers will not have the 'cooling off' period).

12.11 The UR view is that contact times for telesales should remain 9am to 8pm on weekdays this would align them with the new proposal to extend doorstep selling to 8pm. Contact via telephone on Saturday will remain as 9am to 7pm. This should allow adequate time within which to make contact with potential customers. For business customers this will be within the confines of the opening hours of the business itself. In relation to 'not for contact' we are of the view if a supplier calls a business and is asked by that business not to be contacted again the supplier should adhere to this. There are also telephone preference services which cover sole traders and the option for a business to sign up to a corporate telephone preference service. Suppliers should use these lists to ensure they do not contact customers who have registered for these services.

12.12 Whilst we appreciate that telesales are a different process compared with doorstep sales and face-to-face sales, we are still of the view that compliance with Sections 3.8 and 3.9 should apply. Where a customer signs up via telephone the information required via 3.8 and 3.9 can be provided via e mail or hard copy after the phone call. This will remain in the

Code under the requirements laid out for telesales. This can be sent to the customer as part of their 'written information'. As stipulated above, this should be received by the customer in time to allow them to exercise their 'cooling off' rights.

12.13 The Code has also been amended so that there is a requirement to record all telephone sales calls (regardless of whether they result in a sale), and that they be stored for a minimum period of six months (as opposed to the previous requirement in the draft Code to maintain records for two years).

Q10. Do respondents agree with the current revised proposals made to Section 5 of the marketing Code of Practice

8. Website/Telephone

UR Proposal/Position in February 2013 Consultation

- 8.1 As stated in the February consultation, selling via a website is covered by legislation such as 'The Consumer Protection (Distance Selling) Regulations 2000'⁷.
- 8.2 The supplier should provide enough information on the website so that the potential customer can make an informed decision as to whether to buy the product or not.
- 8.3 This element of the Code differs from the others in that contact has been initiated by the customer. The customer has proactively engaged with the supplier either by phoning them or going onto the supplier website to sign up.
- 8.4 This section of the Code requires compliance with a number of the stipulations also set out in Section 3 of the Code.

Responses to the February 2013 Consultation

- 8.5 There are issues raised by suppliers relating to Section 3 of the Code which will translate to Section 6 – Website/telephone sign-up. These have been reflected in Section 5 of this paper and the Code will be amended or remain the same accordingly.
- 8.6 Stakeholders also raised the issue of the provision of the checklist as being difficult in the context of telephone and online sign up by a customer. Their concerns were similar to those expressed in relation to Section 5 of the Code (Telesales).
- 8.7 Firmus were unclear as to what the requirements were, where the Code states in Section 6 that suppliers must comply with Section 3.8 and 3.9 in the context of website and telesales (incoming calls). Firmus thought this required a further follow up phonecall to an online application to

⁷ <http://www.legislation.gov.uk/uksi/2000/2334/contents/made>

provide the information to the customer. They felt that this could cause confusion and also may annoy the customer if they have chosen to apply online rather than ring the call centre.

8.8 Advice NI were supportive of this section of the Code and stated they were pleased information provided to customers would be as clear and accurate as possible. CCNI also supported this section of the Code.

The UR Current/Revised Position

8.9 Similarly to the UR view on telesales (outgoing) and online sign up we are of the opinion that the checklist can be provided as a follow up to the sign up via telephone or internet. This can be provided via e mail or hard copy and should be part of the 'written information' provided to the customer (as per 3.14 which has now been made a requirement for compliance in Section 6 of the Code). Potentially the checklist can be part of the sign up procedure similar to a requirement to 'check' a box to say they have read the T&Cs. The customer could be directed to the checklist and asked to confirm that the checklist has been covered as part of their online sign up.

8.10 The requirement to comply with Section 3.8 and 3.9 means that after the customer has signed up either via telephone or website they will receive the rate breakdown (as to comply with 3.8 and 3.9) either by e mail or hardcopy. This can be sent to the customer as part of their 'written information'. The 'written information' (as per 3.14) should be received by the customer in time to allow them to exercise their 'cooling off' rights.

8.11 Similar to outgoing telesales, the Code now has the requirement that all sales calls should be recorded and stored for a minimum of six months.

8.12 For websites (given difficulty of tracking customer visits where no sale has been made) the Code has been amended to require that

suppliers maintain records of sales pages and subsequent amendments (including dates of such amendments) for a minimum of two years.

Q11. Do respondents agree with the current & revised proposals made to Section 6 of the marketing Code of Practice

9. Marketing Material/Literature

UR Proposal/Position in February 2013 Consultation

9.1 In the UR February consultation we stated that, across all areas of marketing it is important that any representations made to a customer are as clear and accurate as possible.

9.2 Section 7 of the Code sets out requirements such as:

- Suppliers, or those acting on behalf of the Suppliers, must ensure that any of their marketing material is legal, decent, honest and truthful;
- Information contained in marketing literature should be as accurate and up to date as possible; and
- Marketing communications must be in line with the Committee of Advertising Practice's Code⁸ (The CAP Code).

Responses to the February 2013 Consultation

9.3 Airtricity raised one main concern with this section of the Code. They specifically referenced Section 7.4 where the Code stipulates that marketing communications should be in line with the CAP Code, Airtricity disagree with this being a licence condition and stated that they were of the view that it was beyond the third package.

9.4 Firmus had no specific views on this Section of the Code.

9.5 CCNI state that they welcome and support the provisions made in the Code around marketing materials and literature. They went further to say that they would strongly oppose the removal or 'softening' of any clauses here as it affects the requirements on sections 8 and 9 of the Code which was consulted on in February 2013.

⁸ <http://www.cap.org.uk/The-Codes/CAP-Code.aspx>

9.6 NEA expressed the opinion that the UR should work closely with the third sector to ensure that the marketing material fit for purpose. They also stated that they were happy and willing to facilitate this.

9.7 Advice NI also welcomed the provisions in Section 7 of the Code. They stated that they would also like to see all marketing materials understandable, jargon free and easily available in different formats so no vulnerable consumer group is unable to access the materials.

The UR Current/Revised Position

9.8 As discussed in Section 2 of this report, we have taken stakeholder feedback into account. As such, specific references to other legislation will be removed from the Code. This will apply to both the business and domestic Codes. Whilst CCNI have stated that they would prefer that this section remain unchanged, it is our view that suppliers have to comply with other related legislation regardless of whether it is specifically mentioned in the UR Code.

9.9 The UR believes that it is more appropriate that suppliers engage with the third sector, as per NEA observation, in relation to their marketing material as opposed to the UR engaging with the third sector in relation to supplier marketing material.

Q12. Do respondents agree with the current revised proposals made to Section 7 of the marketing Code of Practice

10. Marketing by email/via text message or Social Media

UR Proposal/Position in February 2013 Consultation

10.1 The UR stated, in its consultation in February 2013, that the area of marketing by e mail or via text message is also governed by data protections legislation.

10.2 We laid out a number of specific requirements within Section 8 of the Code that suppliers should adhere to:

- The Supplier's name and address;
- The Suppliers e mail address/other means of electronic contact or a contact number; and
- An easy method of unsubscribing/removing their e mail address from future messages (with no cost to the customer).

In relation to text message specifically:

- The supplier's name; and
- An easy method of unsubscribing/removing their mobile phone number from future messages (with no cost to the customer).

Responses to the February 2013 Consultation

10.3 Both CCNI and Advice NI welcomed the requirement that a customer has the right to 'opt out' of any future marketing by the supplier.

10.4 A number of the respondents, including EAI raised the issue that there are limited characters allowed in a text message. As such, it's not possible to include all the information stipulated in the draft Code.

10.5 Some of the Stakeholder feedback suggested that the area of Social Media also be covered within the Code (given the rise in popularity of this as a marketing tool).

The UR Current/Revised Position

10.6 The UR accepts the practical issue of the limit in the number of characters available in SMS, as raised by stakeholders. Therefore, our revised position is that the Code requires that only the name and the number of the supplier be included.

10.7 Section 8 of the Code will also cover Social Media marketing.

Q13. Do respondents agree with the current revised proposals made to Section 8 of the marketing Code of Practice

11. Marketing by Post

UR Proposal/Position in February 2013 Consultation

11.1 As we stated in the February 2013 consultation paper there area of Marketing by Post has a direct crossover to marketing by email or text message. Consumers will receive marketing literature, but it will come into their home. Anything which is sent by post to a customer's home must comply with the Code in respect of marketing literature.

11.2 This Section of the Code also stipulates that:

- Consumers are entitled to request that they no longer receive marketing material from a supplier; and
- Suppliers are obliged to ensure those consumers do not receive marketing from them unless specifically requested (move their contact details to a 'not for contact' file or database).

Responses to the February 2013 Consultation

11.3 CCNI were extremely supportive of the inclusion of the requirements in this section of the Code, stating that they welcomed them and would strongly oppose the removal or 'softening' of any of the clauses in the section.

11.4 Advice NI also welcomed the provisions in Section 9 of the Code. They were supportive of the fact that if complied with it should ensure that consumers do not get 'harassed' by unwelcome communications from suppliers.

11.5 Stakeholders such as Firmus, EAI and Airtricity had no specific comments to make on this section of the Code.

The UR Current/Revised Position

11.6 Section 9 will remain in the Code unchanged for domestic customers.

11.7 It has come to light that business customers cannot sign up to a mail preference service. Therefore this reference has been removed from the business Code.

Q14. Do respondents agree with the current & revised proposals made to Section 9 of the marketing Code of Practice

12. Monitoring and Enforcement of the Code.

- 12.1 Effective monitoring and reporting are essential to track progress in customer protection, identify issues that need resolving and highlight areas for future action.
- 12.2 The purpose of monitoring is to ensure that customers are being adequately protected and determine if suppliers are complying with their licence conditions and specifically with this code of practice being consulted on.
- 12.3 For the avoidance of doubt, it is the view of the UR that it is the supplier's responsibility to ensure that they have put in place the necessary internal processes to ensure that they can comply with all sections of the Code. We expect that these should be embedded into internal business processes and information systems.
- 12.4 In terms of monitoring compliance with the Code the UR intends to carry out proactive monitoring of whether licensees are fully complying with the Code on an ongoing basis. This could include (but not be limited to) liaison with other organisations such as consumer representatives, third sector organisations, and OFT. It may also include activities such as mystery shopping. In the event of a breach of the code suppliers will be asked to demonstrate that they do have the necessary internal procedures in place to ensure compliance.
- 12.5 Furthermore it is envisaged that the UR will also conduct investigations after there has been a 'trigger' event or evidence of a breach of licence (for example a customer complaint, or a referral from a stakeholder organisation).
- 12.6 With regard to an investigation of breaches of Code, there are a number of scenarios from which a trigger might originate. It would unlikely be as a result of a single complaint or isolated incident. Rather

it is anticipated that a trigger, potentially prompting an investigation, is likely to occur where there is evidence of ongoing non-compliance, or evidence of a “cluster” of complaints emerging (the UR will be recording the level of complaints and other indicators in relation to marketing for each supplier as part of the wider market monitoring framework which is currently being developed and will be consulted on in due course). Another example is where an organisation such as CCNI receives a number of complaints in relation to the same practice or same supplier and informs the UR.

12.7 In the event that this happens, it may provide the impetus for an investigation to establish if the behaviour is a result of the company or companies not adhering to the Code. If this is found to be the case then a breach in licence will potentially have occurred and a licence breach investigation will be undertaken, including an assessment of the requirement for enforcement action.

12.8 In this instance, companies may be asked to provide evidence to show that they have been adhering to Code. An example of this may be where a supplier has provided information to customers and there has been a disagreement over that information, for example where a customer felt they’d been given an inaccurate quote or the price charged wasn’t the price agreed.

Q15. Do respondents agree with the proposals for monitoring and enforcement of the Code?

Appendix I
Draft Marketing Code of Practice for Domestic
Customers

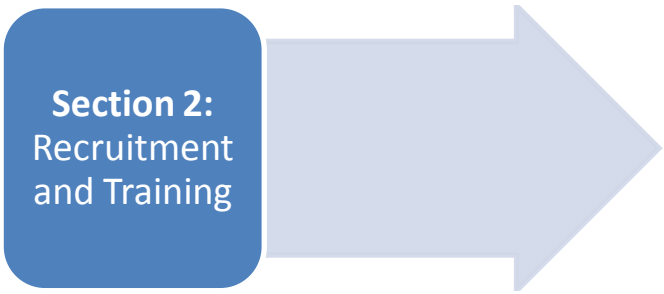
The UR Marketing Code of Practice for Domestic Customers

Nothing in this Code of Practice is intended to, or should be deemed to, constitute an exemption from the Suppliers' legal obligation to comply with any and all relevant legislation, statute, statutory instrument, regulation or order (or any provision thereof) or any subordinate legislation.



Section 1: Third Parties

1.1 For clarity, where a Supplier contracts with a third party for the provision of Sales Agents, the Supplier must ensure that the third party complies with all components of this Code. Any breaches of this Code by a third party will be deemed to be a breach by the Supplier.



Section 2: Recruitment and Training

Recruitment

- 2.1 A Supplier must put in place and follow procedures which are appropriate for the selection of those who are employed or engaged in roles which might involve or will involve communication with Customers for the purpose of its Marketing Activities. These procedures must be fully compliant with all current employment legislation.
- 2.2 If a Sales Agent ceases to represent the Supplier, the Supplier should ensure retrieval of the agent's ID card.

Training

- 2.3 A Supplier must provide or procure appropriate training for all staff or other Representatives who communicate with Customers for the purposes of the licensee's Marketing Activities. This training should include, but not be limited to, training about the Supplier's obligations insofar as they affect Customers, including its obligations under this Code.
- 2.4 Suppliers will ensure that as a minimum the training will:
 - 2.4.1 take into account the knowledge and skills necessary to fulfil the role.
 - 2.4.2 take into account changes in the market and to products/services, legislation and regulation.
 - 2.4.3 Insofar as possible be reflective of consumer ethnicity and diversity.
 - 2.4.4 provide training on the recognition and treatment of vulnerable consumers.
 - 2.4.5 be linked to a verifiable standard of competence measurement.
 - 2.4.6 include defined monitoring procedures to ensure consistency of training delivery.
 - 2.4.7 be effective and up to date.
Should contain details such as:
 - 2.4.8 relevant customer terms and conditions.
 - 2.4.9 relevant principles of consumer protection law.
 - 2.4.10 customer cancellation process.
 - 2.4.11 the procedure for handling customer complaints.
 - 2.4.12 the consequences of mis-selling or deliberately giving false information to a customer or any other such breach of this Code.

A blue rounded square containing the text 'Section 3: Doorstep Selling' is positioned to the left of a large, light blue arrow pointing to the right.

Section 3: Doorstep Selling

3.1 If a Supplier engages in marketing calls at a consumer's premises or place of residence, upon arrival, the Supplier must immediately:

- 3.1.1 Produce/Display an identity card, and if appropriate, a business card, which clearly displays their full name and photograph and the name, business address, contact number of the Supplier and an expiry date for validity of the card. Thereafter, the Supplier must always show the card to the consumer if asked. Sales Agents must not misrepresent themselves or the purpose of their visit.
- 3.1.2 Give the consumer the reason for the visit and clarify if the consumer wishes to proceed with a presentation about the product(s) being sold. If they do not, the Supplier must leave the premises immediately and inform the consumer they can be removed from the contact list. The Supplier must tell the consumer that this option is available and action such removal if requested. A Supplier must be able to demonstrate that they are complying with this by keeping a 'not for contact' database.
- 3.1.3 Provide the customer with a copy of the sales checklist (for the customer to keep) prior to the commencement of the sales pitch; this is to help the customer ensure that the agent has followed the correct procedure (See Annex A).

3.2 The salesperson must obtain permission from the consumer before entering their place of residence. A consumer has the right to refuse to let the salesperson enter their residence, and may wish to either end the conversation or continue with it at their doorstep. If a customer indicates that the contact is unwelcome the salesperson must cease immediately and leave the premises.

3.3 Unless otherwise requested, a Supplier must only contact a domestic consumer at home for marketing purposes between:

- i. 9am to 8pm on weekdays; and
- ii. 9am to 7pm on Saturdays.

And not during:

- iii. Christmas Eve;

- iv. Any Public or Bank Holiday; or
- v. Sundays.

Domestic consumers should not be contacted outside of these times.

3.4 Where there is sheltered housing, approval must be gained from the warden or other person in authority before making any approach to the residents

3.5 Sales Agents will:

- 3.5.1 not call on any premises where there is a message prominently displayed in the form of a visible, clearly worded and unambiguous notice indicating that a consumer does not wish to receive uninvited doorstep sales callers.
- 3.5.2 Sales Agents must not exploit a person’s inexperience, vulnerability, credulity, loyalties or intimidate a consumer in an attempt to restrict their ability to make an informed choice.

3.6 Sales Agents must at all times:

- 3.6.1 be courteous and professional.
- 3.6.2 not give any misleading information or make false assumptions, in particular over potential savings, or act to mislead or make omissions designed to mislead.
- 3.6.3 not use high pressure tactics and be fully compliant with all current relevant consumer protection and sales legislation.

3.7 Sales Agents must provide the consumer in writing or by means of an electronic display, the unit rate which the customer will be charged for all products discussed.

3.7.1 Tariffs with standard unit rates must be shown in the following formats:

Display tariffs inclusive and exclusive of VAT on a per unit basis. Rates should be shown side by side inclusive and exclusive of VAT.

Tariff Name	Pence per unit (ex. VAT)	Pence per unit (inc. VAT)

Tariffs with standing charges (if applicable) must be shown as an annual amount (or such other period e.g. quarter as is applicable) inclusive and exclusive of VAT that applies to the tariff. This approach should be applied to any other fixed charge applied by the Supplier. All associated fixed costs should be presented alongside unit rates and any discounts on unit rates in the same text and font size.

Tariff Name	Pence per unit (ex. VAT)	Pence per unit (inc. VAT)	Standing Charge for Year/Period (ex. VAT)	Standing Charge for Year/Period (inc. VAT)

Furthermore tariffs with any discounts being offered off the standard rate tariff of that Supplier (e.g. for Direct Debit or a discounted period) should be shown in the following format.

Each discount must be set out clearly in pence per unit (or such other discount applicable e.g. quarterly discount amount, fixed amount discount) alongside the standard unit rate to demonstrate the actual unit rate the customer will be charged (including any discounts) and the duration of any discount.

Note that the discounts used in the table below are for illustrative purposes:

	Standard Unit Rate	Dual Fuel Discount	Dual Fuel/DD Discount	Dual Fuel/DD/E-billing Discount
Pence per Unit (ex. VAT)	10.00	9.00	8.00	7.00

- 3.7.2 Where a Supplier is offering a dual fuel bundle, the gas and electricity tariffs should be shown separately with details provided on additional components of the tariff.
- 3.7.3 For differently composed or more complex tariffs where additional tariff rate elements are included in the proposal, such as tiered unit charges, Time of Day charges, fuel price pass through, wholesale price pass through, seasonal tariffs etc, all the relevant required information should be clearly displayed.

3.8 For all consumers where the Sales Agent had **stated they can save money** on Energy Supply the Sales Agent must provide a comparison with the consumers current unit rates (i.e. those being charged by the consumers existing Supplier including any current discounts given) in writing or by means of an electronic display. The format for the comparison of these unit rates must be the same as that laid out in Section 3.7. **To avoid any confusion caused by varying consumption levels agents will not be permitted to provide comparisons on an annual bill basis.** For more complex tariff offerings agents must provide clear and transparent information that illustrates the offering adequately and any savings quoted.

The unit rate comparison must:

3.8.1 be based on the best information available to the Sales Agent. This must be information that is accurate and relevant to proving to the (specific) consumer that switching will save them money as stated by the sales agent. If no information or inadequate information is available e.g. if the sales agent cannot ascertain what the consumer's current unit rate is, then the sales agent will not state that he/she can save the consumer money or they will retract any previous statement made indicating that they could save the consumer money.

3.8.2 include any relevant differences.

3.9 In the event a sale/sign-up is made, Suppliers will maintain records for not less than 2 years including the date of contact with the consumer and sufficient information to allow the positive identification of the Sales Agent involved. Any material shown to the customer such as price comparison information should also be maintained (including electronic displays). This will assist in dealing with any complaint or query. In the event of no sale being made Suppliers must retain sufficient information to allow the identification of the Sales Agent involved for a minimum of 1 year.

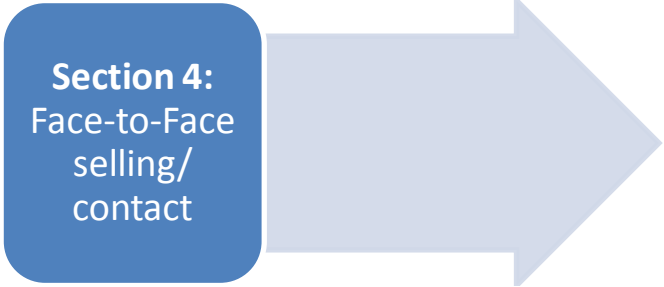
3.10 Where the customer enters into an Energy Supply contract the Sales Agent must provide the customer with a copy of the written unit rate(s) in one of the formats specified in Section 3.7 and obtain a signature from the consumer to confirm this. If it has been claimed savings can be made the "written information" must also include the relevant comparative information presented to the customer, as detailed Section 3.8 or a copy of the comparative information is left with the customer to keep.

3.11 The sales agent must:

3.11.1 not abuse the trust of vulnerable or inexperienced customers, for example those who are elderly or those who have special needs. Sales agents should not complete an energy supply contract with customers who are not capable, at the time of the contact, of making an informed decision as to whether or not to enter into the contract.

3.11.2 ensure that details of how a customer's account information may be used with respect to debt flagging is clearly set out on the sign up form and within the sign up process. Explain how a debt flag may be raised against the customer's account by their existing Supplier.

- 3.11.3 provide the customer with details of the “cooling off” period that applies and how to go about cancelling their request to switch Supplier within that cooling off period (in line with existing legislation).
- 3.11.4 confirm that the customer has read and understood the doorstep/face-to-face sales checklist (where the customer is being signed up in person).
- 3.11.5 provide their ID name/number in writing.
- 3.12** Suppliers must design application literature such that the nature of the literature or forms is clear to the consumer. It must be made clear on the literature itself that the consumer is entering into a legal and binding contract and a statement of this nature should be immediately adjacent to where the consumer signs, so that the word CONTRACT or AGREEMENT cannot be obscured or concealed.
- 3.13** Suppliers must within 7 days of entering into the Energy Supply contract, take all reasonable steps to ensure the consumer receives ‘written information’. This information can be sent via e mail or post and will clearly:
 - 3.13.1 state that they have entered into a contract.
 - 3.13.2 State the customers right to cancel within the 10 day ‘cooling-off’ period.
 - 3.13.3 state the principal terms and conditions of the contract including any fixed term conditions, duration any applicable exit fees and any other specific conditions of the contract.
 - 3.13.4 state the proposed unit rates and any comparison given by a sales agent.
 - 3.13.5 state the expected date of commencement of supply.
- 3.14** Where the consumer indicates (within the 10 day ‘cooling-off’ period) that they are not content to have entered into an Energy Supply contract the company must take all reasonable steps to ensure that:
 - 3.14.1 the contract is ended.
 - 3.14.2 the company does not begin to supply the consumer.



Section 4:
Face-to-Face
selling/
contact

4.1 In relation to Face to Face selling, as well as the stipulations laid out here in 4, the following elements of Section 3 (Doorstep Selling) should also be adhered to:

- 3.1.1, 3.1.3
- 3.5.2
- 3.6
- 3.7
- 3.8
- 3.9
- 3.10
- 3.11
- 3.12
- 3.13
- 3.14

4.2 In the case of marketing at events or on third party retail premises Sales Agents may make sales in accordance with the event times or the opening hours of the venue they are marketing in.

A graphic consisting of a blue rounded square on the left containing the text 'Section 5: Telesales', followed by a large, light blue arrow pointing to the right.

Section 5: Telesales

5.1 In any telephone call made by or on behalf of a Supplier to a customer for the purposes of marketing, the caller must, as soon as practicable, clearly identify:

- i. his or her name;
- ii. contact number (if requested by the customer);
- iii. the name of the Supplier on whose behalf the call is being made; and
- iv. the purpose of the call.

5.2 If told by a customer, at any time during a telephone conversation between the customer and the caller that the customer does not wish to continue, the caller must cease the phone call **immediately without attempting to change the customers mind. Furthermore the caller must not continue the conversation in any other way save to explain the terms of 5.3.**

5.3 The Supplier must also inform the customer they can be permanently removed from the contact list and remove the consumer from their contact list if asked.

5.4 Suppliers will also use the Telephone Preference Services¹

5.5 Unless otherwise requested, a Supplier must only contact a domestic consumer at home for marketing purposes between:

- i. 9am to 8pm on weekdays; and

¹ www.tpsonline.org.uk/tps/whatistps.html or contact 0845 070 0707.

ii. 9am to 7pm on Saturdays.

And not during:

- iii. Christmas Eve;
- iv. Any Public or Bank Holiday; or
- v. Sundays.

Domestic consumers should not be contacted outside of these times.

5.6 Similarly to Section 4 (Face-to-Face selling/contact) the following elements of Section 3 (Doorstep selling) will also apply:

- 3.1.3 (follow up to website or telephone contact by the customer sent to customer as part of their 'written information')
- 3.5.2
- 3.6
- 3.7 (this would be a follow up to the telephone call as part of the 'written information')
- 3.8 (this would be a follow up to the telephone call as part of the 'written information')
- 3.9 (as well as all telesales being recorded (regardless of whether a sign up occurs) and held for a minimum of 6 months)
- 3.10 (this would be a follow up to the telephone call as part of the 'written information')
- 3.11
- 3.12
- 3.13
- 3.14

5.7 In the event of a customer signing up, the agent must inform the customer that there is a standard sales checklist and that this will be sent out to them as part of their 'written information'.



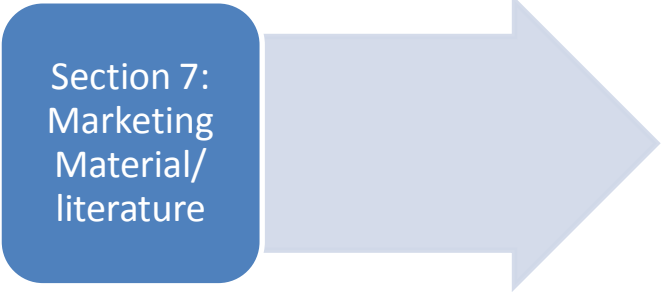
Section 6: Website/ Telephone

This Section applies when a customer proceeds with an application to switch online or via the telephone i.e. where the customer has proactively engaged with the Supplier.

6.1 If a customer is 'signed up' via the website/internet or telephone then the Supplier must also comply with the following sections of this Code:

- 3.1.3 (follow up to website or telephone contact by the customer sent to customer as part of their 'written information')
- 3.5.2 – telephone only
- 3.6 – telephone only
- 3.7 – (follow up to website or telephone contact by the customer sent to customer as part of their 'written information')
- 3.8 – (follow up to website or telephone contact by the customer sent to customer as part of their 'written information')
- 3.9 (as well as all telesales being recorded (regardless of whether a sign up occurs) and held for a minimum of 6 months)
- 3.10 - (follow up to website or telephone contact by the customer sent to customer as part of their 'written information')
- 3.11 of this Code except for 3.11.5 for online sign up
- 3.12
- 3.13
- 3.14

6.2 Records of sales pages on the website and updates to these should be retained for a period of 2 years.



Section 7: Marketing Material/ literature

Marketing Materials will be all materials and information related to potential offerings including printed materials, information and information on websites

- 7.1** Suppliers, or those acting on behalf of the Suppliers, must ensure that any of their marketing material is legal, decent, honest, easily understandable and truthful.
- 7.2** Information contained in marketing literature should be as accurate and up to date as possible.
- 7.3** All marketing communications should respect the principles of fair competition.
- 7.4** Marketing communications must be in line, and fully compliant, with all current relevant advertising and marketing legislation.
- 7.5** Where marketing literature contains prices or price comparisons it must comply with those conditions set out in 3.7 and 3.8.

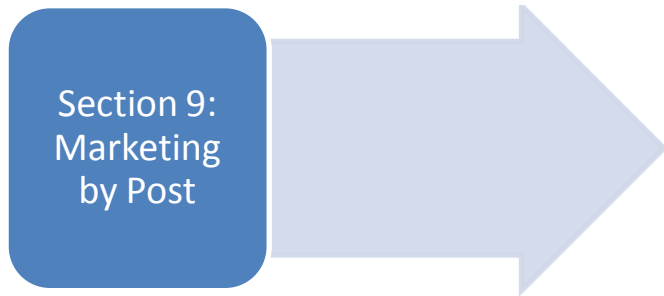
Section 8:
Marketing
by email /
via text
message or
Social Media



- 8.1** Suppliers may send electronic mail or SMS for direct marketing purposes in line with appropriate regulations.
- 8.2** Where a Supplier engages in marketing via e-mail to customers, the Supplier must provide the following information to customers:
- 8.2.1 the Supplier's name and address; and
 - 8.2.2 the Supplier's e-mail address or other means of electronic contact; or
 - 8.2.3 the Supplier's contact telephone number; and
 - 8.2.4 an easy method of unsubscribing/ removing their email address from future messages at no cost to the customer. This should be clearly shown on the e-mail.
- 8.3** Where a Supplier engages in marketing via SMS to customers, the Supplier must provide the following information to customers:
- 8.3.1 the Supplier's name and contact number; and
 - 8.3.2 an easy method of unsubscribing/removing their mobile phone number from future messages at no cost to the customer.
- 8.4** If the consumer chooses to opt out of future marketing the Supplier must not contact that consumer in any way for marketing purposes, unless the consumer has agreed or asked for further contact. The Supplier must suppress their details or move their details to a 'not for contact' file or database within 28 days. After that time, the consumer should not be contacted without their consent. A consumer may ask for written confirmation from the Supplier that they will not be contacted and this should be provided within 40 days of the request.
- 8.5** Where a Supplier employs agents to conduct direct marketing on its behalf, any requests from consumers to be removed from the database should be forwarded to that agent who must follow the same procedure.
- 8.6** A Supplier must be able to show that it is complying by keeping a 'not for contact' database.

8.7 Suppliers will also use the Telephone Preference Services².

8.8 In relation to Marketing by email/via text message or Social media a Supplier must also adhere to the conditions laid out in Section 7 of this Code.



9.1 If a Supplier or someone acting on their behalf carries out marketing by post they must also comply with Section 7 of this Code and respect the appropriate regulations applicable in Northern Ireland for all marketing communications, including the Mailing Preference Service³.

9.2 Consumers are entitled to request that they no longer receive marketing material (i.e. marketing material which is addressed to them) from a Supplier. Suppliers are obliged to ensure those consumers no longer receive marketing material from them. If this is the case they must also comply with Section 8.4-8.7 of this Code. In addition to this, Suppliers may not pass on any information they hold on a customer to any third party.

9.3 Consumers may continue to receive general marketing information (e.g. flyers) from the Supplier delivered with their mail.

² www.tpsonline.org.uk/tps/whatistps.html or contact 0845 070 0707.

³ <http://www.mpsonline.org.uk/mpsr/what/>



Glossary of Terms

Agent: An agent refers to a person or organisation which conducts marketing activities on behalf of electricity and natural gas Suppliers.

Consumer/customer: A consumer/customer can be either an existing or potential consumer/customer of an electricity and / or natural gas Supplier. In this document, consumer/customer refers to domestic consumers/customers only.

Marketing / Marketing Activities: Marketing activities refers to the practices of an electricity and / or natural gas Supplier when selling their services to a consumer.

Supplier: A Supplier refers to an electricity or natural gas company providing a supply of electricity or natural gas in Northern Ireland

“Code”: or “Marketing Code of Practice” means this Code of Practice for the Marketing of Energy Supply.

‘Written Information’ is information supplied to a consumer/customer after a sale has been made. It can be sent via post or via e mail.

Doorstep Selling: Doorstep selling is when someone sells services in someone's home or on their doorstep.

Face-to-Face Selling/Contact: Face-to-face selling and contact with customers is taken to mean any situation whereby a sales representative of the energy supplier comes into contact with a potential customer (e.g. shopping centre stands)

Cooling off period: refers to the Period of time after a purchase during which the purchaser has the right to return goods for a refund, or to cancel a contract without penalty

Annexe A – Sales checklist format

Suppliers are free to brand the checklist, however the checklist should state the following as is:

Energy Sales Checklist

The Utility Regulator requires all suppliers to give potential customers a copy of this checklist before signing them up for an account.

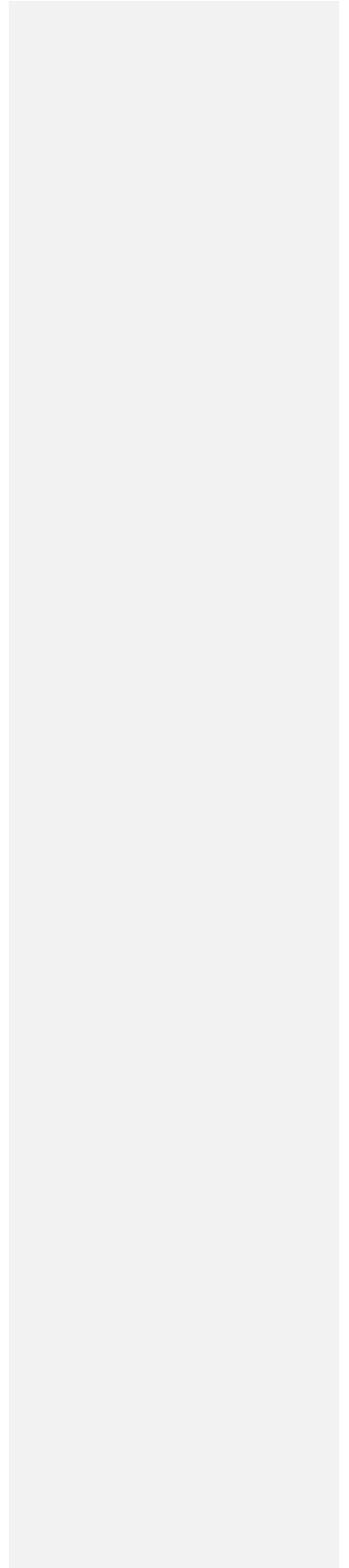
Please go through each question and make sure that the sales agent has covered each step.

Did the agent:

- a)** In the case of face-to-face or doorstep, show you his/her identification card and tell you which company they are working for?
- b)** Go through the products on offer and explain the charges to you?
- c)** Explain how any discounts will be applied to your account?
- d)** Explain the key terms and conditions of supply?
- e)** Explain how long the contract applies for?
- f)** Explain how you will be billed?
- g)** Explain how to make payments on your account and any budgeting options available? By direct debit, in cash
- h)** Explain any deposit that may apply to your account?
- i)** Explain any penalties that apply if you do not meet the terms of the contract?
- j)** Explain how to cancel your contract if you change your mind? (Applies to Domestic Customers only)
- k)** Explain how your existing account will be closed and your new account will be opened
- l)** Give you a copy of your terms and conditions and the rates that apply to your account or explain how these will be sent to you?
- m)** Confirm that you understand that you are switching to a specified product with a specified payment method and explain any fixed term conditions you are agreeing to as part of the contract. This should include duration and any applicable exit fees and any other specific conditions of the fixed term.
- n)** Provide you with details of the cooling off period (Applies to Domestic Customers only) that applies and how to go about cancelling their request to switch supplier within that cooling off period (in line with existing legislation).
- o)** Confirm that you have read and understood this checklist?

If you believe our agent has acted inappropriately or you would like to confirm any aspect of your new account you can contact our customer services team: INSERT SUPPLIER CONTACT DETAILS WHICH WILL, AS A MINIMUM, INCLUDE A SUPPLIER (not Agent) TELEPHONE NUMBER.

Appendix II
Marketing Code of Practice for Domestic
Customers – Track Changed Version



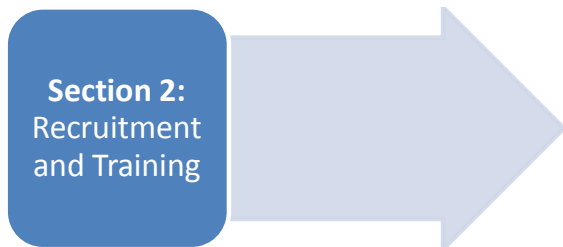
The UR Marketing Code of Practice for Domestic Customers

~~This code covers both Domestic & I&C customers unless otherwise indicated.~~

Nothing in this Code of Practice is intended to, or should be deemed to, constitute an exemption from the Suppliers' legal obligation to comply with any and all relevant legislation, statute, statutory instrument, regulation or order (or any provision thereof) or any subordinate legislation.



1.1 For clarity, where a Supplier contracts with a third party for the provision of Sales Agents, the Supplier must ensure that the third party complies with all components of this Code, ~~in relation to Sales/Marketing activities.~~ Any breaches of this code by a third party will be deemed to be a breach by the Supplier.



Recruitment

Formatted: Indent: Left: 0.63 cm,
Space Before: 5 pt, After: 0 pt, Line
spacing: At least 8.05 pt

2.1 A Supplier must put in place and follow procedures which are appropriate for the selection of ~~other Representatives~~ those who are employed or engaged in roles which might involve or will involve communication with Customers for the purpose of its Marketing Activities. These procedures must be fully compliant with all current employment legislation.

2.2 Suppliers will ensure that they only engage suitable individuals as Sales Agents. As an intrinsic part of the recruitment process, the Supplier must:

~~2.2.1 take into account the knowledge and skills of the individual in relation to the knowledge and skills required for the role; and~~

~~2.2.2 take all reasonable steps to obtain sufficient information about the individual's previous relevant activities and training.~~

~~Whilst operating within current employment legislation, Sales Agents will be recruited with due regard to:~~

~~2.3.2 Behaviour and appearance – the important role that the Sales Agent plays as the ‘public face’ of the industry must be recognised.~~

~~2.3.3 Security – due regard must be given to the checking of appropriate references in assing the appropriateness of the individual to the role of the Sales Agent.~~

2.4 The following are also explicit requirements in the selection of Sales Agents:

~~2.4.1 Sales agents must provide proof of NI numr (or temporary NI number), proof of addss and two references. Where a temrary NI number is provided a valid passport must also be provided.~~

~~2.4.2 Refers must not be related to the applint.~~

~~2.4.3 A priry reference must be a busine rference and preferably their la employewith either a criminal record repo or (subsequent to this code being implemented) a reference from a previous employer who adheres to this Code in compliance with their supplier licence. If a criminal record check or reference from a previous employer who adhered to this Code is not available, a secondary business or professional/character reference is required.~~

~~2.4.4 All Suppliers will carry out a CRB Check in relation to any individual prior to being allowed to become a Sales agent representing that Supplier.~~

~~2.4.5.2.2 If a Sales Agent ceases to represent the Supplier, a copy of his or her records will be retained by the Supplier for a minimum period of three years. Tthe Supplier should also ensure retrieval of the agent's ID card.~~

Training

2.5.2.3 A Supplier must provide or procure appropriate training for all staff or other Representatives who communicate with Customers for the purposes of the licensee's Marketing Activities. This training should include, but not be limited to, training about the Supplier's obligations insofar as they affect Customers, including its obligations under this Code.

2.6.2.4 Suppliers will ensure that as a minimum the training will:

~~2.6.1.2.4.1~~ take into account the knowledge and skills necessary to fulfil the role.

Formatted: Font: 11.5 pt, Font color: Text 2

Formatted

Formatted

Formatted

Formatted: Outline numbered + Level: 3 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0 cm + Indent at: 1.27 cm

Formatted: Normal, No bullets or numbering

Formatted: Font: 11.5 pt

Formatted: Font: 11.5 pt, Font color: Text 2

Formatted

Formatted

Formatted: Font: 11.5 pt

Formatted: Font: 11.5 pt, Font color: Text 2

Formatted: Font: 11.5 pt

Formatted: Font: 11.5 pt, Font color: Text 2

Formatted: Font: 11.5 pt

Formatted: Indent: Left: 1.27 cm, No bullets or numbering

Formatted: Font color: Red

Formatted: Font: 11.5 pt

Formatted

~~2.6.22.4.2~~ take into account changes in the market and to products/services, legislation and regulation.

~~2.6.32.4.3~~ Insofar as possible be reflective of consumer ethnicity and diversity.

~~2.6.42.4.4~~ provide training on the recognition and treatment of vulnerable consumers.

~~2.6.5 be compliant with relevant equal opportunities employment legislation.~~

~~2.6.62.4.5~~ be linked to a verifiable standard of competence measurement.

~~2.6.7 include a probationary period for all new recruits.~~

~~2.6.82.4.6~~ include defined monitoring procedures to ensure consistency of training delivery.

~~2.6.92.4.7~~ be effective and up to date.

Should contain details such as:

~~2.6.102.4.8~~ relevant customer terms and conditions.

~~2.6.112.4.9~~ relevant principles of consumer protection law.

~~2.6.122.4.10~~ customer cancellation process.

~~2.6.132.4.11~~ the procedure for handling customer complaints.

~~2.6.14~~ ~~2.4.12~~ the consequences of mis-selling or deliberately giving false information to a customer or any other such breach of this code.

Formatted: Indent: Left: 1.27 cm,
No bullets or numbering

Formatted: Indent: Left: 1.27 cm,
No bullets or numbering

Section 3: Doorstep Selling

3.1 If a Supplier engages in marketing calls at a consumer's premises or place of residence, upon arrival, the Supplier must immediately:

3.1.1 Produce/Display an identity card, and if appropriate, a business card, which clearly displays their full name and photograph and the name, business address, contact number of the Supplier and an expiry date for validity of the card. Thereafter, the Supplier must always show the

card to the consumer if asked. Sales Agents must not misrepresent themselves or the purpose of their visit. ~~The sales agent should be verifiable through the 'Quick Check'⁴ scheme.~~

3.1.2 Give the consumer the reason for the visit and clarify if the consumer wishes to proceed with a presentation about the product(s) being sold. If they do not, the Supplier must leave the premises immediately and inform the consumer they can be removed from the contact list. The Supplier must tell the consumer that this option is available and action such removal if requested. how to do this if asked and action such removal if the consumer wishes to be removed. ~~A Supplier must be able to demonstrate that they are complying with this by keeping a 'not for contact' database.~~

3.1.3 Provide the customer with a copy of the ~~standard doorstep/face-to-face~~ sales checklist (for the customer to keep) prior to the commencement of the sales pitch; this is to help the customer ensure that the agent has followed the correct procedure (See Annex ~~AB~~).

3.2 The salesperson must obtain permission from the consumer before entering their ~~premises or~~ place of residence. A consumer has the right to refuse to let the salesperson enter their ~~premises /~~ residence, and may wish to either end the conversation or continue with it at their doorstep. If a customer indicates that the contact is unwelcome the salesperson must cease immediately and leave the premises.

3.3 Unless otherwise requested, a Supplier must only contact a domestic consumer at home for marketing purposes between:

- i. 9am to ~~8~~7pm on weekdays; and
- ii. 9am to 7pm on Saturdays.

And not during:

- iii. Christmas Eve;
- iv. Any Public or Bank Holiday; or
- v. Sundays.

Domestic consumers should not be contacted outside of these times.

~~3.4 Contacting business customers~~

⁴ ~~http://www.psn.police.uk/quick_check~~

~~There are no specific time constraints on when business consumers can be contacted. However suppliers are asked to exercise reasonable judgment outside the consumer's normal business hours. Supplier~~Suppliers should be aware that business opening hours vary before contacting the business consumer.

~~3.5.4~~ 3.5.4 Where there is sheltered housing, approval must be gained from the warden or other person in authority before making any approach to the residents.

~~3.6.3.5~~ 3.6.3.5 Sales Agents will:

~~3.6.1~~ 3.6.1 take account of the consumer's personal circumstances.

~~3.6.2.3.5.1~~ 3.6.2.3.5.1 not call on any premises where there is a message prominently displayed in the form of a visible, clearly worded and unambiguous notice indicating that a consumer does not wish to receive uninvited doorstep sales callers.

~~3.6.3.3.5.2~~ 3.6.3.3.5.2 Sales Agents must not exploit a person's inexperience, vulnerability, credulity, loyalties or intimidate a consumer in an attempt to restrict their ability to make an informed choice.

~~3.7.3.6~~ 3.7.3.6 Sales Agents must at all times:

~~3.7.1.3.6.1~~ 3.7.1.3.6.1 be courteous and professional.

~~3.7.2.3.6.2~~ 3.7.2.3.6.2 avoid the consumer misunderstanding ~~any~~not give any misleading information given or making false assumptions, in particular over potential savings, ~~or and must not~~act to mislead or make omissions designed to mislead.

~~3.7.3.3.6.3~~ 3.7.3.3.6.3 must not use high pressure tactics ~~and be fully compliant with all current relevant consumer protection and sales legislation or any Banned Practices², Misleading Practices or Aggressive Commercial Practices³.~~

~~3.8.3.7~~ 3.8.3.7 Sales Agents must provide the consumer in writing or by means of an electronic display, the unit rate which the customer will be charged for all products discussed.

~~3.8.1.3.7.1~~ 3.8.1.3.7.1 Tariffs with standard unit rates ~~should~~must be shown in the following formats:

Display tariffs inclusive and exclusive of VAT on a per unit basis. Rates should be shown side by side inclusive and exclusive of VAT.

Tariff Name	Pence per unit (ex.	Pence per unit (inc.
-------------	---------------------	----------------------

² http://www.oft.gov.uk/shared_oft/business_leaflets/epregs/oft1008.pdf

³ http://www.oft.gov.uk/shared_oft/business_leaflets/epregs/oft1008.pdf

Formatted: Indent: Left: 1.27 cm,
No bullets or numbering

	VAT)	VAT)

Tariffs with ~~Show~~ standing charges (if applicable) must be shown as an annual amount (or such other period e.g. quarter as is applicable) inclusive and exclusive of VAT that applies to the tariff. This approach should be applied to any other fixed charge applied by the Supplier. All associated fixed costs should be presented alongside unit rates and any discounts on unit rates in the same text and font size.

Tariff Name	Pence per unit (ex. VAT)	Pence per unit (inc. VAT)	Standing Charge for Year/Period (ex. VAT)	Standing Charge for Year/Period (inc. VAT)

Furthermore tariffs with any discounts being offered off the standard rate tariff of that Supplier (e.g. for Direct Debit or a discounted period) should be shown in the following format.

Each discount must be set out clearly in pence per unit (or such other discount applicable e.g. quarterly discount amount, fixed amount discount) alongside the standard unit rate to demonstrate the actual unit rate the customer will be charged (including any discounts) and the duration of any discount.

Note that the discounts used in the table below are for illustrative purposes:

	Standard Unit Rate	Dual Fuel Discount	Dual Fuel/DD Discount	Dual Fuel/DD/E-billing Discount
Pence per Unit (ex. VAT)	10.00	9.00	8.00	7.00

~~3.8.23.7.2~~ Where a Supplier is offering a dual fuel bundle, the gas and electricity tariffs should be shown separately with details provided on additional components of the tariff.

~~3.8.33.7.3~~ For differently composed or more complex tariffs where additional tariff rate elements are included in the proposal, such as tiered unit charges, Time of Day charges, fuel price pass through, wholesale price pass through, seasonal tariffs etc, kVA capacity or reactive charges or where there are other differences (e.g. no standing charge but a minimum usage charge instead) all the relevant required the information ~~required in 3.8.1 and 3.8.2~~ should be clearly displayed, in a similar manner to the aforementioned illustrations.

~~3.8.4~~ Indexed or pass through tariffs, such as pool uplift, should clearly show the Supplier's own cost elements as a unit rate alongside other pass through tariff elements.

~~3.8.5~~ Any seasonally adjusted tariff rates need to be clearly associated with the relevant time of day rates. Where these seasonal tariff rates are compared with annual rates appropriate consumptions weightings should be used to provide a fair comparison.

~~3.9.3.8~~ For all consumers where the Sales Agent had **stated they can save money** on Energy Supply the Sales Agent must provide a comparison with the consumers current unit rates (i.e. those being charged by the consumers existing Supplier including any current discounts given) in writing or by means of an electronic display. The format for the comparison of these unit rates must be the same as that laid out in Section 3.8.4. To avoid any confusion caused by varying consumption levels agents will not be permitted to provide comparisons on an annual bill basis where the timescales and energy consumptions are not the same. For more complex tariff offerings agents must provide clear and transparent information that illustrates the offering adequately and any savings quoted.

The unit rate comparison must:

~~3.9.13.8.1~~ be based on the best information available to the Sales Agent. This must be information that is accurate and relevant to proving to the (specific) consumer that switching will save them money as stated by the sales agent. If no information or inadequate information is available e.g. if the sales agent cannot ascertain what the consumer's current unit rate is, then the sales agent will not state that he/she can save the consumer money or they will retract any previous statement made indicating that they could save the consumer money.

~~3.9.23.8.2~~ include any relevant differences.

~~3.103.9~~ In the event a sale/sign-up is made, Suppliers will maintain records for not less than 2 years including the date of contact with the consumer and sufficient information to allow the positive identification of the Sales Agent involved. Any material shown to the customer such as price comparison information should also be maintained (including electronic displays). This will assist in dealing with any complaint or query. In the

Formatted: Indent: Left: 1.27 cm,
No bullets or numbering

event of no sale being made Suppliers must retain sufficient information to allow the identification of the Sales Agent involved for a minimum of 1 year.

~~3.11~~3.10 Where the customer enters into an Energy Supply contract the Sales Agent must provide the customer with a copy of the written unit rate(s) in one of the formats specified in Section 3.8.1 to 3.8.5 and also with a written copy of the Terms and Conditions of the contract and obtain a signature from the consumer to confirm this. If it has been claimed savings can be made the “written information” pack must also include the relevant comparative information presented to the customer, as detailed Section 3.8 or a copy of the comparative information is left with the customer to keep.

~~3.12~~3.11 The sales agent must:

~~3.12.1~~3.11.1 not abuse the trust of vulnerable or inexperienced customers, for example those who are elderly or those who have special needs. Sales agents should not complete an energy supply contract with customers who are not capable, at the time of the contact, of making an informed decision as to whether or not to enter into the contract.

~~3.12.2~~3.11.2 ensure that details of how a customer’s account information may be used with respect to debt flagging is clearly set out on the sign up form and within the sign up process. Explain how a debt flag may be raised against the customer’s account by their existing Supplier.

~~3.12.3~~3.11.3 provide the customer with details of anythe cooling off period that applies and how to go about cancelling their request to switch Supplier within that “cooling off” period (in line with existing legislation).

~~3.12.4~~3.11.4 confirm that the customer has read and understood the doorstep/face-to-face sales checklist (where the customer is being signed up in person).

~~3.12.5~~3.11.5 provide their ID name/number in writing.

~~3.13~~3.12 Suppliers must design application literature such that the nature of the literature or forms is clear to the consumer. It must be made clear on the literature itself that the consumer is entering into a legal and binding contract and a statement of this nature should be immediately adjacent to where the consumer signs, so that the word CONTRACT or AGREEMENT cannot be obscured or concealed.

~~3.14~~3.13 Suppliers must within 7 days of entering into the Energy Supply contract, take all reasonable steps to ensure the consumer receives ‘written information’. This information can be sent via e mail or post and will clearly: ~~contact the consumer to confirm that the consumer:~~

~~3.14.1~~3.13.1 understands state that they have entered into a contract.

3.13.2 States the customers right to cancel within the 10 day ‘cooling-off’ period.

~~3.14.2~~3.13.3 understands state the principal terms and conditions of the contract including any fixed term conditions, duration any applicable exit fees and any other specific conditions of the contract.

~~3.14.3~~ is content to have entered into that contract.

~~3.14.4~~~~3.13.4~~ ~~has received in writing or been shown (by means of electronic display) state~~ the estimate of the proposed unit rates and any comparison given by a sales agent.

~~3.14.5~~~~3.13.5~~ ~~Suppliers will, in confirming an Energy Supply contract, advise the consumer of state~~ the expected date of commencement of supply.

~~3.15~~ ~~Where a consumer has entered into an Energy Supply contract the company must maintain a record of the information provided to that consumer for a minimum of 2 years.~~

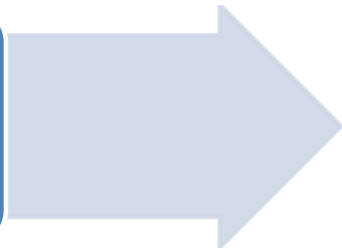
~~3.16~~~~3.14~~ ~~Where the consumer indicates (within the 10 day 'cooling-off' period) that they in response to 3.15 that they~~ are not content to have entered into an Energy Supply contract the company must take all reasonable steps to ensure that:

~~3.16.1~~~~3.14.1~~ ~~the contract is ended.~~

~~3.14.2~~ ~~the company does not begin to supply the consumer.~~

Formatted: Indent: Left: 0.63 cm,
No bullets or numbering

Section 4:
Face-to-Face
selling/
contact



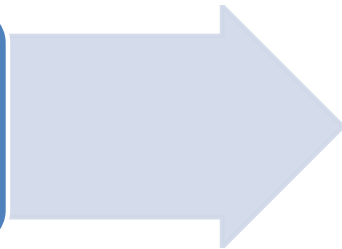
4.1 In relation to Face to Face selling, as well as the stipulations laid out here in 4, the following elements of Section 3 (Doorstep Selling) should also be adhered to:

- 3.1.1, 3.1.3
- ~~3.6.1~~, 3.6.3
- 3.7
- 3.8
- 3.9
- 3.10
- 3.11
- 3.12
- 3.13
- 3.14
- ~~3.15~~
- 3.16

4.2 In the case of marketing at events or on third party retail premises Sales Agents may make sales in accordance with the event times or the opening hours of the venue they are marketing in.

- i. ~~Between 8am and 10pm.~~

Section 5:
Telesales



Formatted: Indent: Left: 1.27 cm,
No bullets or numbering

Formatted: Indent: Left: 1.9 cm, No
bullets or numbering

5.1 In any telephone call made by or on behalf of a ~~supplier~~Supplier to a customer for the purposes of marketing, the caller must, as soon as practicable, clearly identify:

- i. his or her name; ~~and~~
- ii. contact number (if requested by the customer); ~~and~~
- iii. the name of the Supplier on whose behalf the call is being made; and
- iv. the purpose of the call.

5.2 If told by a customer, at any time during a telephone conversation between the customer and the caller that the customer does not wish to continue, the caller must cease the phone call **immediately without attempting to change the customers mind. Furthermore the caller must not continue the conversation in any other way save to explain the terms of 5.3.**

5.3 The Supplier must also inform the customer they can be permanently removed from the contact list and remove the consumer from their contact list if asked.

5.4 Suppliers will also use the Telephone Preference Services⁴.

~~5.3~~5.5 Unless otherwise requested, a Supplier must only contact a domestic consumer at home for marketing purposes between:

- i. 9am to 8pm on weekdays; ~~and~~
- ii. 9am to 7pm on Saturdays.

And not during:

- iii. Christmas Eve;
- iv. Any Public or Bank Holiday; ~~or~~
- v. Sundays.

Domestic consumers should not be contacted outside of these times.

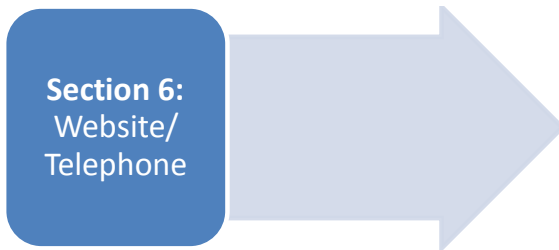
~~5.4~~5.6 Similarly to Section 4 (Face-to-Face selling/contact) the following elements of Section 3 (Doorstep selling) will also apply:

⁴ www.tpsonline.org.uk/tps/whatistps.html or contact 0845 070 0707.

Formatted: Pa6, Space Before: 5 pt,
After: Auto, Outline numbered +
Level: 2 + Numbering Style: 1, 2, 3, ...
+ Start at: 1 + Alignment: Left +
Aligned at: 0 cm + Indent at: 0.63 cm

- 3.1.3 (follow up to website or telephone contact by the customer sent to customer as part of their 'written information')
- ~~3.6.1~~, 3.6.3
- 3.7
- 3.8 (this would be a follow up to the telephone call as part of the 'written information')
- 3.9 (this would be a follow up to the telephone call as part of the 'written information')
- 3.10 (as well as all telesales being recorded (regardless of whether a sign up occurs) and held for a minimum of 6 months)
- 3.11 (this would be a follow up to the telephone call as part of the 'written information')
- 3.12
- 3.13
- 3.14
- ~~3.15~~
- 3.16

Formatted: Indent: Left: 1.27 cm,
No bullets or numbering



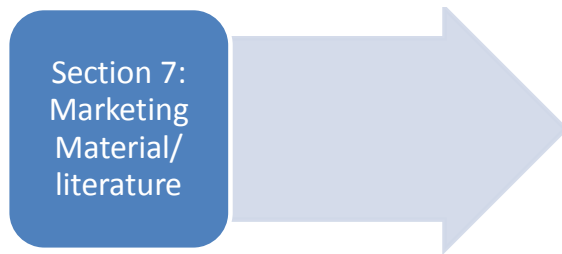
This Section applies when a customer proceeds with an application to switch online or via the telephone i.e. where the customer has proactively engaged with the ~~Supplier~~Supplier.

6.1 If a customer is 'signed up' via the website/internet or telephone then the Supplier must also comply with the following sections of this Code:

- 3.1.3 (follow up to website or telephone contact by the customer sent to customer as part of their 'written information')
- ~~3.6.1~~, 3.6.3 – telephone only
- 3.7 – telephone only

- 3.8 – (follow up to website or telephone contact by the customer sent to customer as part of their 'written information')
- 3.9 – (follow up to website or telephone contact by the customer sent to customer as part of their 'written information')
- 3.10 (as well as all telesales being recorded (regardless of whether a sign up occurs) and held for a minimum of 6 months)
- 3.11 - (follow up to website or telephone contact by the customer sent to customer as part of their 'written information')
- 3.12 of this code except for 3.12.5 for online sign up (sales agent ID/name in the case of website)
- 3.13
- 3.14
- ~~3.15~~
- 3.16
- 3.17

6.2 Records of sales pages on the website, and updates to these, should be retained for a period of 2 years.



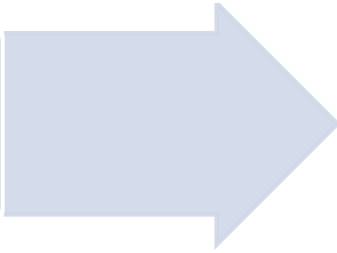
Marketing Materials will be all materials and information related to potential offerings including printed materials, information and information on websites

- 7.1 Suppliers, or those acting on behalf of the Suppliers, must ensure that any of their marketing material is legal, decent, honest, easily understandable and truthful.
- 7.2 Information contained in marketing literature should be as accurate and up to date as possible.
- 7.3 All marketing communications should respect the principles of fair competition.

7.4 Marketing communications must be in line, and fully compliant, with all current relevant advertising and marketing legislation. ~~the Committee of Advertising Practice's Code⁵ (The CAP Code).~~

7.5 Where marketing literature contains prices or price comparisons it must comply with those conditions set out in 3.8 and 3.9.

Section 8:
Marketing
by email /
via text
message or
Social Media



8.1 Suppliers may send electronic mail or SMS for direct marketing purposes in line with appropriate regulations.

8.2 Where a Supplier engages in marketing via e-mail to customers, the Supplier must provide the following information to customers:

- 8.2.1 the Supplier's name and address; and
- 8.2.2 the Supplier's e-mail address or other means of electronic contact; or
- 8.2.3 the Supplier's contact telephone number; and
- 8.2.4 an easy method of unsubscribing/ removing their email address from future messages at no cost to the customer. This should be clearly shown on the e-mail.

8.3 Where a Supplier engages in marketing via SMS to customers, the Supplier must provide the following information to customers:

- 8.3.1 the Supplier's name, ~~address~~ and contact number; and
- 8.3.2 an easy method of unsubscribing/removing their mobile phone number from future messages at no cost to the customer.

⁵ <http://www.cap.org.uk/The-Codes/CAP-Code.aspx>

8.4 If the consumer chooses to opt out of future marketing the Supplier must not contact that consumer in any way for marketing purposes, unless the consumer has agreed or asked for further contact. The Supplier must suppress their details or move their details to a 'not for contact' file or database within 28 days. After that time, the consumer should not be contacted without their consent. A consumer may ask for written confirmation from the Supplier that they will not be contacted and this should be provided within 40 days of the request.

Formatted: Space After: Auto, Line spacing: At least 8.05 pt, Outline numbered + Level: 2 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0 cm + Indent at: 0.63 cm

8.5 Where a Supplier employs agents to conduct direct marketing on its behalf, any requests from consumers to be removed from the database should be forwarded to that agent who must follow the same procedure.

8.6 A Supplier must be able to show that it is complying by keeping a 'not for contact' database.

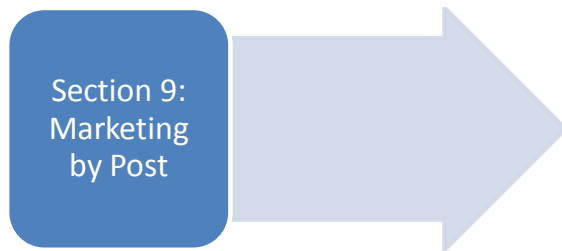
Formatted: Pa6, Space Before: 5 pt, After: Auto, Outline numbered + Level: 2 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0 cm + Indent at: 0.63 cm, Adjust space between Latin and Asian text, Adjust space between Asian

8.7 Suppliers will also use the Telephone Preference Services⁶ and Mailing Preference Services⁷ database available to them.

8.4.8.8 In relation to Marketing by email ~~or~~/via text message or Social media a Supplier must also adhere to the conditions laid out in Section 7 of this Code.

Formatted: Font: +Body, Not Superscript/ Subscript

Formatted: Font: +Body, Not Superscript/ Subscript



9.1 If a Supplier or someone acting on their behalf carries out marketing by post they must also comply with Section 7 of this Code and respect the appropriate regulations applicable in Northern Ireland for all marketing communications, including the Mailing Preference Service⁸.

9.2 Consumers are entitled to request that they no longer receive marketing material (i.e. marketing material which is addressed to them) from a Supplier. Suppliers are obliged to ensure those consumers ~~do not~~ no longer receive marketing material from them unless it has been specifically

⁶ www.tpsonline.org.uk/tps/whatistps.html or contact 0845 070 0707.

⁷ <http://www.mpsonline.org.uk/mpsr/what/>

⁸ <http://www.mpsonline.org.uk/mpsr/what/>

requested. If this is the case they must also comply with Section 8.4 to 8.8 of this Code. In addition to this, Suppliers may not pass on any information they hold on a customer to any third party.

9.3 Consumers may continue to receive general marketing information (e.g. flyers) from the Supplier delivered with their mail.



Formatted: Not Superscript/ Subscript

Formatted: Not Superscript/ Subscript

Formatted: Font color: Text 2, Not Superscript/ Subscript

Formatted: Font color: Text 2

Agent: An agent refers to a person or organisation which conducts marketing activities on behalf of electricity and natural gas Suppliers.

Formatted: Not Superscript/ Subscript

Consumer/customer: A consumer/customer can be either an existing or potential consumer/customer of an electricity and / or natural gas Supplier. In this document, consumer/customer refers to ~~both domestic and business consumers/customers only, unless otherwise stated.~~

Marketing / Marketing Activities: Marketing activities refers to the practices of an electricity and / or natural gas Supplier when selling their services to a consumer.

Supplier: A Supplier refers to an electricity or natural gas company providing a supply of electricity or natural gas in Northern Ireland

~~**Banned Practices:** are any practice banned under the Consumer Protection from Unfair Trading Regulations 2008.~~

~~-“Code”:~~ or “Marketing Code of Practice” means this Code of Practice for the Marketing of Energy Supply.

‘Written Information’ is information supplied to a consumer/customer after a sale has been made. It can be sent via post or via e mail.

Doorstep Selling: Doorstep selling is when someone sells services in someone's home or on their doorstep.

Face-to-Face Selling/Contact: Face-to-face selling and contact with customers is taken to mean any situation whereby a sales representative of the energy supplier comes into contact with a potential customer (e.g. shopping centre stands)

Cooling off period: refers to the Period of time after a purchase during which the purchaser has the right to return goods for a refund, or to cancel a contract without penalty

Annexe A – Sales checklist format

Suppliers are free to brand the checklist, however the checklist should state the following as is:

Energy Sales Checklist

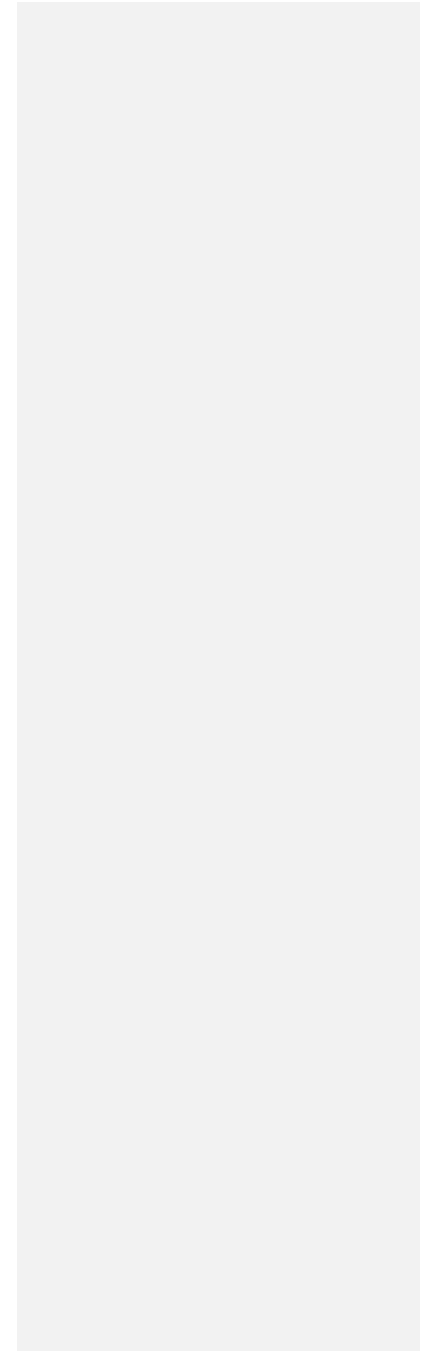
The Utility Regulator requires all suppliers to give potential customers a copy of this checklist before signing them up for an account.

Please go through each question and make sure that the sales agent has covered each step.

Did the agent:

- a) In the case of face-to-face or doorstep, show you his/her identification card and tell you which company they are working for?
- b) Go through the products on offer and explain the charges to you?
- c) Explain how any discounts will be applied to your account?
- d) Explain the key terms and conditions of supply?
- e) Explain how long the contract applies for?
- f) Explain how you will be billed?
- g) Explain how to make payments on your account and any budgeting options available? By direct debit, in cash
- h) Explain any deposit that may apply to your account?
- i) Explain any penalties that apply if you do not meet the terms of the contract?
- j) Explain how to cancel your contract if you change your mind? (Applies to Domestic Customers only)
- k) Explain how your existing account will be closed and your new account will be opened
- l) Give you a copy of your terms and conditions and the rates that apply to your account or explain how these will be sent to you?
- m) Confirm that you understand that you are switching to a specified product with a specified payment method and explain any fixed term conditions you are agreeing to as part of the contract. This should include duration and any applicable exit fees and any other specific conditions of the fixed term.
- n) Provide you with details of the cooling off period (Applies to Domestic Customers only) that applies and how to go about cancelling their request to switch supplier within that cooling off period (in line with existing legislation).
- o) Confirm that you have read and understood this checklist?

If you believe our agent has acted inappropriately or you would like to confirm any aspect of your new account you can contact our customer services team: INSERT SUPPLIER CONTACT DETAILS WHICH WILL, AS A MINIMUM, INCLUDE A SUPPLIER (not Agent) TELEPHONE NUMBER.



Appendix III
Marketing Code of Practice for Business
Customers

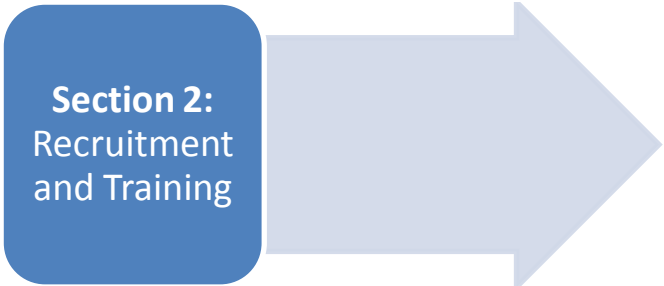
The UR Marketing Code of Practice for Business Consumers

This Code does not apply to electricity business consumers with an MIC \geq 70kVA.; or with annual consumption \geq 150MWh (per site, or in aggregate for customers with multiple sites). This Code also does not apply to natural gas business consumers with annual consumption \geq 732,000 KWh.

Nothing in this Code of Practice is intended to, or should be deemed to, constitute an exemption from the Suppliers' legal obligation to comply with any and all relevant legislation, statute, statutory instrument, regulation or order (or any provision thereof) or any subordinate legislation.



- 1.1** For clarity, where a Supplier contracts with a third party for the provision of Sales Agents, the Supplier must ensure that the third party complies with all components of this Code. Any breaches of this Code by a third party will be deemed to be a breach by the Supplier.

A graphic consisting of a blue rounded square on the left containing the text 'Section 2: Recruitment and Training', followed by a large, light blue arrow pointing to the right.

Section 2: Recruitment and Training

Recruitment

- 2.1 A Supplier must put in place and follow procedures which are appropriate for the selection of those who are employed or engaged in roles which might involve or will involve communication with Customers for the purpose of its Marketing Activities. These procedures must be fully compliant with all current employment legislation.
- 2.2 If a Sales Agent ceases to represent the Supplier, the Supplier should ensure retrieval of the agent's ID card.
- 2.3 A Supplier must provide or procure appropriate training for all staff or other Representatives who communicate with Customers for the purposes of the licensee's Marketing Activities. This training should include, but not be limited to, training about the Supplier's obligations insofar as they affect Customers, including its obligations under this Code.

Training

- 2.4 Suppliers will ensure that as a minimum the training will:
 - 2.4.1 take into account the knowledge and skills necessary to fulfil the role.
 - 2.4.2 take into account changes in the market and to products/services, legislation and regulation.
 - 2.4.3 Insofar as possible be reflective of consumer ethnicity and diversity.
 - 2.4.4 be linked to a verifiable standard of competence measurement.
 - 2.4.5 include defined monitoring procedures to ensure consistency of training delivery.
 - 2.4.6 be effective and up to date.
Should contain details such as:
 - 2.4.7 relevant customer terms and conditions.
 - 2.4.8 relevant principles of consumer protection law.
 - 2.4.9 customer cancellation process.
 - 2.4.10 the procedure for handling customer complaints.
 - 2.4.11 the consequences of mis-selling or deliberately giving false information to a customer or any other such breach of this Code.

A blue rounded square containing the text 'Section 3: Doorstep Selling' is positioned to the left of a large, light blue arrow pointing to the right.

Section 3: Doorstep Selling

- 3.1** If a Supplier engages in marketing calls at a consumer's premises, upon arrival, the Supplier must immediately:
- 3.1.1** Produce/Display an identity card, and if appropriate, a business card, which clearly displays their full name and photograph and the name, business address, contact number of the Supplier and an expiry date for validity of the card. Thereafter, the Supplier must always show the card to the consumer if asked. Sales Agents must not misrepresent themselves or the purpose of their visit.
 - 3.1.2** Give the consumer the reason for the visit and clarify if the consumer wishes to proceed with a presentation about the product(s) being sold. If they do not, the Supplier must leave the premises immediately and inform the consumer they can be removed from the contact list. The Supplier must tell the consumer that this option is available and action such removal if requested. A Supplier must be able to demonstrate that they are complying with this by keeping a 'not for contact' database.
 - 3.1.3** Provide the customer with a copy of the sales checklist (for the customer to keep) prior to the commencement of the sales pitch; this is to help the customer ensure that the agent has followed the correct procedure (See Annex A).
- 3.2** A consumer has the right to refuse to let the salesperson enter their premises, and may wish to end the conversation. If a customer indicates that the contact is unwelcome the salesperson must cease immediately and leave the premises.
- 3.3** Contacting business customers -there are no specific time constraints on when business consumers can be contacted. However Suppliers are asked to exercise reasonable judgment outside the consumer's normal business hours. Suppliers should be aware that business opening hours vary before contacting the business consumer.
- 3.4** Sales Agents will:
- 3.4.1** not call on any premises where there is a message prominently displayed in the form of a visible, clearly worded and unambiguous notice indicating that a consumer does not wish to receive uninvited doorstep sales callers.
- 3.5** Sales Agents must at all times:
- 3.5.1** be courteous and professional.

3.5.2 not give any misleading information or make false assumptions, in particular over potential savings, or act to mislead or make omissions designed to mislead.

3.5.3 not use high pressure tactics and be fully compliant with all current relevant consumer protection and sales legislation.

3.6 Sales Agents must provide the consumer in writing or by means of an electronic display, the unit rate which the customer will be charged for all products discussed.

3.6.1 Tariffs with standard unit rates should be shown in the following formats:

Display tariffs exclusive of VAT on a per unit basis.

Tariff Name	Pence per unit (ex. VAT)

Tariffs with standing charges (if applicable) must be shown as an annual amount (or such other period e.g. quarter as is applicable) exclusive of VAT that applies to the tariff. This approach should be applied to any other fixed charge applied by the Supplier. All associated fixed costs should be presented alongside unit rates and any discounts on unit rates in the same text and font size.

Tariff Name	Pence per unit (ex. VAT)	Standing Charge for Year/Period (ex. VAT)

Furthermore tariffs with any discounts being offered off the standard rate tariff of that Supplier should be clearly shown.

Each discount must be set out clearly in pence per unit alongside the standard unit rate to demonstrate the actual unit rate the customer will be charged (including any discounts) and the duration of any discount.

Note that the discounts used in the table below are for illustrative purposes:

	Standard	Discount A	Discount	Discount
--	----------	------------	----------	----------

	Unit Rate		A/Discount B	A/Discount B/Discount C
Pence per Unit (ex. VAT)	10.00	9.00	8.00	7.00

3.6.2 Where a Supplier is offering a dual fuel bundle, the gas and electricity tariffs should be shown separately with details provided on additional components of the tariff.

3.6.3 For differently composed or more complex tariffs where additional tariff rate elements are included in the proposal, such as tiered unit charges, Time of Day charges, fuel price pass through, wholesale price pass through, seasonal tariffs etc, all the relevant required information should be clearly displayed.

3.7 For all consumers where the Sales Agent had **stated they can save money** on Energy Supply the Sales Agent must provide a comparison with the consumers current unit rates (i.e. those being charged by the consumers existing Supplier including any current discounts given) in writing or by means of an electronic display. The format for the comparison of these unit rates must be the same as that laid out in Section 3.6. **To avoid any confusion caused by varying consumption levels agents will not be permitted to provide comparisons on an annual bill basis.** For more complex tariff offerings agents must provide clear and transparent information that illustrates the offering adequately and any savings quoted.

If applicable, unit rate, comparisons must:

3.7.1 be based on the best information available to the Sales Agent. This must be information that is accurate and relevant to proving to the (specific) consumer that switching will save them money as stated by the sales agent. If no information or inadequate information is available e.g. if the sales agent cannot ascertain what the consumer's current unit rate is, then the sales agent will not state that he/she can save the consumer money or they will retract any previous statement made indicating that they could save the consumer money.

3.7.2 include any relevant differences.

3.8 In the event a sale/sign-up is made, Suppliers will maintain records for not less than 2 years including the date of contact with the consumer and sufficient information to allow the positive identification of the Sales Agent involved. Any material shown to the customer such as price comparison information should also be maintained (including electronic displays). This will assist in dealing with any complaint or query. In the event of no sale being made Suppliers must retain sufficient information to allow the identification of the Sales Agent involved for a minimum of 1 year.

3.9 Where the customer enters into an Energy Supply contract the Sales Agent must provide the customer with a copy of the written unit rate(s) in one of the formats specified in Section 3.6 and obtain a signature from the consumer to confirm this. If it has been claimed savings can be made the “written information” must also include the relevant comparative information presented to the customer, as detailed Section 3.7 or a copy of the comparative information is left with the customer to keep.

3.10 The sales agent must:

3.10.1 ensure that details of how a customer’s account information may be used with respect to debt flagging is clearly set out on the sign up form and within the sign up process. Explain how a debt flag may be raised against the customer’s account by their existing Supplier.

3.10.2 confirm that the customer has read and understood the doorstep/face-to-face sales checklist (where the customer is being signed up in person).

3.10.3 provide their ID name/number in writing.

3.11 Suppliers must design application literature such that the nature of the literature or forms is clear to the consumer. It must be made clear on the literature itself that the consumer is entering into a legal and binding contract and a statement of this nature should be immediately adjacent to where the consumer signs, so that the word CONTRACT or AGREEMENT cannot be obscured or concealed.

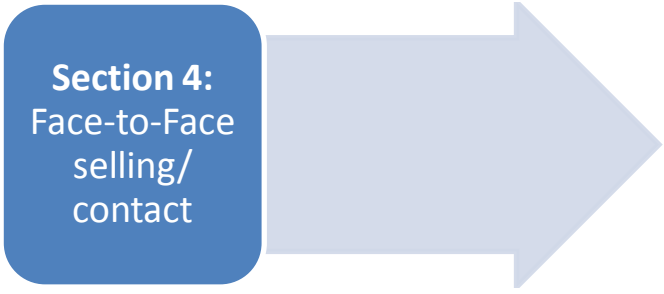
3.12 Suppliers must within 7 days of entering into the Energy Supply contract, take all reasonable steps to ensure the consumer receives ‘written information’. This information can be sent via e mail or post and will clearly:

3.12.1 state that they have entered into a contract.

3.12.2 state the principal terms and conditions of the contract including any fixed term conditions, duration any applicable exit fees and any other specific conditions of the contract.

3.12.3 state the proposed unit rates and any comparison given by a sales agent .

3.12.4 state the expected date of commencement of supply.



Section 4:
Face-to-Face
selling/
contact

4.1 In relation to Face to Face selling, as well as the stipulations laid out here in 4, the following elements of Section 3 (Doorstep Selling) should also be adhered to:

- 3.1.1, 3.1.3
- 3.5
- 3.6
- 3.7
- 3.8
- 3.9
- 3.10
- 3.11
- 3.12

4.2 In the case of marketing at events or on third party retail premises Sales Agents may make sales in accordance with the event times or the opening hours of the venue they are marketing in.

A blue rounded square containing the text 'Section 5: Telesales' is positioned to the left of a large, light blue arrow pointing to the right.

Section 5: Telesales

5.1 In any telephone call made by or on behalf of a Supplier to a customer for the purposes of marketing, the caller must, as soon as practicable, clearly identify:

- i. his or her name;
- ii. contact number (if requested by the customer);
- iii. the name of the Supplier on whose behalf the call is being made; and
- iv. the purpose of the call.

5.2 If told by a customer, at any time during a telephone conversation between the customer and the caller that the customer does not wish to continue, the caller must cease the phone call **immediately without attempting to change the customers mind.**

5.3 If told that they do not wish to be contacted again by the Supplier for telesales, the Supplier should adhere to this wish and place the customer on their 'not for contact list'.

5.4 Suppliers will also use the Telephone Preference Service¹ which applies to Sole Traders and the Corporate Telephone Preference Service².

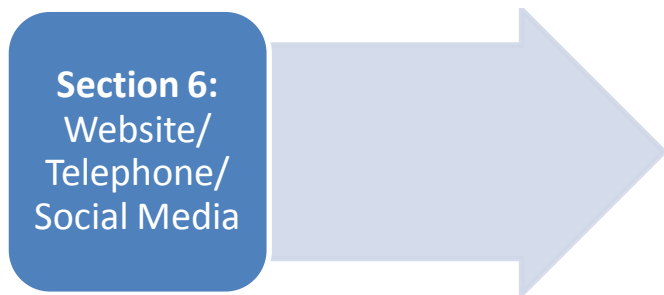
¹ <http://www.tpsonline.org.uk/tps/whatistps.html>

² <http://www.tpsonline.org.uk/tps/whatiscorporatetps.html>

5.5 Contacting Customers - there are no specific time constraints on when business Consumers can be contacted. However Suppliers are asked to exercise reasonable judgment outside the Consumer's normal business hours. Suppliers should be aware that business opening hours vary before contacting the business consumer.

5.6 Similarly to Section 4 (Face-to-Face selling/contact) the following elements of Section 3 (Doorstep selling) will also apply:

- 3.1.3 (follow up to website or telephone contact by the customer sent to customer as part of their 'written information')
- 3.5
- 3.6 (this would be a follow up to the telephone call sent to customer as part of their 'written information')
- 3.7 (this would be a follow up to the telephone call sent to customer as part of their 'written information')
- 3.8 (as well as all telesales being recorded (regardless of whether a sign up occurs) and held for a minimum of 6 months)
- 3.9 (this would be a follow up to the telephone call sent to customer as part of their 'written information')
- 3.10
- 3.11
- 3.12



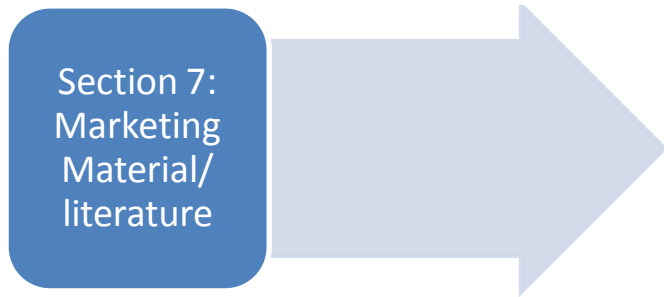
This Section applies when a customer proceeds with an application to switch online or via the telephone i.e. where the customer has proactively engaged with the Supplier.

6.1 If a customer is 'signed up' via the website/internet then the Supplier must also comply with the following sections of this Code:

- 3.1.3 (follow up to website or telephone contact by the customer sent to customer as part of their 'written information')

- 3.5 – telephone only
- 3.6 – (follow up to website or telephone contact by the customer sent to customer as part of their ‘written information’ pack)
- 3.7 – (follow up to website or telephone contact by the customer sent to customer as part of their ‘written information’ pack)
- 3.8 (as well as all telesales being recorded (regardless of whether a sign up occurs) and held for a minimum of 6 months)
- 3.9 - (follow up to website or telephone contact by the customer sent to customer as part of their ‘written information’ pack)
- 3.10 of this Code except for 3.10.3 for online sign up
- 3.11
- 3.12

6.2 Records of sales pages on the website, and updates to these, should be retained for a period of 2 years.



Marketing Materials will be all materials and information related to potential offerings including printed materials, information and information on websites

- 7.1** Suppliers, or those acting on behalf of the Suppliers, must ensure that any of their marketing material is legal, decent, honest, easily understandable and truthful.
- 7.2** Information contained in marketing literature should be as accurate and up to date as possible.
- 7.3** All marketing communications should respect the principles of fair competition.
- 7.4** Marketing communications must be in line, and fully compliant, with all current relevant advertising and marketing legislation.
- 7.5** Where marketing literature contains prices or price comparisons it must comply with those conditions set out in 3.6 and 3.7.

Section 8:
Marketing
by email /
via text
message or
Social Media



- 8.1** Suppliers may send electronic mail or SMS for direct marketing purposes in line with appropriate regulations.
- 8.2** Where a Supplier engages in marketing via e-mail to customers, the Supplier must provide the following information to customers:
- 8.2.1 the Supplier's name and address; and
 - 8.2.2 the Supplier's e-mail address or other means of electronic contact; or
 - 8.2.3 the Supplier's contact telephone number; and
 - 8.2.4 an easy method of unsubscribing/ removing their email address from future messages at no cost to the customer. This should be clearly shown on the e-mail.
- 8.3** Where a Supplier engages in marketing via SMS to customers, the Supplier must provide the following information to customers:
- 8.3.1 the Supplier's name, and contact number; and
 - 8.3.2 an easy method of unsubscribing/removing their mobile phone number from future messages at no cost to the customer
- 8.4** If the consumer chooses to opt out of future marketing the Supplier must not contact that consumer in any way for marketing purposes, unless the consumer has agreed or asked for further contact. The Supplier must suppress their details or move their details to a 'not for contact' file or database within 28 days. After that time, the consumer should not be contacted without their consent. A consumer may ask for written confirmation from the Supplier that they will not be contacted and this should be provided within 40 days of the request.
- 8.5** Where a Supplier employs agents to conduct direct marketing on its behalf, any requests from consumers to be removed from the database should be forwarded to that agent who must follow the same procedure.
- 8.6** A Supplier must be able to show that it is complying by keeping a 'not for contact' database.

8.7 Suppliers will also use the Telephone Preference Services³ which applies to Sole Traders and the Corporate Telephone Preference Service⁴.

8.8 In relation to Marketing by email/via text message or Social Media a Supplier must also adhere to the conditions laid out in Section 7 of this Code.




Section 9: Marketing by Post

9.1 If a Supplier or someone acting on their behalf carries out marketing by post they must also comply with Section 7 of this Code and respect the appropriate regulations applicable in Northern Ireland for all marketing communications.

9.2 Consumers are entitled to request that they no longer receive marketing material (i.e. marketing material which is addressed to them) from a Supplier.

³ www.tpsonline.org.uk/tps/whatistps.html or contact 0845 070 0707.

⁴ <http://www.tpsonline.org.uk/tps/whatiscorporatetps.html>



Glossary of Terms

Agent: An agent refers to a person or organisation which conducts marketing activities on behalf of electricity and natural gas Suppliers.

Consumer/customer: A consumer/customer can be either an existing or potential consumer/customer of an electricity and / or natural gas Supplier. In this document, consumer refers to business consumers only.

Marketing / Marketing Activities: Marketing activities refers to the practices of an electricity and / or natural gas Supplier when selling their services to a consumer.

Supplier: A Supplier refers to an electricity or natural gas company providing a supply of electricity or natural gas in Northern Ireland

Banned Practices: are any practice banned under the Consumer Protection from Unfair Trading Regulations 2008.

“Code”: or “Marketing Code of Practice” means this Code of Practice for the Marketing of Energy Supply.

‘Written Information’ is information supplied to a consumer/customer after a sale has been made. It can be sent via post or via e mail.

Doorstep Selling: Doorstep selling is when someone sells services in someone's home or on their doorstep.

Face-to-Face Selling/Contact: Face-to-face selling and contact with customers is taken to mean any situation whereby a sales representative of the energy supplier comes into contact with a potential customer (e.g. trade shows)

Cooling off period: refers to the Period of time after a purchase during which the purchaser has the right to return goods for a refund, or to cancel a contract without penalty

Annexe A – Sales checklist format

Suppliers are free to brand the checklist, however the checklist should state the following as is:

Energy Sales Checklist

The Utility Regulator requires all suppliers to give potential customers a copy of this checklist before signing them up for an account.

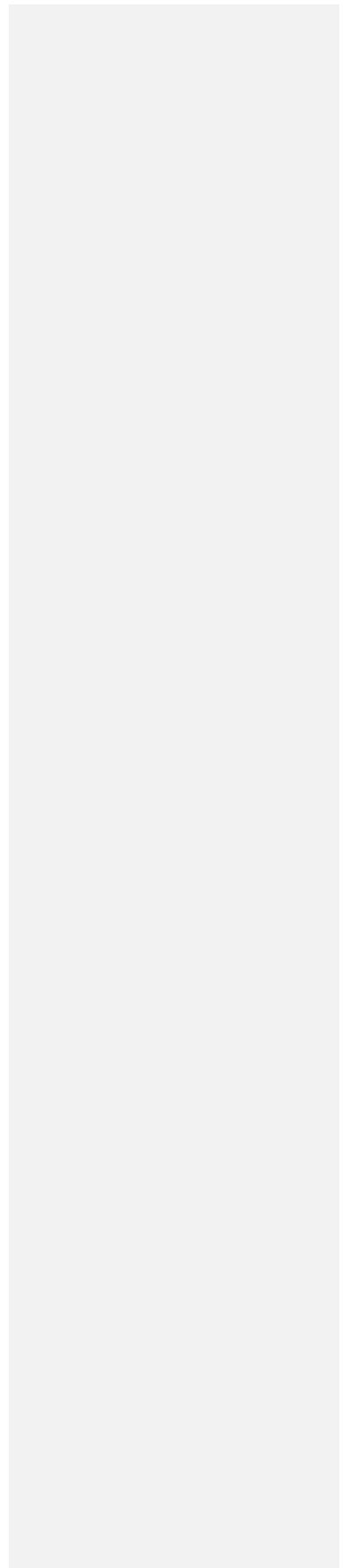
Please go through each question and make sure that the sales agent has covered each step.

Did the agent:

- a)** In the case of face-to-face or doorstep, show you his/her identification card and tell you which company they are working for?
- b)** Go through the products on offer and explain the charges to you?
- c)** Explain how any discounts will be applied to your account?
- d)** Explain the key terms and conditions of supply?
- e)** Explain how long the contract applies for?
- f)** Explain how you will be billed?
- g)** Explain how to make payments on your account and any budgeting options available? By direct debit, in cash
- h)** Explain any deposit that may apply to your account?
- i)** Explain any penalties that apply if you do not meet the terms of the contract?
- j)** Explain how to cancel your contract if you change your mind? (Applies to Domestic Customers only)
- k)** Explain how your existing account will be closed and your new account will be opened
- l)** Give you a copy of your terms and conditions and the rates that apply to your account or explain how these will be sent to you?
- m)** Confirm that you understand that you are switching to a specified product with a specified payment method and explain any fixed term conditions you are agreeing to as part of the contract. This should include duration and any applicable exit fees and any other specific conditions of the fixed term.
- n)** Provide you with details of the cooling off period (Applies to Domestic Customers only) that applies and how to go about cancelling their request to switch supplier within that cooling off period (in line with existing legislation).
- o)** Confirm that you have read and understood this checklist?

If you believe our agent has acted inappropriately or you would like to confirm any aspect of your new account you can contact our customer services team: INSERT SUPPLIER CONTACT DETAILS WHICH WILL, AS A MINIMUM, INCLUDE A SUPPLIER (not Agent) TELEPHONE NUMBER.

Appendix IV
Marketing Code of Practice for Business
Customers – Tracked Changed Version



The UR Marketing Code of Practice for Business Consumers

This code does not apply to electricity business consumers with an MIC \geq 70kVA.; or with annual consumption \geq 150MWh (per site, or in aggregate for customers with multiple sites). This code also does not apply to natural gas business consumers with annual consumption \geq 732,000 KWh.

This code covers both Domestic & I&C customers unless otherwise indicated.

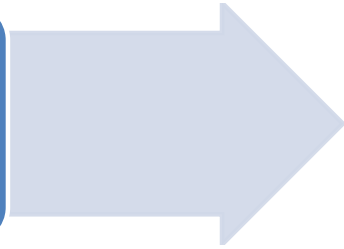
Nothing in this Code of Practice is intended to, or should be deemed to, constitute an exemption from the Suppliers' legal obligation to comply with any and all relevant legislation, statute, statutory instrument, regulation or order (or any provision thereof) or any subordinate legislation.



Section 1: Third Parties

- 1.1 For clarity, where a Supplier contracts with a third party for the provision of Sales Agents, the Supplier must ensure that the third party complies with all components of this Code, ~~in relation to Sales/Marketing activities.~~ Any breaches of this code by a third party will be deemed to be a breach by the Supplier.

Section 2: Recruitment and Training



Recruitment

- 2.1 A Supplier must put in place and follow procedures which are appropriate for the selection of ~~other Representatives~~ those who are employed or engaged in roles which might involve or will involve communication with Customers for the purpose of its Marketing Activities. These procedures must be fully compliant with all current employment legislation.
- 2.2 Suppliers will ensure that they only engage suitable individuals as Sales Agents. As an intrinsic part of the recruitment process, the Supplier must:
- 2.2.1 take into account the knowledge and skills of the individual in relation to the knowledge and skills required for the role; and
 - 2.2.2 take all reasonable steps to obtain sufficient information about the individual's previous relevant activities and training.
- ~~Whilst operating within current employment legislation, Sales Agents will be recruited with due regard to:~~
- 2.3.2 Behaviour and appearance — the important role that the Sales Agent plays as the 'public face' of the industry must be recognised.
 - 2.3.3 Security — due regard must be given to the checking of appropriate references in assessing the appropriateness of the individual to the role of the Sales Agent.
- 2.4 The following are also explicit requirements in the selection of Sales Agents:
- 2.4.1 Sales Agents must provide proof of NI number (or temporary NI number), proof of address and two references. Where a temporary NI number is provided a valid passport must also be provided.
 - 2.4.2 Referees must not be related to the applicant.
 - 2.4.3 A primary reference must be a business reference and preferably their last employer with either a criminal record report or (subsequent to this code being implemented) a reference from a previous employer who adheres to this Code in compliance with their supplier licence. If a criminal record check or reference from a previous employer who adhered to this Code is not available, a secondary business or professional/character reference is required.
 - 2.4.4 All Suppliers will carry out a CRB Check in relation to any individual prior to being allowed to become a Sales agent representing that supplier.
- 2.4.5.2 If a Sales Agent ceases to represent the Supplier, a copy of his or her records will be retained by the Supplier for a minimum period of three years. ~~The Supplier should also ensure retrieval of the agent's ID card.~~

Formatted: Space After: 0 pt

Training

~~2.52.3~~ A Supplier must provide or procure appropriate training for all staff or other Representatives who communicate with Customers for the purposes of the licensee's Marketing Activities. This training should include, but not be limited to, training about the Supplier's obligations insofar as they affect Customers, including its obligations under this Code.

~~2.62.4~~ Suppliers will ensure that as a minimum the training will:

~~2.6.12.4.1~~ take into account the knowledge and skills necessary to fulfil the role.

~~2.6.22.4.2~~ take into account changes in the market and to products/services, legislation and regulation.

~~2.6.32.4.3~~ Insofar as possible be reflective of consumer ethnicity and diversity.

~~2.6.4~~ provide training on the recognition and treatment of vulnerable consumers.

~~2.6.5~~ be compliant with relevant equal opportunities employment legislation.

~~2.6.62.4.4~~ be linked to a verifiable standard of competence measurement.

~~2.6.7~~ include a probationary period for all new recruits.

~~2.6.82.4.5~~ include defined monitoring procedures to ensure consistency of training delivery.

~~2.6.92.4.6~~ be effective and up to date.

Should contain details such as:

~~2.6.102.4.7~~ relevant customer terms and conditions.

~~2.6.112.4.8~~ relevant principles of consumer protection law.

~~2.6.122.4.9~~ customer cancellation process.

~~2.6.132.4.10~~ the procedure for handling customer complaints.

~~2.6.142.4.11~~ the consequences of mis-selling or deliberately giving false information to a customer or any other such breach of this code.

Section 3: Doorstep Selling

3.1 If a Supplier engages in marketing calls at a consumer's premises ~~or place of residence~~, upon arrival, the Supplier must immediately:

~~3.1.1~~ ~~3.1.1~~ Produce/Display an identity card, and if appropriate, a business card, which clearly displays their full name and photograph and the name, business address, contact number of the Supplier and an expiry date for validity of the card. Thereafter, the Supplier must always

Formatted: Indent: Left: 1.27 cm,
No bullets or numbering

Formatted: Indent: Left: 1.27 cm,
No bullets or numbering

show the card to the consumer if asked. Sales Agents must not misrepresent themselves or the purpose of their visit. ~~The sales agent should be verifiable through the 'Quick Check'⁴ scheme.~~

~~3.1.2 3.1.2~~ Give the consumer the reason for the visit and clarify if the consumer wishes to proceed with a presentation about the product(s) being sold. If they do not, the Supplier must leave the premises immediately and inform the consumer they can be removed from the contact list. The Supplier must tell the consumer ~~that this option is available and action such removal if requested. how to do this if asked and action such removal if the consumer wishes to be removed.~~ A Supplier must be able to demonstrate that they are complying with this by keeping a 'not for contact' database.

~~3.1.3 3.1.3~~ Provide the customer with a copy of the ~~standard doorstep/face to face~~ sales checklist ~~(for the customer to keep)~~ prior to the commencement of the sales pitch; this is to help the customer ensure that the agent has followed the correct procedure (See Annex ~~A-B~~).

~~3.2~~ ~~The salesperson must obtain permission from the consumer before entering their premises or place of residence.~~ A consumer has the right to refuse to let the salesperson enter their premises / residence, and may wish to either end the conversation, or continue with it at their doorstep. If a customer indicates that the contact is unwelcome the salesperson must cease immediately and leave the premises.

~~3.3~~ Unless otherwise requested, a supplier must only contact a domestic consumer at home for marketing purposes between:

- ~~i.~~ 9am to 7pm on weekdays
- ~~ii.~~ 9am to 7pm on Saturdays.

~~**And not during:**~~

- ~~iii.~~ Christmas Eve
- ~~iv.~~ Any Public or Bank Holiday
- ~~v.~~ Sundays.

~~**Domestic consumers should not be contacted outside of these times.**~~

~~3.4~~~~3.3~~ Contacting business customers - ~~T~~here are no specific time constraints on when business consumers can be contacted. However Suppliers are asked to exercise reasonable judgment outside the consumer's normal business hours. Suppliers should be aware that business opening hours vary before contacting the business consumer.

⁴ ~~http://www.psn.police.uk/quick_check~~

Formatted: Normal, No bullets or numbering

Formatted: Indent: Left: 0.63 cm, No bullets or numbering

3.5 Where there is sheltered housing

Approval must be gained from the warden or other person in authority before making any approach to the residents.

~~3.6~~3.4 Sales Agents will:

~~3.6.1~~ take account of the consumer's personal circumstances.

~~3.6.2~~~~3.4.1~~ not call on any premises where there is a message prominently displayed in the form of a visible, clearly worded and unambiguous notice indicating that a consumer does not wish to receive uninvited doorstep sales callers.

~~3.6.3~~ Sales Agents must not exploit a person's inexperience, vulnerability, credulity, loyalties or intimidate a consumer in an attempt to restrict their ability to make an informed choice.

~~3.7~~3.5 Sales Agents must at all times:

~~3.7.1~~3.5.1 be courteous and professional.

~~3.7.2~~3.5.2 avoid the consumer misunderstanding ~~any~~ not give any misleading information given or making false assumptions, in particular over potential savings, and must not act to mislead or make omissions designed to mislead.

~~3.7.3~~3.5.3 must not use high pressure tactics and be fully compliant with all current relevant consumer protection and sales legislation or any Banned Practices².

~~3.8~~3.6 Sales Agents must provide the consumer in writing or by means of an electronic display, the unit rate which the customer will be charged for all products discussed.

~~3.8.1~~3.6.1 Tariffs with standard unit rates should be shown in the following formats:

Display tariffs inclusive and exclusive of VAT on a per unit basis. Rates should be shown side by side inclusive and exclusive of VAT.

Tariff Name	Pence per unit (ex. VAT)	Pence per unit (inc. VAT)

Formatted: Indent: Left: 0.63 cm, No bullets or numbering

Formatted: Indent: Left: 1.27 cm, No bullets or numbering

Formatted: Indent: Left: 1.27 cm, No bullets or numbering

² http://www.oft.gov.uk/shared_oft/business_leaflets/epregs/oft1008.pdf

Tariffs with ~~Show~~ standing charges (if applicable) must be shown as an annual amount (or such other period e.g. quarter as is applicable) ~~inclusive and~~ exclusive of VAT that applies to the tariff. This approach should be applied to any other fixed charge applied by the Supplier. All associated fixed costs should be presented alongside unit rates and any discounts on unit rates in the same text and font size.

Tariff Name	Pence per unit (ex. VAT)	Pence per unit (inc. VAT)	Standing Charge for Year/Period (ex. VAT)	Standing Charge for Year/Period (inc. VAT)

Furthermore tariffs with any discounts being offered off the standard rate tariff of that Supplier (~~e.g. for Direct Debit or a discounted period~~) should be clearly ~~shown in the following format.~~

Each discount must be set out clearly in pence per unit (~~or such other discount applicable e.g. quarterly discount amount, fixed amount discount~~) alongside the standard unit rate to demonstrate the actual unit rate the customer will be charged (including any discounts) and the duration of any discount.

Note that the discounts used in the table below are for illustrative purposes:

	Standard Unit Rate	Discount A Dual Fuel Discount	Discount A/Discount B Dual Fuel/DD Discount	Discount A/Discount B/Discount C Dual Fuel/DD/E-billing Discount
Pence per Unit (ex. VAT)	10.00	9.00	8.00	7.00

Formatted Table

~~3.8.23.6.2~~ Where a Supplier is offering a dual fuel bundle, the gas and electricity tariffs should be shown separately with details provided on additional components of the tariff.

~~3.8.3~~ **3.6.3** For differently composed or more complex tariffs where additional tariff rate elements are included in the proposal, such as tiered unit charges, Time of Day charges, fuel price pass through, wholesale price pass through, seasonal tariffs etc, kVA capacity or reactive charges or where there are other differences (e.g. no standing charge but a minimum usage charge instead) all the relevant required information required in 3.8.1 and 3.8.2 should be clearly displayed in a similar manner to the aforementioned illustrations.

~~3.8.4~~ Indexed or pass through tariffs, such as pool uplift, should clearly show the Supplier's own cost elements as a unit rate alongside other pass through tariff elements.

~~3.8.5~~ Any seasonally adjusted tariff rates need to be clearly associated with the relevant time of day rates. Where these seasonal tariff rates are compared with annual rates appropriate consumptions weightings should be used to provide a fair comparison.

~~3.9.3.7~~ For all consumers where the Sales Agent had **stated they can save money** on Energy Supply the Sales Agent must provide a comparison with the consumers current unit rates (i.e. those being charged by the consumers existing Supplier including any current discounts given) in writing or by means of an electronic display. The format for the comparison of these unit rates must be the same as that laid out in Section 3.8.4. **To avoid any confusion caused by varying consumption levels agents will not be permitted to provide comparisons on an annual bill basis where the timescales and energy consumptions are not the same.** For more complex tariff offerings agents must provide clear and transparent information that illustrates the offering adequately and any savings quoted.

If applicable, unit rate, ~~The unit rate~~ comparisons must:

~~3.9.13.7.1~~ be based on the best information available to the Sales Agent. This must be information that is accurate and relevant to proving to the (specific) consumer that switching will save them money as stated by the sales agent. If no information or inadequate information is available e.g. if the sales agent cannot ascertain what the consumer's current unit rate is, then the sales agent will not state that he/she can save the consumer money or they will retract any previous statement made indicating that they could save the consumer money.

~~3.9.23.7.2~~ include any relevant differences.

~~3.103.8~~ **In the event a sale/sign-up is made,** Suppliers will maintain records for not less than 2 years including the date of contact with the consumer and sufficient information to allow the positive identification of the Sales Agent involved. Any material shown to the customer such as price

Formatted: Indent: Left: 1.27 cm,
No bullets or numbering

comparison information should also be maintained (including electronic displays). This will assist in dealing with any complaint or query. In the event of no sale being made Suppliers must retain sufficient information to allow the identification of the Sales Agent involved for a minimum of 1 year.

~~3.11~~ 3.9 Where the customer enters into an Energy Supply contract the Sales Agent must provide the customer with a copy of the written unit rate(s) in one of the formats specified in Section 3.8.1 to 3.8.5 and also with a written copy of the Terms and Conditions of the contract and obtain a signature from the consumer to confirm this. If it has been claimed savings can be made the “written information” pack must also include the relevant comparative information presented to the customer, as detailed Section 3.9 or a copy of the comparative information is left with the customer to keep.

Formatted: Indent: Left: 0.63 cm,
No bullets or numbering

~~3.12.3.10~~ The sales agent must:

Formatted: Outline numbered +
Level: 2 + Numbering Style: 1, 2, 3, ...
+ Start at: 10 + Alignment: Left +
Aligned at: 1.27 cm + Indent at: 2.01 cm

~~3.12.1~~ not abuse the trust of vulnerable or inexperienced customers, for example those who are elderly or those who have special needs. Sales agents should not complete an energy supply contract with customers who are not capable, at the time of the contact, of making an informed decision as to whether or not to enter into the contract.

Formatted: Indent: Left: 1.27 cm,
No bullets or numbering

~~3.12.23.10.1~~ ensure that details of how a customer’s account information may be used with respect to debt flagging is clearly set out on the sign up form and within the sign up process. Explain how a debt flag may be raised against the customer’s account by their existing Supplier.

Formatted: Outline numbered +
Level: 3 + Numbering Style: 1, 2, 3, ...
+ Start at: 1 + Alignment: Left +
Aligned at: 2.54 cm + Indent at: 3.81 cm

~~3.12.3~~ provide the customer with details of any cooling off period that applies and how to go about cancelling their request to switch supplier within that cooling off period (in line with existing legislation).

Formatted: Indent: Left: 1.27 cm,
No bullets or numbering

~~3.12.43.10.2~~ confirm that the customer has read and understood the doorstep/face-to-face sales checklist (where the customer is being signed up in person).

Formatted: Outline numbered +
Level: 3 + Numbering Style: 1, 2, 3, ...
+ Start at: 1 + Alignment: Left +
Aligned at: 2.54 cm + Indent at: 3.81 cm

~~3.12.53.10.3~~ provide their ID name/number in writing.

~~3.133.11~~ Suppliers must design application literature such that the nature of the literature or forms is clear to the consumer. It must be made clear on the literature itself that the consumer is entering into a legal and binding contract and a statement of this nature should be immediately adjacent to where the consumer signs, so that the word CONTRACT or AGREEMENT cannot be obscured or concealed.

Formatted: Outline numbered +
Level: 2 + Numbering Style: 1, 2, 3, ...
+ Start at: 10 + Alignment: Left +
Aligned at: 1.27 cm + Indent at: 2.01 cm

~~3.14.3.12~~ Suppliers must within 7 days of entering into the Energy Supply contract, take all reasonable steps to ensure the consumer receives 'written information'. This information can be sent via e mail or post and will clearly ~~to contact the consumer to confirm that the consumer:~~

~~3.14.13.12.1~~ understands state that they have entered into a contract.

~~3.14.23.12.2~~ understands state the principal terms and conditions of the contract including any fixed term conditions, duration any applicable exit fees and any other specific conditions of the contract.

~~3.14.3~~ is content to have entered into that contract.

~~3.14.43.12.3~~ has received in writing or been shown (by means of electronic display) state the estimate of the proposed unit rates and any comparison given by a sales agent.

~~3.14.53.12.4~~ Suppliers will, in confirming an Energy Supply contract, advise the consumer of state the expected date of commencement of supply.

Formatted: Outline numbered + Level: 3 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 2.54 cm + Indent at: 3.81 cm

Formatted: Indent: Left: 1.27 cm, No bullets or numbering

Formatted: Outline numbered + Level: 3 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 2.54 cm + Indent at: 3.81 cm

Formatted: Indent: Left: 0.63 cm, No bullets or numbering

~~3.15~~ Where a consumer has entered into an Energy Supply contract the company must maintain a record of the information provided to that consumer for a minimum of 2 years.

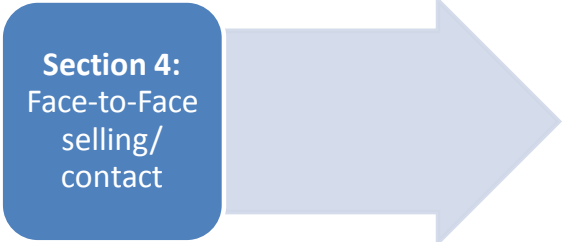
~~3.16~~ Where the consumer indicates in response to 3.15 that they are not content to have entered into an Energy Supply contract the company must take all reasonable steps to ensure that:

~~3.16.1~~ the contract is ended.

~~the company does not begin to supply the consumer.~~

Formatted: Indent: Left: 1.27 cm, No bullets or numbering

Formatted: Outline numbered + Level: 3 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 2.54 cm + Indent at: 3.81 cm



Section 4:
Face-to-Face
selling/
contact

4.1 In relation to Face to Face selling, as well as the stipulations laid out here in 4, the following elements of Section 3 (Doorstep Selling) should also be adhered to:

- 3.1.1, 3.1.3
- ~~3.6.1, 3.6.3~~
- 3.7
- 3.8
- 3.9
- 3.10
- 3.11
- 3.12
- 3.13
- 3.14
- ~~3.15~~
- ~~3.16~~

4.2 In the case of marketing at events or on third party retail premises Sales Agents may make sales in accordance with the event times or the opening hours of the venue they are marketing in.

- i. ~~Between 8am and 10pm.~~



Formatted: No bullets or numbering

5.1 In any telephone call made by or on behalf of a Supplier to a customer for the purposes of marketing, the caller must, as soon as practicable, clearly identify:

- i. his or her name; ~~and~~
- ii. contact number (if requested by the customer); ~~and~~
- iii. the name of the Supplier on whose behalf the call is being made; and
- iv. the purpose of the call.

5.2 If told by a customer, at any time during a telephone conversation between the customer and the caller that the customer does not wish to continue, the caller must cease the phone call **immediately without attempting to change the customers mind. Furthermore the caller must not continue the conversation in any other way save to explain the terms of 5.3.**

~~5.3 If told that they do not wish to be contacted again by the Supplier for telesales, the Supplier should adhere to this wish and place the customer on their 'not for contact list'. The supplier must also inform the customer they can be permanently removed from the contact list and remove the consumer from their contact list if asked.~~

~~5.3.4 Suppliers will also use the Telephone Preference Service³ which applies to Sole Traders and the Corporate Telephone Preference Service⁴.~~

³ <http://www.tpsonline.org.uk/tps/whatistps.html>

Formatted: Font: 9 pt, No underline

~~5.4 Unless otherwise requested, a supplier must only contact a domestic consumer at home for marketing purposes between:~~

- ~~i. 9am to 8pm on weekdays~~
- ~~ii. 9am to 7pm on Saturdays.~~

~~And not during:~~

- ~~iii. Christmas Eve~~
- ~~iv. Any Public or Bank Holiday~~
- ~~v. Sundays.~~

~~Domestic consumers should not be contacted outside of these times.~~

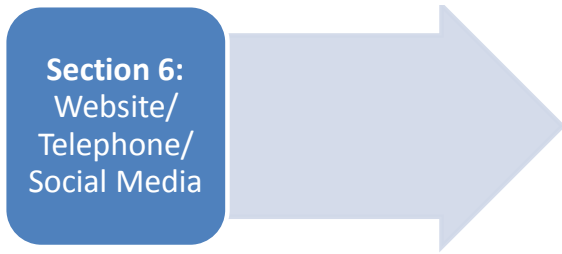
5.5 Contacting Customers - there are no specific time constraints on when business Consumers can be contacted. However Suppliers are asked to exercise reasonable judgment outside the Consumer's normal business hours. Suppliers should be aware that business opening hours vary before contacting the business consumer.

~~5.5.6~~ Similarly to Section 4 (Face-to-Face selling/contact) the following elements of Section 3 (Doorstep selling) will also apply:

- 3.1.3 (this would be a follow up to the telephone call sent to customer as part of their 'written information')
- ~~3.6.1, 3.6.3~~
- 3.7
- 3.8 (this would be a follow up to the telephone call sent to customer as part of their 'written information')
- 3.9 (this would be a follow up to the telephone call sent to customer as part of their 'written information')
- 3.10 (as well as all telesales being recorded (regardless of whether a sign up occurs) and held for a minimum of 6 months)
- 3.11 (this would be a follow up to the telephone call sent to customer as part of their 'written information') ~~(this would be a follow up to the telephone call)~~
- 3.12

⁴ <http://www.tpsonline.org.uk/tps/whatiscorporatetps.html>

- 3.13
- 3.14
- ~~3.15~~
- ~~3.16~~



This Section applies when a customer proceeds with an application to switch online or via the telephone i.e. where the customer has proactively engaged with the Supplier.

6.1 If a customer is 'signed up' via the website/internet then the Supplier must also comply with the following sections of this Code:

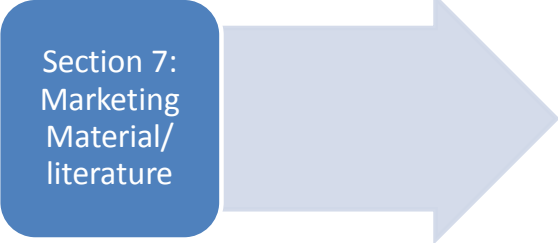
- 3.1.3 (this would be a follow up to the telephone call sent to customer as part of their 'written information')
- ~~3.6.1, 3.6.3~~ — telephone only
- 3.7 — telephone only
- 3.8 — (follow up to website or telephone contact by the customer sent to customer as part of their 'written information' pack)
- 3.9 — (follow up to website or telephone contact by the customer sent to customer as part of their 'written information' pack)
- 3.10 (as well as all telesales being recorded (regardless of whether a sign up occurs) and held for a minimum of 6 months)
- ~~3.11~~ - (follow up to website or telephone contact by the customer sent to customer as part of their 'written information' pack
- 3.12 of this code except for 3.12.5 for online sign up ~~10 (sales agent ID/name in the case of website)~~
- 3.13
- 3.14
- ~~3.15~~
- ~~3.16~~

Formatted: Indent: Left: 1.27 cm,
No bullets or numbering

Formatted: Indent: Left: 1.27 cm,
No bullets or numbering

- 3.17

6.2 Records of sales pages on the website, and updates to these, should be retained for a period of 2 years.



Section 7: Marketing Material/ literature

Marketing Materials will be all materials and information related to potential offerings including printed materials, information and information on websites

7.1 Suppliers, or those acting on behalf of the Suppliers, must ensure that any of their marketing material is legal, decent, honest, easily understandable and truthful.

7.2 Information contained in marketing literature should be as accurate and up to date as possible.

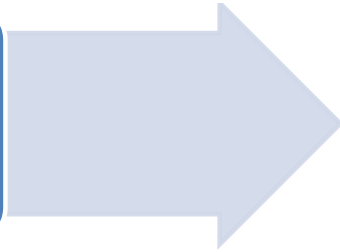
7.3 All marketing communications should respect the principles of fair competition.

~~7.4~~ 7.4 Marketing communications must be in line, and fully compliant, with all current relevant advertising and marketing legislation. ~~with the Committee of Advertising Practice's Code⁵ (The CAP Code).~~

7.5 Where marketing literature contains prices or price comparisons it must comply with those conditions set out in 3.8 and 3.9

⁵ <http://www.cap.org.uk/The-Codes/CAP-Code.aspx>

Section 8:
Marketing
by email /
via text
message or
Social Media



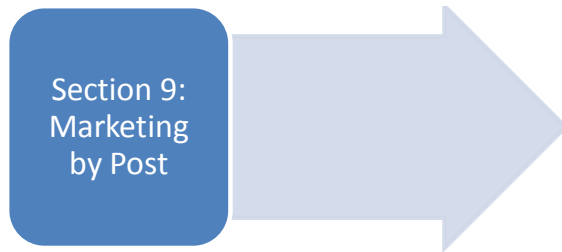
- 8.1 Suppliers may send electronic mail or SMS for direct marketing purposes in line with appropriate regulations.
- 8.2 Where a Supplier engages in marketing via e-mail to customers, the Supplier must provide the following information to customers:
- 8.2.1 the Supplier's name and address; and
 - 8.2.2 the Supplier's e-mail address or other means of electronic contact; or
 - 8.2.3 the Supplier's contact telephone number; and
 - 8.2.4 an easy method of unsubscribing/ removing their email address from future messages at no cost to the customer. This should be clearly shown on the e-mail.
- 8.3 Where a Supplier engages in marketing via SMS to customers, the Supplier must provide the following information to customers:
- 8.3.1 the Supplier's name, ~~address~~ and contact number; and
 - 8.3.2 an easy method of unsubscribing/removing their mobile phone number from future messages at no cost to the customer
- 8.4 If the consumer chooses to opt out of future marketing the Supplier must not contact that consumer in any way for marketing purposes, unless the consumer has agreed or asked for further contact. The Supplier must suppress their details or move their details to a 'not for contact' file or database within 28 days. After that time, the consumer should not be contacted without their consent. A consumer may ask for written confirmation from the Supplier that they will not be contacted and this should be provided within 40 days of the request.
- 8.5 Where a Supplier employs agents to conduct direct marketing on its behalf, any requests from consumers to be removed from the database should be forwarded to that agent who must follow the same procedure.
- 8.6 A Supplier must be able to show that it is complying by keeping a 'not for contact' database.

Formatted: Space After: Auto, Line spacing: At least 8.05 pt, Outline numbered + Level: 2 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0 cm + Indent at: 0.63 cm

Formatted: Pa6, Space Before: 5 pt, After: Auto, Outline numbered + Level: 2 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0 cm + Indent at: 0.63 cm, Adjust space between Latin and Asian text, Adjust space between Asian text and numbers

~~8.7~~ Suppliers will also use the Telephone Preference Services⁶ which applies to Sole Traders and the Corporate Telephone Preference Service⁷ and Mailing Preference Services⁸ database available to them.

~~8.48.8~~ In relation to Marketing by email ~~/or~~ via text message or Social Media a Supplier must also adhere to the conditions laid out in Section 7 of this Code.



9.1 If a Supplier or someone acting on their behalf carries out marketing by post they must also comply with Section 7 of this Code and respect the appropriate regulations applicable in Northern Ireland for all marketing communications, ~~including the Mailing Preference Service.~~

9.2 Consumers are entitled to request that they no longer receive marketing material (i.e. marketing material which is addressed to them) from a Supplier.

~~9.3 Suppliers are obliged to ensure those consumers do not receive marketing material from them unless it has been specifically requested. If this is the case they must also comply with Section 8.4 of this Code. In addition to this, suppliers may not pass on any information they hold on a customer to any third party.~~

⁶ www.tpsonline.org.uk/tps/whatistps.html or contact 0845 070 0707.

⁷ <http://www.tpsonline.org.uk/tps/whatiscorporatetps.html>

⁸ <http://www.mpsonline.org.uk/mpsr/what/>

Formatted: Indent: Left: 0.63 cm,
No bullets or numbering

9.4 Consumers may continue to receive general marketing information (e.g. flyers) from the supplier delivered with their mail.



Agent: An agent refers to a person or organisation which conducts marketing activities on behalf of electricity and natural gas Suppliers.

Consumer/customer: A consumer/customer can be either an existing or potential consumer/customer of an electricity and / or natural gas Supplier. In this document, consumer refers to ~~both domestic and~~ business consumers only.

Marketing / Marketing Activities: Marketing activities refers to the practices of an electricity and / or natural gas Supplier when selling their services to a consumer.

Supplier: A Supplier refers to an electricity or natural gas company providing a supply of electricity or natural gas in Northern Ireland

Banned Practices: are any practice banned under the Consumer Protection from Unfair Trading Regulations 2008.

"Code": or "Marketing Code of Practice" means this Code of Practice for the Marketing of Energy Supply.

'Written Information' is information supplied to a consumer/customer after a sale has been made. It can be sent via post or via e mail.

Doorstep Selling: Doorstep selling is when someone sells services in someone's home or on their doorstep.

Face-to-Face Selling/Contact: Face-to-face selling and contact with customers is taken to mean any situation whereby a sales representative of the energy supplier comes into contact with a potential customer (e.g. trade shows)

Cooling off period: refers to the Period of time after a purchase during which the purchaser has the right to return goods for a refund, or to cancel a contract without penalty

Annexe A – Sales checklist format

Suppliers are free to brand the checklist, however the checklist should state the following as is:

Energy Sales Checklist

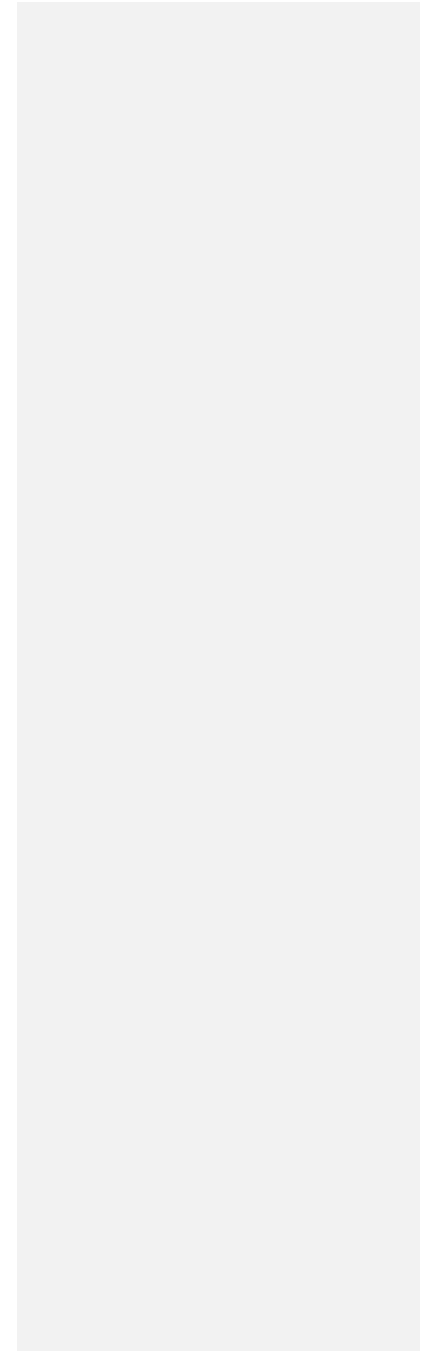
The Utility Regulator requires all suppliers to give potential customers a copy of this checklist before signing them up for an account.

Please go through each question and make sure that the sales agent has covered each step.

Did the agent:

- a) In the case of face-to-face or doorstep, show you his/her identification card and tell you which company they are working for?
- b) Go through the products on offer and explain the charges to you?
- c) Explain how any discounts will be applied to your account?
- d) Explain the key terms and conditions of supply?
- e) Explain how long the contract applies for?
- f) Explain how you will be billed?
- g) Explain how to make payments on your account and any budgeting options available? By direct debit, in cash
- h) Explain any deposit that may apply to your account?
- i) Explain any penalties that apply if you do not meet the terms of the contract?
- j) Explain how to cancel your contract if you change your mind? (Applies to Domestic Customers only)
- k) Explain how your existing account will be closed and your new account will be opened
- l) Give you a copy of your terms and conditions and the rates that apply to your account or explain how these will be sent to you?
- m) Confirm that you understand that you are switching to a specified product with a specified payment method and explain any fixed term conditions you are agreeing to as part of the contract. This should include duration and any applicable exit fees and any other specific conditions of the fixed term.
- n) Provide you with details of the cooling off period (Applies to Domestic Customers only) that applies and how to go about cancelling their request to switch supplier within that cooling off period (in line with existing legislation).
- o) Confirm that you have read and understood this checklist?

If you believe our agent has acted inappropriately or you would like to confirm any aspect of your new account you can contact our customer services team: INSERT SUPPLIER CONTACT DETAILS WHICH WILL, AS A MINIMUM, INCLUDE A SUPPLIER (not Agent) TELEPHONE NUMBER.



Appendix V
Consultation Responses



EAI Response to Utility Regulator Consultation on the Marketing Code of Practice

Electricity Association of Ireland
Retail Working Group



127 Baggot Street Lower
Dublin 2

EU Transparency Register No: 400886110592-21

CONTENTS

INTRODUCTION	4
ISSUES FOR CONSIDERATION	4
REGULATORY APPROACH ADOPTED	5
DISTINCTION BETWEEN BUSINESS AND DOMESTIC CUSTOMERS.....	6
DOORSTEP SELLING.....	6
RECRUITMENT AND TRAINING	7
IMPLEMENTATION TIMETABLE.....	8
SUMMARY POSITION OF THE EAI	8
APPENDIX I – SUBMISSION RELATING TO QUESTIONS POSED IN CONSULTATION..	10
APPENDIX II – SUBMISSION RELATING TO SPECIFIC SECTIONS OF THE CODE	13

The Electricity Association of Ireland (EAI) is the trade association for the electricity industry on the island of Ireland, including generation, supply and distribution system operators. It is the local member of Eurelectric, the sector association representing the electricity industry at European level.

EAI aims to contribute to the development of a sustainable and competitive electricity market on the island of Ireland. We believe this will be achieved through cost-reflective pricing and a stable investment environment within a framework of best-practice regulatory governance.



Electricity Association of Ireland
Tel: +353 1 5242726
www.eaireland.com

Introduction

The Electricity Association of Ireland (EAI) welcomes the opportunity provided by the Utility Regulator to respond to its consultation on the Marketing Code of Practice. All members of the EAI are committed to high standards of conduct across their selling and marketing practices so that energy customers are treated correctly and the reputation of the industry is not damaged. EAI feels that it is important that energy customers are informed in a straight forward and transparent manner and that they can avail of an efficient switching service should they wish to do so.

There is a broad overlap of energy suppliers operating in both NI and ROI. When formulating the Code the Regulator should consider the positive experience of customer switching in ROI and the track record of suppliers in that market demonstrating high standards of conduct. In the NI market, figures published by the Consumer Council show that they have received complaints from less than 0.01% of energy consumers in 2011/12¹. The EAI believes that this illustrates that NI consumers are not experiencing negative marketing practices from the suppliers in the market and the Regulator should bear this in mind when formulating and finalising the Code. Irrespective of suppliers track record in the NI market, the EAI acknowledges in an unqualified manner that any incident of poor practice is not acceptable and that procedures must be in place to minimise or avoid their occurrence.

An important part of our submission is EAI's view that proposals in this area should follow the principles of Better Regulation and be targeted, proportionate and focus clearly on the outcomes desired rather than being excessively specific. The EAI would also welcome the Regulator being mindful of the cost benefit implications as any financial burden placed on suppliers will either discourage participation or will ultimately be borne by consumers.

Issues for Consideration

The EAI has discussed the Marketing Code in detail with its supplier members and has found a large degree of consensus. The key areas of concern that we wish to address in this consultation response are as follows:

- The regulatory approach taken in formulating the Code
- The need to differentiate between business and domestic customers
- The proposals with regard to doorstep selling
- The proposals with regard to recruitment and training,

¹ Based upon the 94 Stage 2 complaints received by the Consumer Council covering all aspects of the energy industry including billing, sales and metering.

Regulatory approach adopted

Prescriptive versus outcome based approach

The EAI is fully supportive of the Code's intention to protect customers from unfair or misleading practices. However, a focus on prescriptive details, rather than outcome based regulation may have unintended consequences. Sales and marketing interactions between suppliers and consumers are dynamic by nature and therefore detailed, prescriptive measures may be extremely difficult to implement and monitor.

The measures outlined may lead suppliers to adjust their activities to satisfy the letter of the Code rather than focusing on achieving the desired outcome which is to meet the expectation of consumers and protect them against unfair or misleading marketing methods. There is also a significant additional cost to implementing a heavily prescribed Code where the complexity introduced increases the sunk cost of market participation in a very low margin business. This may lead to reduced contestability in the market which will not benefit consumers in the long term.

Principles of Better Regulation

The implementation of other IME3 related licence modifications has already incurred substantial costs. In line with the principles of Better Regulation and central governments preference to avoid gold plated directive implementation; the EAI would welcome the Regulator undertaking a substantive cost benefit analysis of the Marketing Code before implementing a change which will ultimately be paid for by the consumer. Such analysis would also assist in both targeting the problem to be addressed and demonstrating the proportionality of the approach being adopted. The EAI believes that the Regulator should adopt a proactive approach to undertaking such a cost benefit analysis and not rely upon the absence of comment received from submissions to a consultation.

Overlapping proposals

The EAI is also concerned that the Regulator appears to have overlapped its proposals with areas that are already covered in legislation and policed by other statutory or self regulatory bodies but has provided no indication of how these areas of overlap will be policed. It is not clear how conflicts in the Regulator's requirements will be addressed and whether suppliers may now face action by two bodies in relation to the same issue. In particular the proposed Code seeks to replicate or extend existing requirements in relation to employment legislation, distance and doorstep selling legislation, data protection and advertising practices. In some areas, specific requirements have been set out with respect to activities currently governed elsewhere. In the event that the Regulator considers it appropriate to duplicate the work of other bodies, the processes around this should be clearly set out.

Distinction between business and domestic customers

The EAI is of the view that the draft Marketing Code of Practice does not adequately distinguish between different customer types and places inappropriate requirements on suppliers with respect to non-domestic customers. The EAI does not believe it is appropriate or proportionate to consider domestic customers and in particular vulnerable customers in the same way as persons who are responsible for managing commercial enterprises.

The EAI can categorically state that the proposed Code is both unworkable and wholly unnecessary for large business customers who often procure and enter into bespoke arrangements with their supplier. These users are sophisticated energy consumers and are responsible for managing large businesses. A supplier cannot be held responsible for or be required to have the expertise to determine the most appropriate contract to suit a large business need. In these types of businesses, the customer has a detailed understanding of their own energy use and costs. The EAI therefore suggests, at a minimum, an exemption from the Code for energy users over a certain size based on their annual consumption of electricity or gas².

In the event that the Regulator determines that some level of business customer should be catered for within a Code, we consider it necessary and appropriate that a separate tailored Marketing Code of Practice is developed for those smaller business customers that clearly recognises the difference between a customer responsible for managing a business and a domestic (or vulnerable domestic) customer.

Doorstep selling

As stated previously, EAI members fully support the desired outcomes of the proposals in the Code with regard to doorstep selling. The targeted outcome of a positive customer experience is welcomed by suppliers; however the prescriptive nature of the proposals is fraught with difficulty. The detailed guidelines for the interaction on the doorstep as outlined in Section 3 will be very hard to implement, will be difficult to monitor and may discourage suppliers from using this sales channel. We feel that this would be a significant setback for competition and innovation in the market and will act as a barrier to customers securing the best energy deal available. We have outlined in Appendix II our comments and suggested amendments on specific sections in Section 3. Our primary concerns on doorstep selling are summarised below.

A key concern with regard to Section 3 relates to the requirement for the sales agent outlined in **section 3.9** to provide a comparison with the consumer's current unit rates where they have stated that they can save the customer

² EAI suggest that this threshold is <70kVA for business electricity customers and < 73,200kWh for business gas customers.

money and to record any such price comparison. We feel that it would not be healthy to create an expectation amongst consumers that sales agents will undertake calculations to compare their current deal to the offer that is being promoted by the sales agent. As in other industries, it should be for the consumer to assess the offer made and the direction of the code of conduct should be to have clear and easy to understand documentation in place to facilitate the consumer making an informed decision. Ultimately a customer choosing to enter into a contract having been provided with the correct information to make this decision in a transparent and customer friendly way must be responsible for their decision to enter the agreement.

A second key concern for members is the requirement in **section 3.10** to maintain records of all aspects of contacts with consumers for a period of two years. This places significant cost and burden on suppliers with respect to data retention and it is unclear from the Code how the Regulator expects suppliers to comply with this provision. As has been highlighted previously, no cost benefit has been provided in relation to this proposal. This requirement also appears to apply to users who have not taken up an offer from a sales agent. In this scenario there is no customer relationship so maintenance of records with a 'person unknown' is not possible without disproportionate costs being incurred. Members also have concerns that this requirement may contravene data protection legislation.

Our third concern in Section 3 is with regard to the requirement in **section 3.14** to contact the consumer after the agreement and signing of a contract to reconfirm understanding of having entered the contract and reconfirmation of the understanding of the principal terms and conditions of the contract. We feel that this follow up engagement will be confusing for the customer and will not provide any additional protection to the customer that is not provided by current regulation which allows for a cooling off period of ten days. Additionally, the cost associated with this activity has not been considered by the regulator. EAI member's preference is that the required information should be reconfirmed in the form of a welcome pack correspondence which can be provided by post or electronic mail.

Recruitment and training

Recruitment of personnel to work directly for a supply company or for a third party provider of sales agents is a key process for an energy supplier. Sales agents that engage with customers in person or over the phone are the face of the industry and undertake the key interaction point with potential new customers. Proper training and recruitment procedures are of primary importance in the operation of an energy supply business. There are various ways of recruiting and training sales agents and staff that will all lead to the desired outcome of the Code. In addition, if a supplier recruits or retains someone who is inappropriate, the supplier is responsible for the outcome of their actions regardless of how they have been recruited.

EAI members have no difficulty with the required outcome of Section 2 but we feel that the provisions relating to recruitment are adequately legislated for

already in employment and equality law. It is unhelpful for the UR to seek to govern this area when a duplication of regulatory requirements will only lead to confusion and ambiguity amongst suppliers for little or no return to either suppliers or customers. In light of this we would encourage the UR to omit the provisions relating to recruitment in this section or reduce them to a statement of principle that a supplier must ensure their staff or agents are appropriately recruited and trained.

Implementation timetable

To allow for required operational changes to be planned and put in place by suppliers, the EAI requests that the Regulator engages with suppliers to discuss and agree a feasible implementation timetable for the Code. The EAI believes that a 3 month period should be allowed for implementation of the Code.

Summary position of the EAI

- 1) We believe that in this and all proposals the Regulator should follow the principles of Better Regulation and include cost benefit analysis to demonstrate proportionality.
- 2) The EAI is of the view that the Code does not adequately distinguish between different customer types. The EAI can categorically state that the proposed Code is both unworkable and wholly unnecessary for large businesses. We feel that it is extremely important for the successful implementation of the Code that an appropriate distinction between business and domestic customers is introduced. We suggest this could be done pragmatically as follows:
 - i. Exempt large business users from the Code based on their level of energy use; and
 - ii. If deemed necessary, separately develop a marketing code for small to medium sized businesses.
- 3) The EAI is of the view that the prescriptive nature of the Code means that certain sales channels will become difficult to develop due to the risks and expense imposed by the detailed requirements in the Code. We feel that this will impede competition and stifle innovative offerings being developed and marketed to consumers in Northern Ireland. We encourage the Regulator to consider the proposals we have outlined to simplify the doorstep selling process and at the same time retain the desired protections for the consumer.
- 4) We encourage the Regulator to address areas of the Code which overlap with other statutory functions and regulation so that where this approach is proposed clear guidance is provided on how monitoring and policing will take place.

- 5) We consider the proposals with regard to recruitment in Section 2 of the code as unnecessary as they are already adequately covered by other legal obligations on suppliers in the area of employment and equality law. We encourage the Regulator to omit the provisions relating to recruitment from the Code.
- 6) At the appropriate time we request that the Regulator engages with suppliers to discuss and agree a feasible implementation timetable for the Code.

Appendix I – Submission relating to questions posed in consultation

Q1. Do respondents agree that where this consultation has an impact on the groups listed above, those impacts are likely to be positive in relation to equality of opportunity for energy consumers?

EAI has not considered this consultation from an equality perspective.

Q2. Do respondents consider that the proposals need to be refined in any way to meet the equality provisions? If so, why and how? Please provide supporting information and evidence.

EAI has not considered this consultation from an equality perspective.

Q.3 Do respondents think that the section of the Code relating to recruitment and training covers all relevant areas? Are there any further comments that respondents have with relation to recruitment and training?

As outlined above the EAI feels that the recruitment practices of suppliers and their agents should not be governed under the Code and that the current legal obligations of suppliers under employment law give adequate protection to consumers. The proposals with regard to minimum training for sales agents are appropriate. However, there needs to be greater clarity with respect to minimum training standards.

Q.4 Do respondents think that the practice of doorstep selling is appropriate for Northern Ireland?

EAI is in favour of the practice of responsible doorstep selling being available to suppliers in Northern Ireland. The door to door sales channel is an important channel for consumers to learn about their options to switch energy provider and to experience competition in the market.

Q.5 Do respondents think that the section of the Code relating to doorstep selling covers all relevant areas? Are there any further comments that respondents have with relation to doorstep selling?

Please see our summary comments above and comments relating to specific sections of the Code in Appendix II below.

Q.6 Do respondents think that the section of the Code relating to face to face selling covers all relevant areas? Are there any further comments that respondents have with relation to face to face selling?

Please see our summary comments above and comments relating to specific sections of the Code in Appendix II below.

Q.7 Do respondents think that the section of the Code relating to telesales covers all relevant areas? Are there any further comments that respondents have with relation to telesales?

Please see our comments relating to specific sections of the Code in Appendix II below.

Q.8 Do respondents think that the section of the Code relating to internet marketing covers all relevant areas? Are there any further comments that respondents have with relation to internet marketing?

Please see our comments relating to specific sections of the Code in Appendix II below.

Q.9 Do respondents think that the section of the Code relating to marketing materials covers all relevant areas? Are there any further comments that respondents have with relation to marketing materials?

Please see our comments relating to specific sections of the Code in Appendix II below.

Q.10 Do respondents think that the section of the Code relating to marketing by email/text message covers all relevant areas? Are there any further comments that respondents have with relation to marketing by email/text?

Please see our comments relating to specific sections of the Code in Appendix II below.

Q.11 Do respondents think that the section of the Code relating to marketing by post covers all relevant areas? Are there any further comments that respondents have with relation to marketing by post?

Please see our comments relating to specific sections of the Code in Appendix II below.

Q.12 Are there any other areas which you believe the Marketing Code of Practice should cover?

None noted.

Q.13 Do respondents think that the approach to monitoring is appropriate? Are there any further comments that respondents have with relation to monitoring, reporting and compliance?

EAI notes that UR will be formulating an appropriate monitoring regime for compliance with the Marketing Code as part of a wider Market Monitoring regime and that this will be consulted on in due course. We would encourage the UR to adopt regulatory best practice when formulating this Market Monitoring regime and for this regime to be targeted and proportionate.

Appendix II – Submission relating to specific sections of the Code

Section	Comment
1.1	Consequences for a deemed breach of the code by a third party should be proportionate taking into account demonstrable steps taken by the supplier to ensure compliance.
3.3	Domestic doorstep selling is restricted to before 7pm on weekdays. The EAI suggest that this should be extended to 8pm to facilitate agents making contact with consumers in the evening time.
3.4	Please note our comments above that a separate code should be developed for small to medium business customers and that an exemption should be introduced for large business customers.
3.6.1	This section requires further definition to provide clarity to suppliers and their agents, and it should be non applicable to business customers.
3.7.2	We request that the wording of this section is revised as it is not always possible to avoid the consumer misunderstanding information provided.
3.7.3	The phrase high pressure tactics should be referenced or explained so that there is clarity for suppliers and agents. Furthermore Banned Practices should be specific to energy.
3.8.1	All rates for business customers should be shown ex VAT because of variable VAT rates.
3.8.3 – 3.8.5	These points relate to business users - please note our comment above that a separate code for SMEs and exemption for LEUs should be introduced.
3.9	Please note our comments above under heading Doorstep Selling.
3.9.2	What are the 'relevant differences'?
3.10	Please note our comments above under heading Doorstep Selling.
3.11	We request that it is more practical for both the supplier and the customer that Terms and Conditions are provided in the follow up engagement with the customer and that these Terms and Conditions can be provided in electronic format. Furthermore, in relation to online sales how can suppliers capture a signature if someone signs up online?
3.14	Please note comments above under heading Doorstep Selling. In addition, how can this be implemented in relation to telesales?
3.14	Section 3.14 as currently structured effectively introduces a 7 day cooling off period for business customers. This is not in line with current legislation requirements and should not be introduced by through this Code.

3.15	This is impractical for online sales.
6.1	It is impractical to comply with the section of the Code listed on page 33 for online sales.
8.3.1	It is not possible to include supplier's address in SMS given restricted number of characters – there only room for supplier name and contact number (this is reflected in CER handbook).
Sales Checklist	Checklist needs to include how a debt flag may be raised against the customer's account by their existing supplier.



CONSULTATION ON THE MARKETING CODE OF PRACTICE

AIRTRICITY RESPONSE TO
THE UTILITY REGULATOR

MAY 2013

INTRODUCTION

Airtricity welcomes the opportunity to comment on the Utility Regulator's (UR) paper on "Consultation on the Marketing Code of Practice".

Airtricity is the largest independent supplier operating in Ireland with over 800,000 customers served across both electricity and natural gas markets. Airtricity is committed to the development of competition in energy markets in Northern Ireland and to presenting its customers with choice and quality customers services.

We welcome the opportunity to contribute to the development of the Marketing Code of Practice. Airtricity is committed to ensuring the highest levels of protection are afforded to customers in its sales practices and recognises the importance of ensuring that all suppliers sell and market their products to customers in a transparent and easy to understand way.

Airtricity has moved to a fully automated sign up system for doorstep and event sales. This system allows us to track and monitor our agents in real time and records all information taken from customers electronically. We have refined our Quality Assurance process over the last 12 months which means our Representatives must follow all of the required steps and provide all information to customers prior to being able to complete a sale. For elderly customers, we have built in an additional mandatory Quality Assurance call to be completed before a switch can be processed to ensure that the customer receives the highest level of care and information in completing their switch. Airtricity is committed to ensuring customers receive sound sales information and believes the move away from paper based sign up, which is more open to manipulation, is a positive step forwards.

In addition to ensuring customers are provided with all of the information they need to make an informed switch, this system also allows us to issue new customers with a complete copy of their contract within 24 hours if they have opted to take information by email and within 4 days if they have opted for post communications. We believe this is a positive example of how suppliers can innovate in the sales process for the benefit of the customer.

GENERAL COMMENTS

In looking at the requirements for a Marketing Code of Practice Airtricity is of the view that it is important to concentrate on required outcomes to protect customers from unfair or misleading practices rather than prescriptive detail. In its proposals the Utility Regulator has been highly prescriptive, for example, in the area of recruitment of staff and agents. While the requirements represent one method of recruitment, we believe that the detail of how staff members and agents are recruited should lie with the supplier. It is clearly essential that suppliers recruit and train anyone representing their business appropriately; however there are many ways of doing this in a legal and effective way to meet the required outcome of the Code. We believe the UR should require outcomes in the Code while leaving a level of discretion with suppliers in meeting those outcomes. It is important that suppliers are able to differentiate themselves and be innovative in the way they communicate with potential customers as competition develops.

In examining the requirements in the Code, Airtricity would like to highlight there will be significant costs associated with implementing some of the proposals. We are disappointed that the UR has provided no cost benefit analysis with its consultation paper. In line with the principles of proportionality and transparency set out in Better Regulation, we believe it is essential that this key analysis is provided with any proposals which increase costs which will ultimately be passed on to customers.

Also within the Code there are areas which overlap significantly with existing legislation that is policed outside the regulatory regime. It is unclear how the UR will interact with the bodies with primary responsibility for these areas and whether suppliers will face action from both parties in the event that a problem is identified. We request that the UR provides clarification on how interaction and follow up will take place in its decision document. In addition, we believe that where overlap is being established, if this is retained, this should be done with more general wording to avoid conflict in requirements developing. For example, instead of detailing existing requirements, wording should be future proofed by requiring compliance in line with legislation. This would mean where primary legislation or governing requirements change the Code remains up to date and no conflict arises.

BUSINESS CUSTOMERS

Airtricity is concerned that in its proposed Code the UR has not adequately distinguished between business and domestic customers. We believe a separate Code with reduced requirements recognising the differences between business and domestic customers should be developed.

In failing to distinguish between these customers appropriately the UR has introduced requirements that do not exist and are not provided for in legislation. These include the provision of a cooling off period and a not for contact requirement. Cooling off periods and not for contact requirements are provided for domestic customers in legislation. The provision of services and requirements to business customers are very different to the provision of services and requirements

for domestic customers. We believe it is inappropriate for the UR to introduce these measures for business customers.

We also believe the requirements around price comparisons are unworkable for large customers. For example in tender comparisons it would be inappropriate to compare against existing tariffs as these may not be available to the customer when they switch.

DETAILED COMMENTS

Section 1: Third Parties

Airtricity fully supports the content of section 1

Section 2: Recruitment and Training

Airtricity believes that the level of detail set out by the UR in this section is unnecessary and should be reduced down to ensure the desired outcome of the Code is achieved while allowing suppliers to determine their own recruitment and training processes. We believe that retaining 2.1, the first sentence in 2.2 and 2.5 while removing the remaining detail would achieve the appropriate recruitment and training of staff.

Section 3: Doorstep Selling

Airtricity fully supports the intention of the Code to ensure that customers are provided with all of the information they need to make an informed decision on whether to switch or not in a transparent and easy to understand way. We have already introduced a checklist for customers to ensure they have received the information and understood the product they have signed up to and fully support the roll out of this requirement to all suppliers.

We would like to highlight the following concerns in relation to Section 3.

Under 3.3 we note that the hours of permitted contact for the purposes of doorstep selling have been reduced from 8pm in the CCNI Code to 7pm in the UR proposed Code. We are concerned that by reducing the hours to 7pm suppliers will be forced to concentrate contact with customers over the busy teatime period. We therefore believe the hours of contact should be extended to 9pm which would be the same as what is currently operating in the mandatory ROI Code. This would allow suppliers the opportunity to spread contact with customers over a longer period of time.

3.6.1 requires Agents to take account of consumer's personal circumstances. We are concerned that this requirement may require an Agent to enquire about the personal circumstances of a customer. Airtricity recognises that where a customer clearly indicates a set of circumstances that this should be taken into account in any sale, however we believe that the onus on making the Agent aware should be with the customer. Suggested wording: take account of the consumer's personal circumstances where the consumer has identified a particular requirement.

3.6.2 is currently governed by requirements set by another body. As such we believe this should be reworded to ensure conflict does not arise. Suggested wording: not call on any premises in line with doorstep or consumer legislative requirements.

3.7.2 states 'Sales Agents must at all time avoid the consumer misunderstanding any information given or making false assumptions, in particular over potential savings, and must not act to mislead or make omissions designed to mislead.' We are concerned that an Agent cannot govern how a customer understands information but can only provide the information in an appropriate way and answer questions for the customer. We believe this should be changed to a requirement to check that the customer understands the information provided. We also believe this should be strengthened to include like for like comparisons and comparison to other suppliers tariffs. We believe that this should be reworded to reflect what the Agent can be responsible for. Suggested wording: Sales Agents must at all times: not make false assumptions, in particular over potential savings, competitors or tariff comparisons or the activities of its own or competitors businesses and must not act to mislead or make omissions designed to mislead.

3.8.1 requires suppliers to display tariffs in a set format. Airtricity supports the introduction of a standard method of displaying tariffs to customers. We believe this will assist customers in being able to make comparisons. In order to facilitate the most effective way of doing this we believe that a few small changes could enhance the requirements.

We believe that the requirement regarding display of tariffs ex VAT should not be mandatory for prepayment meter customers. These customers purchase their energy inclusive of VAT and their unit rates are displayed inclusive of VAT on their meters. While suppliers may choose to display tariffs in this way where they are offering the same rates to credit and PPM customers, this should not be a mandatory requirement.

Airtricity would also like the UR to consider allowing suppliers to display rates below their standard rate as well as on a side by side basis. Dependent on the tariff this may be more appropriate and easier for the customer to understand.

3.15 We are concerned that there is a requirement to retain information for two years. There is a significant cost involved in retaining information and there are also data protection implications. In the event that a consumer does not sign up or switches supplier it would be inappropriate to retain this information for this length of time. We believe this should be amended to reflect a reduced requirement.

The comments made in relation to individual sections of Section 3 apply to the other sections where these are required also.

Section 4: Face to face selling/contact

In addition 4.2.i It is unclear why a timeframe would be issued in relation to this section. Airtricity believes it is appropriate to allow selling outside of the proposed times where the event or retail premises is open outside of these times. For example, if an event ran from 7am-10am based on the proposals the supplier could

only commence sales at 8am. We believe it would be appropriate to reflect a timeline that mirrors the event and premises times.

Section 5: Telesales

Airtricity is extremely concerned that the proposals as set out require a customer to complete three calls with their supplier in advance of being able to progress a switch. We believe this will lead to an extremely confusing and poor switching experience for customers. It will also become a barrier to switching. We believe that telesales should be undertaken during one phone call with those calls being retained for quality purposes. There would also be a significant increase in supplier costs if the requirement is increased to three calls to progress a telesales.

3.1.3 The telesales section requires suppliers to provide a copy of the checklist prior to commencing the sale. We believe in the context of a telesales that this would be confusing for the customer. In order to ensure a smooth experience for the customer we believe the telesales process should be built to ensure all aspects of the checklist are covered instead.

3.3 We believe the hours of telesales should be 9am to 9pm Monday to Friday in addition to the other hours set out in the proposed Code. A customer does not have to take a call and may simply choose not to answer, however we are concerned that in limiting calls to 9am to 7pm this is restricting this sales channel significantly.

Section 6: Website/Telephone

As above, we believe the checklist should be built into the process for sign up rather than at beginning of a call. We also believe that in web based sign up the checklist should be covered as the customer works through the sign up process as it would be confusing for the customer to try and complete a checklist at either the beginning or end of online sign up.

Section 7: Marketing Material/Literature

7.4 We are concerned that the UR are making it a licence requirement to comply with a set of guidelines produced as part of a self regulation regime in the UK. While the aspirations of these guidelines are appropriate, the UR or suppliers have no input or control over the content of these guidelines and we believe this is a step beyond the requirements of the Third Package. We believe that the other requirements of this section will produce the desired outcome of the Code.

Section 8: Marketing by email or via text message

8.3.1 We believe the requirement to include a supplier's address in an SMS is not beneficial to the customer and will lead to an excessive number of characters required to issue an SMS. Best practice in issuing SMS messages is to limit them to 160 characters, it would not be possible to use an SMS for this purpose and provide all of the required information.

As stated above, where items are already governed we believe it is appropriate to use more general wording. We are concerned conflict could arise in relation to

unsubscribe and opt out requirements and that these references should be made more general in the document.

Section 9: Marketing by Post

No comments in relation to this section.

CONCLUSION

Airtricity believes it is important to ensure that customers are ensured a fair, transparent, quick and easy to complete sales and switching process. It is vital to suppliers and the energy industry that this is done in a way that protects customers from any form of inappropriate behaviour. As set out above, we believe the best way to achieve this outcome is to set guidelines which also allow suppliers to innovate appropriately and differentiate themselves in how they achieve this.

In some areas we believe the proposed Code may lead to confusion and frustration for customers and ultimately a barrier to switching. This can be avoided by making some small changes to the proposals.

We look forward to working with the Utility Regulator and the Consumer Council to implement the final Code.



**Response by Energia to the Utility
Regulator Consultation published 20
February 2013**

***Consultation on the Marketing Code of Practice
(Pursuant to September IME3 Modifications)***

17 May 2013

1. General comments

Energia welcomes this opportunity to respond to the Utility Regulator's Consultation Paper on a new mandatory Code of Practice for electricity and gas suppliers in Northern Ireland pursuant to licence modifications implemented in September 2012 under transitional powers granted by the IME3 Regulations¹.

It is Energia's view that effective consultation should form an integral part of good regulatory process. In this spirit we welcome this consultation from the Utility Regulator (UR) to provide feedback on its proposed Marketing Code of Practice and we acknowledge the steps already taken to facilitate stakeholder engagement through the UR workshop held on 21st March 2013. We would strongly encourage and welcome further engagement with the UR after this consultation closes in developing and implementing a Marketing Code of Practice that is targeted, pragmatic and effective.

Energia takes pride in its very high standards of conduct across its selling and marketing practices so that its customers are treated correctly and the good reputation of the company is upheld. It is important to remember that codes of practice cannot substitute for supplier integrity and professionalism, the rigours of competition, ethical standards and the law. We strongly suggest that codes of practice should establish minimum desirable standards that are realistic and address what is really needed from the customer's perspective, differentiating appropriately between domestic and business users. They should be practical and cost effective for suppliers to implement as customers ultimately bear the cost and inconvenience of codes of practice that have not been designed with these important prerequisites in mind. They should also avoid being overly prescriptive thus allowing supplier innovation and differentiation, particularly in a competitive market. Thus the Marketing Code of Practice should be targeted, proportionate and focus clearly on the outcomes desired rather than being excessively specific. Of course any incident of poor practice by suppliers is not acceptable and procedures must be in place to minimise or avoid their occurrence – this has to be minimum legal and ethical standard for the protection of the consumer and the reputation of the industry.

Energia is an active member of the Electricity Association of Ireland (EAI) and would endorse its views and feedback in response to this consultation.

We share the view that lessons should be learned from the positive experience of customer switching in ROI and the track record of suppliers in that market demonstrating high standards of conduct. This is particularly relevant given the broad overlap of energy suppliers operating in both NI and ROI and strongly suggests that ROI should be given greater weight in developing an appropriate Code of Practice than the GB experience.

¹ Regulation 91 and 92 of the Electricity and Gas (Internal Markets) Regulations (Northern Ireland) 2011 (IME3 Regulations).

We note that three existing Codes have informed the draft Marketing Code of Practice for Northern Ireland:

1. The GB Energy Sure Code
2. The CER Electricity and Natural Gas Handbook, and
3. The CCNI Marketing Code of Conduct for Natural Gas and Electricity Suppliers in Northern Ireland

Of these, the Energy Sure Code has been exclusively developed for domestic customers and therefore considerable care needs to be exercised in its transposition to business customers. Given that the CCNI Code is already in place in Northern Ireland the most relevant Code from which *new* lessons can be learned in our view is the CER Handbook. This is far less prescriptive than the proposed Marketing Code of Practice for Northern Ireland; it clearly distinguishes between domestic and non-domestic customers; and has been effective in the ROI market as evidenced by the positive experience of customer switching in that jurisdiction. We suggest this is a good model to follow. Importantly the CER Handbook went through several iterations based on stakeholder feedback and we expect that a similar process in Northern Ireland delivering a less prescriptive but more tailored Code that appropriately distinguishes between domestic and business customers will yield an equally effective outcome.

2. Specific issues for consideration

Energia would more specifically share EAI's views and concerns in relation to the following:

- The need to differentiate between business and domestic customers
- The proposals with regard to doorstep selling, and
- The proposals with regard to recruitment and training

To avoid unnecessary duplication we would reference for the most part the EAI response for detailed comments on the above which Energia has contributed to. However it is worth emphasising that the draft Marketing Code of Practice does not adequately distinguish between different customer types and places inappropriate requirements on suppliers with respect to non-domestic customers. Energia does not believe it is appropriate or proportionate to consider domestic customers and in particular vulnerable customers in the same way as persons who are responsible for managing commercial enterprises.

We can categorically state that the proposed Code is both unworkable and wholly unnecessary for large business customers who often procure and enter into bespoke arrangements with their supplier. These users are sophisticated energy consumers

and are responsible for managing large businesses. A supplier cannot be held responsible for or be required to have the expertise to determine the most appropriate contract to suit a large business need. In these types of businesses, the customer has a detailed understanding of their own energy use and costs. Energia would therefore strongly echo the EAI suggestion for, at a minimum, an exemption from the Code for energy users over a certain size based on their annual consumption of electricity or gas².

In the event that the UR determines that some level of business customer should be catered for within a Code, we strongly consider it necessary and appropriate that a separate tailored Marketing Code of Practice be developed for those smaller business customers that clearly recognises the difference between a customer responsible for managing a business and a domestic (or vulnerable domestic) customer. For example business customers routinely and necessarily engage in day-to-day negotiations; they are very often informed by peer groups and trade associations, they read business supplements and trade publications; their relationship and dealings with suppliers is professional; and they are savvy by nature in running a business. For these and other reasons there is no way this type of customer should be confused with a domestic customer and certainly not a vulnerable domestic customer.

We feel that it is extremely important for the successful implementation of the Code that an appropriate distinction between business and domestic customers is introduced. We suggest this could be done pragmatically as follows:

- 1) Exempt large business users from the Code based on their level of energy use; and
- 2) If deemed necessary, separately develop a marketing code for small to medium sized businesses.

3. Comments relating to specific sections of the Code

Please refer to Appendix II of the EAI response which Energia has contributed to and agrees with.

² EAI suggest that this threshold is <70kVA for business electricity customers and < 73,200kWh for business gas customers.

17th May 2013

Sinead Dynan
Utility Regulator
Queen's House
14 Queen Street
Belfast
BT1 6ER

Dear Sinead,

**Re: CONSULTATION ON THE MARKETING CODE OF PRACTICE (Pursuant to
September IME3 modifications)**

Thank-you for providing firmus energy with this opportunity to respond to the above consultation.

Since 2005, firmus energy has brought the benefits of natural gas to over 17,000 homes and businesses in our network area (which runs from Londonderry to Warrenpoint/Amagh via Antrim), and we also now supply 37,000 customers in Greater Belfast and Larne with natural gas. We have done this by:

- Currently providing consumers with the lowest gas price¹ in the United Kingdom;
- Maintaining the highest level of customer service of any regulated energy company in Northern Ireland²;
- Contacting around 100,000 customers via doorstep selling. We have never received a Consumer Council Stage 2 customer complaint in relation to marketing or selling practices;
- Developing a safe and robust gas distribution network. We have never received a road authority fine during the construction of our network which currently spans over 750 km; and

¹Utility Regulator's, Q4 2012 Quarterly Transparency Report, March 2013.

²Enquires and Complaints Report 2011-12, July 2012, Consumer Council.

- Maximising the development of our network, whilst seeking additional regulatory permission to extend our network to areas and customers that were not included within our original business plan assumptions. Therefore, in addition to our original licence area we have negotiated with the Utility Regulator seven additional extensions (Portstewart, Ballyclare, Warrenpoint, Craigdoo, Coleraine Quarries, Bushmills, and Bessbrook) over and above our original “Ten Towns” business plan.

firmus energy has always been committed to working with the Utility Regulator, DETI, the Consumer Council and other stakeholders in order to maximise the benefits of natural gas to as many consumers as possible and bring the benefits of cheaper energy to the local economy in Northern Ireland - in a socially responsible and consumer focused manner. To that end, we welcome the opportunity to respond to this consultation.

Our commitment to customers and doing the right thing has been shown as we were the first natural gas company to sign up to the Consumer Council’s voluntary *“Marketing Code of Conduct for Natural Gas and Electricity Suppliers in Northern Ireland”*.

Currently, firmus energy are unique in Northern Ireland by having both a distribution and supply business. We were therefore the first energy company to gain approval from the Utility Regulator and the Consumer Council for the following IME3 codes of practice:

Distribution:

- Marketing Code of Practice;
- Complaints Handling Code of Practice;
- Information Code of Practice;

Supply:

- Efficient Use of Energy Code of Practice;
- Payment of Bills – Code of Practice (Gas);
- Payment of Bills – Code of Practice (Electricity);
- Services for Pay as You Go Customers – Code of Practice;
- Complaints Handling – Code of Practice; and
- Provision of Services for Persons who are of Pensionable Age of Disabled or Chronically Sick.

We have set out our comments below, tracking (for your ease of reference) the numbering used in your consultation.

Q1. Do respondents agree that where this consultation has an impact on the groups listed above, those impacts are likely to be positive in relation to equality of opportunity for energy consumers?

firmus energy are of the opinion that the anti-discriminatory aspects of the proposed Marketing Code of Practice and indeed the general enhanced consumer protection measures, set out in the Third Energy Package, pay the correct regard to the need to promote equality of opportunity as set out in Section 75 of the Northern Ireland Act 1998.

Q2. Do respondents consider that the proposals need to be refined in any way to meet the equality provisions? If so, why and how? Please provide supporting information and evidence.

firmus energy believes the detail and scope of the proposals are appropriate in relation to meeting the equality provisions as set out in Section 75 of the Northern Ireland Act 1998. In addition, firmus energy does not believe that any of our suggested changes to the Code would lessen the positive impact of equality of opportunity.

Q.3 Do respondents think that the section of the Code relating to recruitment and training covers all relevant areas? Are there any further comments that respondents have with relation to recruitment and training?

In the seven years since our licence was awarded, firmus energy has looked to maximise the benefits of natural gas to consumers and the local economy. We have done this in a socially responsible and consumer focused manner, building on our integral brand values of:

- Clarity;
- Empathy; and
- Integrity

firmus energy's recruitment and training processes are built around these integral brand values and we believe they are key to our organisation's success and accomplishments to date. firmus energy have invested significant resources into a detailed and structured

training process that ensures that its customer service, brand, and corporate image remains held in the highest regard. Indeed, since 2005, firmus energy have achieved the highest level of customer service of any regulated energy company in Northern Ireland. (Enquiries and Complaints Report 2011-12, July 2012, Consumer Council.)

It is the opinion of firmus energy that the competitive energy market in Northern Ireland is still at an early stage and therefore it is vital that consumer confidence is maintained and that that the bad practices that have occurred in other areas such as Great Britain are not replicated here.

With regards to the suggested Code, firmus energy feels that the level of detail is at times overly prescriptive and sometimes repetitive. firmus energy believe the focus of the Code should be outcome focused to ensuring that negative, anti-consumer practices do not occur. Therefore, we believe the Code should provide suppliers with strict guidelines as to what outcomes are required and also provide the Utility Regulator with the ability to act should there be any malpractice in the future; which should be identified by the existing Consumer Council complaints procedure, or through investigations undertaken by the Trading Standards Service.

firmus energy believes that in dictating the actions of suppliers in all marketing areas in an unduly onerous level of detail, is ultimately an unnecessary and unsustainable approach. The Code should we believe be focused on outcomes, whilst providing suppliers with the correct amount of flexibility to provide customers with innovative product options that match the various individual companies' structures, ethos and values. We believe that the current prescriptive nature of the Code would hinder competition and stifle innovative offers being developed for consumers in Northern Ireland.

firmus energy place customer satisfaction and network safety as our highest priorities. Our commitment to customer service is shown in the recent Complaints Reports that have been published by the Consumer Council. They show that firmus energy has maintained the highest level of customer service of any regulated energy company in Northern Ireland. We believe that it is in our best interests as a company to provide the highest level of customer service, and we achieve this through our recruitment, training and marketing activities that we have put in place that already put the consumer first (irrespective of any impending Code or regulatory requirements).

From the Consultation Document and referencing in line with Annex A, firmus energy are minded to support more encompassing and general conditions such as the amended: **Para 2.2.2** *...take all reasonable steps to obtain sufficient information about the individual's previous relevant activities, training and references.* This amended paragraph would negate the need for 2.3.3 and 2.4.1 through 2.4.5.

The following paragraph may have repercussions with respect to employment discrimination. **Para 2.3.2** – *Sales Agents will be recruited with due regard to appearance.* firmus energy would like further clarification from the Utility Regulator on the implications of the recruitment section of the Marketing Code in relation to the current practice of firmus energy outsourcing its Belfast supply sales agents recruitment to a third party. In addition, all door-to-door sales team are employed through a third party sales agency however they receive a firmus energy uniform, sales training and we insist that they receive a salary based (rather than commission based) remuneration package - in addition, we would actively monitor each individuals sales agents performance within firmus energy ourselves.

As previously highlighted, firmus energy has to date contacted around 100,000 customers via doorstep selling using a third party organisation. In this time, we have never received a Consumer Council complaint in relation to our doorstep selling practices. We would therefore ask that due consideration be given to firmus energy's current performance under the current regulations/Codes of Practice and whether the Utility Regulator in drafting this Code should rather focus on removing poor practice in the industry rather than taking a prescriptive line (conditions 2.4.1 – 2.4.5) on an individual company's employment conditions.

In conclusion, we would question why we would need to alter our already successful recruitment and training policy, as to date it has worked without fault or complaint from the Consumer Council.

Q.4 Do respondents think that the practice of doorstep selling is appropriate for Northern Ireland?

As previously mentioned, since the granting of our licence in 2005, firmus energy has maintained the highest level of customer service of any regulated energy company in Northern Ireland. In our seven years of operation we have received **no** complaints from the Consumer Council, in relation to our Door Step Sales agents despite them contacting around 100,000 customers to date. We strongly believe this is as a result of our all our staff and third

party sales agents receiving training from firmus energy staff on firmus energy's brand values of; Clarity, Empathy and Integrity.

In conclusion, firmus energy believe that doorstep selling is an essential part of our current marketing and sales strategy and that overall competition in the Northern Ireland energy market will be dramatically reduced if this is prohibited. However, firmus energy believes that the Utility Regulator, Consumer Council and Trading Standards Services should clampdown on those energy companies that blatantly abuse this technique, as otherwise it will reduce overall customer confidence in the competitive energy market in Northern Ireland which is still in a fledgling state.

Q.5 Do respondents think that the section of the Code relating to doorstep selling covers all relevant areas? Are there any further comments that respondents have with relation to doorstep selling?

Our current doorstep selling techniques have been proven to be very successful and appropriate regarding the provision of information, customer satisfaction and implementation of marketing good practice. It is our view, therefore, that certain elements of the Code are overly prescriptive and as a result, the Code is could be ultimately confusing for consumers. Our specific areas of concern are:

Para 3.1.3 – We believe that is duplication and that **Para 3.12.4** is sufficient in this regard.

Para 3.3 – The Distribution Marketing Code of Practice that has already been agreed by the Utility Regulator, and the Consumer Council's Voluntary Code of Practice on Marketing state 8pm rather than 7pm as the cut-off time. As firmus energy has both distribution and supply businesses, we believe that there needs to be a consistent approach form the Utility Regulator in regards to both Distribution and Supply Marketing Codes of Practice and therefore we suggest that it should state 8pm as a suitable cut off time for weekdays and Saturdays rather than 7pm.

Para 3.8 - The conditions of this section regarding the tariffs and their formatting etc. are very prescriptive and we believe this will prevents supply companies from market differentiation in terms of marketing, customer service and advertising. firmus energy are also mindful that the Trading Standards Service can undertake an investigation to ensure that any marketing literature and information is accurate, concise and not misleading. We would therefore suggest that rather specifying the specific contents of leaflets and literature

that the Utility Regulator would provide Supply Companies guidelines by which they must comply. The Utility Regulator could then, in partnership with the Trading Standards Service, monitor supplier marketing information and then act if anything is published that is inappropriate, misleading or in breach of these guidelines. In addition, we believe the Section on marketing materials covers these concerns in a reasonable manner: **Para 7.1 Suppliers, or those acting on behalf of the suppliers, must ensure that any of their marketing material is legal, decent, honest, easily understandable and truthful.**

Para 3.14.1 - 5 We believe that this section is overly prescriptive and unnecessary. Regardless of the extra monetary cost for a supplier having to telephone each customer, the obligation we believe should be on the company's sales agent to ensure the customer knows about the cooling-off period and the right to cancel the contract. Details of this are clearly shown in the Consumer Energy Sales Checklist (in points "j" and "n"). By following all the conditions prior to **para 3.14**, firmus energy believe the customer will clearly be aware of the cooling-off period and their right to cancel the contract; and therefore if they wish they can contact the relevant supplier and cancel their contract. We therefore believe to put **para 3.14.1-5** into action would ultimately be both a duplication in effort and expensive to implement.

Q.6 Do respondents think that the section of the Code relating to face to face selling covers all relevant areas? Are there any further comments that respondents have with relation to face to face selling?

firmus energy currently does not engage in face-to-face selling. However, firmus energy holds the same reservations about this as our comments pertaining to doorstep selling.

Q.7 Do respondents think that the section of the Code relating to telesales covers all relevant areas? Are there any further comments that respondents have with relation to telesales?

Currently firmus energy does not engage in the practice of telesales. However, should this be a future activity, firmus energy would have reservations with respect to the applicable sections described in our answers to Q5 and Q6.

We believe the current drafting in section 3.8 and 3.9 etc makes it difficult for the supplier to understand what exactly must be or can be communicated to the potential customer over the

telephone. This section does not translate well into telesales, as selling over the telephone, by its very nature, is a different process than that of doorstep sales and face-to-face selling.

Q.8 Do respondents think that the section of the Code relating to internet marketing covers all relevant areas? Are there any further comments that respondents have with relation to internet marketing?

We believe the Code as it stands is not clear in this section with regards to complying with 3.8 and 3.9. That is:

Para 3.8 – follow up to website. Is the Code requesting that an online application should be followed up with a telephone call? At present firmus energy online switching allows the consumer to become a new customer without having to speak to a sales agent (if that is what they wish). firmus energy feel that this is important as it gives consumers the choice to read all the necessary information on our website and sign up online without having to speak to an agent (unless of course they would like to). This caters for many consumers who do not want to speak to a sales agent or do not have time to take/make calls during business hours. By insisting supply companies make follow up telephone calls to these customers, we believe that the Utility Regulator are not providing consumers with the flexibility to undertake the switching process in a manner of they might prefer.

Q.9 Do respondents think that the section of the Code relating to marketing materials covers all relevant areas? Are there any further comments that respondents have with relation to marketing materials?

firmus energy has no further comments on the marketing materials Section 7 other than association and link in **para 7.5** to what we believe as the very prescriptive **para 3.8** and **3.9** as we have discussed previously.

Q.10 Do respondents think that the section of the Code relating to marketing by email/text message covers all relevant areas? Are there any further comments that respondents have with relation to marketing by email/text?

firmus energy has no further comments with regards to the section of the Code relating to marketing by email/text message

Q.11 Do respondents think that the section of the Code relating to marketing by post covers all relevant areas? Are there any further comments that respondents have with relation to marketing by post?

firmus energy has no further comments with regards to the section of the Code relating to marketing by Post.

Q.12 Are there any other areas which you believe the Marketing Code of Practice should cover?

firmus energy is of the opinion that the Marketing Code covers all the relevant areas.

Q.13 Do respondents think that the approach to monitoring is appropriate? Are there any further comments that respondents have with relation to monitoring, reporting and compliance?

firmus energy awaits the consultation from the Utility Regulator on the formulation of an appropriate monitoring regime for compliance with the Marketing Code of Practice as part of the wider Market Monitoring regime which they are developing.

firmus energy agrees with the logic behind the trigger mechanism in relation to customer complaints received by the Consumer Council etc., as we believe this already works well and it is a process understood by consumers and the energy companies, and it supports the promotion of overall consumer protection and satisfaction. firmus energy would, however, question the likelihood of a successful trigger mechanism in relation to breaches of the currently very prescriptive areas within the Marketing Code. We would be interested in finding out the capability and perceived necessity of the Utility Regulator monitoring other areas such as the, “two specific sales agent references required” (Para 2.4.1). The practicality around this is one of the main reasons why we believe the Code should be less prescriptive and more focused on the outcomes of consumer protection and satisfaction.

Q.14 Do respondents think that the publishing requirements outlined cover all relevant areas? Are there any further comments that respondents have with relation to publishing the Marketing Code of Practice?

firmus energy has no further comments with regards to the publication of the Code.

Please feel free to contact me direct on 028 9442 7835, should you wish to discuss this further.

Yours sincerely

John

John French
Head of Regulation and Pricing

Sinead Dynan,
The Utility Regulator,
Queens House,
14 Queen St.
Belfast
BT1 6ED

17th May 2013

Consultation on the Marketing Code of Practice

Dear Sinead,

Electric Ireland welcomes the opportunity to respond to the consultation on the proposed Marketing Code of Practice. Our detailed responses to the proposals in the paper are contained in the attached document.

Electric Ireland is committed to delivering high standards of conduct in the delivery of its marketing and selling practice. We acknowledge that there are occasional lapses across the industry where customers experience poor practice in these areas which is unacceptable. We believe however that, based on experience to date in the NI market, there is little evidence of widespread or premeditated inappropriate behaviour in this respect and that the Utility Regulator should reflect this in the final version of the code.

The proposed code makes no clear distinction between business and residential customers and Electric Ireland request, as a preference, that the final version will set out requirements for both sectors in either an 'A' and a 'B' section, or as two separate codes, with appropriate obligations for each clearly outlined. It is our presumption that any unintended consequences of the application of the code to both sectors will be clarified if this change is made.

Electric Ireland believes recruitment and training of marketing and sales staff, working directly for us in our internal operations or on our behalf with a third party provider, is a key business activity and responsibility. This is reflected fully in our compliance with all relevant employment, consumer and equality legislation, whether by ourselves or in conjunction with any third party provider working on our behalf. Where non-compliance is indicated by individual or collective infringement we expect that applicable and proportionate sanctions will apply. In this context we do not see that the provisions related to recruitment as outlined in the proposed code are necessary and request that they be either modified or deleted, where an overlap with existing legislative requirements is indicated.

Finally we request, in the context of a reasonably benign recorded experience in NI to date (and indeed in RoI) that the Utility Regulator consider an approach based on targeted outcomes covering supplier performance in the marketing and selling area, rather than the more prescriptive approach taken overall in the proposed code, in order to deliver appropriate

obligations and achieve the desired outcomes reasonably. Formal review periods could be incorporated into the proposed code where individual supplier and industry outcomes could be reviewed as the market develops, allowing for constructive engagement to address any difficulties identified.

Electric Ireland looks forward to working closely with the Regulator in planning for delivery of final decisions in this matter.

Regards,

Sean Doolin
Regulation Manager
Electric Ireland

Phone +353 (0)1 8934249

Mobile +353 (0)87 7980671

Email sean.doolin@electricireland.ie

P Please don't print this e-mail unless you really need to.

Electric Ireland - Detailed Responses **Consultation on the Marketing Code of Practice**

Q1. Do respondents agree that where this consultation has an impact on the groups listed above, those impacts are likely to be positive in relation to equality of opportunity for energy consumers?

Response 1

Yes

Q2. Do respondents consider that the proposals need to be refined in any way to meet the equality provisions? If so, why and how? Please provide supporting information and evidence.

Response 2

No.

Q.3 Do respondents think that the section of the Code relating to recruitment and training covers all relevant areas? Are there any further comments that respondents have with relation to recruitment and training?

Response 3

Electric Ireland acknowledges that appropriate rigour must be applied in the selection and training of sales agents – this is in the interests of both customers and suppliers alike. Where poor recruitment and training is delivered to sales agents this tends to be reflected in unsatisfactory outcomes for both suppliers and customers.

In reported instances of negative customer experience it is appropriate that individual suppliers are asked to provide evidence of the process applied in recruiting and training of the agent(s) involved and that proportionate consequences will be applied only where a supplier is shown to have clearly contravened established processes.

In this regard we also believe that a clear distinction needs to be made between occasional or isolated incidents which impact negatively on customers and, separately, where there is evidence of persistent infringement by a supplier(s) representative; and where it can be demonstrated that a supplier did not make reasonable efforts to prevent the infringement.

Q.4 Do respondents think that the practice of doorstep selling is appropriate for Northern Ireland?

Response 4

Electric Ireland favours availability of doorstep selling in Northern Ireland. This is a relatively new, developing market and, done well, doorstep selling is an effective selling approach. Though the consultation highlights much negative evidence produced in relation to the operation of doorstep selling in GB it has not produced any material or substantive evidence in relation to the practice in Northern Ireland. CCNI figures referenced and presented at the supplier workshop do contain some very worrying examples of how badly doorstep selling can be. CCNI have also correctly demonstrated that these are not completely isolated incidences and that, where they happen, they can have a very adverse impact on customers. As a responsible supplier Electric Ireland would not support such selling behaviours by rogue salespeople in any way.

There must also be some acknowledgement however on the part of authorities that rogue salespeople could behave just as badly under a prescriptive regime as under an outcomes based code and that no reasonable supplier would knowingly recruit a person of such character.

Analysis of latest statistics from CCNI does not indicate either that the problem is extensive in relation to the overall level of customer contacts or support any emerging malign trend whose remedy require drastic measures across the industry on the part of the UR. Electric Ireland stress our support for the setting of targeted and measurable outcomes to ensure a positive customer experience; and where there is evidence of persistent infringement of standards, that appropriate measures can be taken against the offending salesperson or supplier.

Finally we appreciate that occasionally there are individual complaints that can highlight particularly poor customer experience with a sales agent or a supplier, possibly over an extended time period – where this is proven to be the case an appropriate and targeted supplier sanction is warranted.

Q.5 Do respondents think that the section of the Code relating to doorstep selling covers all relevant areas? Are there any further comments that respondents have with relation to doorstep selling?

Response 5

Electric Ireland request that the requirement to provide comparisons with the customers current unit rate (section 3.9 of the proposed code) is reviewed. There is no distinction made between residential and business customers; and there is no acknowledgement that many customers, either residential or business, will not want to declare their own negotiating hand in any such interaction by providing precise details of their current tariffs. Finally the burden of applying the new requirements could act as a barrier to development of proper competition in the market for suppliers trying to

innovate or offer choice and value to the market. This is particularly so where suppliers will have a reasonable expectation that they can make a return on such investments.

In 3.10 the requirement to maintain detailed sales contact records for 2 years will impose a significant overhead on suppliers both in the design and build of required processes and in the ongoing management of such a record. It is not clear what tangible benefit will be delivered to customers as a result of this approach.

In 3.14 the supplier is required to take all reasonable steps to contact the customer 'within 7 days of entering into the Energy Contract'. The wording of the proposal suggests that this is 7 days after a successful sales visit by a supplier. Electric Ireland contend that this timescale is unnecessary as the customer has an option to cancel the contract over a longer period currently; and separately, it makes no sense for a supplier to incur the significant cost of a sales visit to persuade a customer to join them, then to have to contact them a few days later to confirm, as in 3.14.3, that they are 'content to have entered into that contract' and to reconfirm that the customer understands the principal terms and conditions of the contract. Our assumption is the customer will have satisfied themselves of this while the sales agent is with them.

Q.6 Do respondents think that the section of the Code relating to face to face selling covers all relevant areas? Are there any further comments that respondents have with relation to face to face selling?

Response 6

In addition to comments above the particular requirements proposed by UR appear to be impractical in a third party setting or at a sales event and would most likely make this option redundant for all but well targeted business functions. By their very nature these sales opportunities tend to be conducted quickly as potential customers are on the move and / or unable to take much time to discuss details. Customers will also be unlikely to have any details of their current bills with them so comparisons for example to include current supplier rates and / or discounts would not be possible.

Q.7 Do respondents think that the section of the Code relating to telesales covers all relevant areas? Are there any further comments that respondents have with relation to telesales?

Response 7

Electric Ireland agrees broadly that the telesales provisions are reasonable (notwithstanding our comments in relation to question 3, above).

We also request further consideration in relation to subsection 5.2 of the proposed code however to allow for the fact that a good, well trained, sales agent will want to persuade a customer to proceed with a switch, despite

some early misgivings on the part of the customer. This is in the nature of any sales pitch. We accept fully however that where a customer has clearly indicated their wish not to continue that this would be respected.

Q.8 Do respondents think that the section of the Code relating to internet marketing covers all relevant areas? Are there any further comments that respondents have with relation to internet marketing?

Response 8

Electric Ireland agrees broadly with the provisions in relation to Internet marketing, notwithstanding our comments made in relation to question 3 above.

Q.9 Do respondents think that the section of the Code relating to marketing materials covers all relevant areas? Are there any further comments that respondents have with relation to marketing materials?

Response 9

Electric Ireland agrees broadly with the provisions in relation to marketing materials, notwithstanding our comments made in relation to section 3 above.

Q.10 Do respondents think that the section of the Code relating to marketing by email/text message covers all relevant areas? Are there any further comments that respondents have with relation to marketing by email/text?

Response 10

Electric Ireland accepts the provisions of this section.

Q.11 Do respondents think that the section of the Code relating to marketing by post covers all relevant areas? Are there any further comments that respondents have with relation to marketing by post?

Response 11

Electric Ireland accepts the provisions of this section.

Q.12 Are there any other areas which you believe the Marketing Code of Practice should cover?

Response 12

No

Q.13 Do respondents think that the approach to monitoring is appropriate? Are there any further comments that respondents have with relation to monitoring, reporting and compliance?

Response 13

Electric Ireland notes that UR will be formulating an appropriate monitoring regime for compliance with the Marketing Code as part of a wider Market Monitoring regime and that this will be consulted on in due course.

As part of the regime Electric Ireland would like to see an emphasis on targeted and measureable outcomes. Monitoring and reporting should be at a level which can identify parties in breach of the code but which is also solidly based on material, proven incidents of code breach. Any consequences arising can then be directed at the offending supplier rather than at the industry as a whole.

Electric Ireland is confused by the involvement of Trading standards in the enforcement process – the latter is already covered on a statutory basis by Trading Standards legislation.

CCNI is involved in the Regulatory process currently, as a stakeholder at relevant regulatory forums and we would request clarification regarding any potential conflict between this role and an expanded role in adjudicating on market infringements per the proposed code.

Q.14 Do respondents think that the publishing requirements outlined cover all relevant areas? Are there any further comments that respondents have with relation to publishing the Marketing Code of Practice?

Response 14

The proposals as outlined seem reasonable. Electric Ireland respectfully suggests that if there is a requirement to provide a Braille version of the code and given that numbers requesting such a copy could be expected to be small overall, that consideration be given by UR to sourcing a single supplier of a Braille version of the final approved code and make these available to suppliers at an agreed unit cost or as part of the annual license charge to suppliers.

**Consultation on 'The Marketing Code of
Practice'**



Campaigning for Warm Homes

NEA NI Consultation Response

May 2013

Consultation – Marketing Code of Practice

National Energy Action Northern Ireland (NEA NI) welcomes the opportunity to respond to this consultation from the Northern Ireland Authority for Utility Regulation (NIAUR) to the consultation 'Marketing Codes of Practice'.

NEA is the fuel poverty charity whose work covers England, Wales and Northern Ireland and includes an office and staff in Belfast.

Between 2001 and 2004, considerable progress was made in reducing fuel poverty in Northern Ireland (from 27% of households to 23%) but by 2006 the rate of fuel poverty had increased to 34%, largely as a result of very significant increases in the price of fuel.

The most recent House Condition Survey 2011, states that some 42% of households in Northern Ireland are now in fuel poverty.¹ As this figure suggests fuel poverty is a very serious problem, with a size and scale that is unique to Northern Ireland due mainly to the fact that almost 70% of households are reliant on home heating oil and significantly lower levels of income. The level of fuel poverty is set to increase due to a combination of global pressures and government policies which put upward pressure on household bills. Fuel poverty is the number one issue affecting the Northern Ireland householder and it is also killing almost 600 older people in Northern Ireland every year. The effects of fuel poverty on health are profound and yet we know the solutions.

¹ Northern Ireland House Condition Survey 2011

Key sections

The 'Marketing Codes of Practice' consultation highlights a number of issues that NEA NI wish to comment on. This consultation response will provide comments and suggestions on the following four topics highlighted in the consultation document:

1. Universal approach of the Code of Practice
2. Role of appropriate training of staff
3. Door step selling and misrepresentation of potential savings
4. Proactive and Reactive monitoring and enforcement mechanisms

1.1 NEA NI welcomes this consultation from the NIAUR and is supportive of the calls for a mandatory Marketing Code of Practice for Energy Suppliers in Northern Ireland. Due to the exceptionally high levels of fuel poverty in Northern Ireland (some 42%), and the vulnerability associated with this, NEA NI is keen to see a Code of Practice that is customer focused with the necessary enforcement power to penalize those Suppliers who fall short of the required standard of conduct.

1.2 Issues addressed in this Marketing Code of Practice have been of concern to NEA NI. Community based projects managed by NEA NI have uncovered a body of case study material highlighting numerous areas of poor practice in terms of doorstep selling and mis-selling by Energy Suppliers. It is due to this evidence that we believe that the creation of a robust Marketing Code of Practice is essential to deliver the enhanced customer protections, particularly for vulnerable customers, outlined in the Implementation of the European Third Energy Package.

1.3 That said we are fully aware that not all Energy Suppliers are involved in this poor practice. Indeed one of the Natural Gas Suppliers in Northern Ireland can evidence a high level of customer satisfaction with barely any formalized consumer complaints. However, it is essential that legislation be established to ensure that this good practice continues and becomes the norm for customers.

Universal approach to the Marketing Code of Practice

2.1 An essential element of the Marketing Code of Practice is the universal approach which will be adopted. We welcome the fact that all licensed Energy Suppliers in Northern Ireland will be covered by the Marketing Code of Practice. However, we lament the fact that the Oil Industry, which causes us to experience the highest levels of fuel poverty in the United Kingdom, remains elusive.

2.2 Northern Ireland customers currently do not enjoy equal protection in relation to Energy Suppliers. Electricity and Natural Gas companies' licences are not harmonized and therefore varying levels of protection exist. This is a situation that must be corrected if meaningful customer protection is to become a reality in Northern Ireland. NEA NI welcomes the universal nature of this Code of Practice and wish to see this approach extended to other licence areas such as disconnection practices.

Role of appropriate training of staff

2.3 NEA NI is content with the section of the Code of Practice which deals with recruitment and training. The importance of adequate and appropriate training cannot be underestimated, particularly when interacting with vulnerable customers. Energy Supplier employees tasked with carrying out face-to-face or telephone based engagement with customers must have a high level of customer awareness training. This will protect both the employee and the vulnerable customer. Training must be seen as a continuous process rather than a 'tick-box' exercise. A continual review of the behaviour and conduct of sales operatives engaged in personal interaction with customers must be carried out and monitored in order to ensure compliance. Due to the high levels of fuel poverty in Northern Ireland (42%) it is probable that sales operatives will encounter a high proportion of vulnerable customers; it is these households who need most to avail of any potential savings that Suppliers can offer. Thus, any training must explore the issues of vulnerability both personal and financial.

2.4 An appropriate training package, delivered by an accredited organisation, will help mitigate the poor practice experienced to date following the introduction of competition in the energy retail market in Northern Ireland.

Doorstep selling and misrepresentation of potential savings

3.1 A balance needs to be reached between the risks of doorstep selling and the need to have such a practice in order to aid the growth and development of the Northern Ireland energy retail market. NEA NI is mindful of the need to have a competitive energy market so that customers can access better prices for domestic fuel. However, it would be negligent not to discuss the high levels of risks associated with doorstep selling, particularly for vulnerable customers. The risks of doorstep selling include possible legal breaches where minors have been asked for consent to contracts and inaccurate information has been given to the customer. We cannot ignore that there is evidence that these practices have been rife in Northern Ireland among some Energy Suppliers.

3.2 The use of misleading information on potential savings must be taken very seriously in terms of the enforcement of the Code of Practice. Customers must have access to accurate and up-to-date information to allow for an informed decision to be reached. This is crucial in the case of vulnerable customers who need to get the best possible deal to allow them to adequately heat their homes. Use of language on this subject is crucial also; employees must use clear language when explaining any potential savings and illustrate these savings with appropriate examples to aid understanding. We recommend a customer relations training package for all employees which would help to alleviate any bad practice and assist the company in demonstrating a will to reach compliance.

3.3 NEA NI view the Marketing Code of Practice as an opportunity to rid ourselves of poor practice and allow robust structures to be put in place; ensuring standards are adhered to which can be monitored and evaluated. We need to learn the lessons of mis-selling which have marred the industry in GB and caused mistrust and confusion among customers.

Proactive and Reactive monitoring and enforcement mechanisms

4.1 NEA NI welcomes the inclusion of robust monitoring and enforcement in the Marketing Code of Practice. It is essential that the progress made by Suppliers in compliance with this Code of Practice is evidenced and accurately recorded. The monitoring process of the Marketing Code of Practice must also ensure that problems are dealt with in timely and responsive manner. For example, if we uncover an issue with a customer we expect that the NIAUR could intervene before a formalised report from the Energy Supplier.

4.2 We believe that the monitoring of the Marketing Code of Practice is appropriate and are content with what has been outlined by the NIAUR. We welcome a 'cluster' of complaints approach to trigger any investigation of a Supplier to establish if a breach of compliance with the Code of Practice has occurred. This is a pragmatic approach. Nevertheless, we can think of single incidents which cause a serious concern that may warrant a full investigation. We welcome further consultation on what these issues could potentially be.

4.3 NEA NI calls on the NIAUR to implement a communication mechanism with the third sector in relation to establishing the existence of any 'clusters' of complaints. It is those organisations who are active in communities who will have rich case study material that could be used in any potential investigation.

In the light of the comments above and to assist the NIAUR in the analysis of responses we have addressed the questions posed as follows:

Q1. NEA NI agree

Q2. No need for refinement but on-going monitoring should be undertaken to ensure that the operational outworking's of this policy are not disadvantaging customers in Northern Ireland.

Q3. It is clear that investment in training pays dividends in relation to establishing good practice. firmus energy has set an exemplar in that every staff member has been trained to our NEA/City and Guilds Energy Awareness standard.

- Q4.** At this time we agree that doorstep selling is appropriate for Northern Ireland.
- Q5.** Paragraphs 3.1 -3.3 contain NEA NI's comments on doorstep selling. This practice does enable access to switching and the benefits that can bring to the customer.
- Q6.** Paragraph 3.1 -3.3 contain NEA NI's comments on face-to-face selling.
- Q7.** Telesales must be effectively and closely monitored.
- Q8.** Continual monitoring of internet material by NIAUR must take place.
- Q9.** NIAUR needs to work closely with third sector organisations such as NEA NI to ensure marketing materials are fit for purpose. NEA NI are happy and willing to facilitate this process.
- Q10.** Continual monitoring of email/text message content by NIAUR must take place.
- Q11.** Printed materials should be monitored and checked for compliance with standards of good practice.
- Q12.** NEA NI believe the Marketing Code of Practice covers all necessary areas
- Q13.** Approach to monitoring is appropriate and NEA NI looks forward to working with the NIAUR on the implementation of this.
- Q14.** Publishing requirements cover all relevant areas.

Conclusion

NEA NI welcomes this consultation on a 'Marketing Code of Practice'. We look forward to working closely with the NIAUR on this issue in order to provide high levels of customer protection in Northern Ireland.

Consultation on the Marketing Code of Practice for suppliers

Phoenix Natural Gas Ltd ("**PNGL**") welcomes the opportunity to respond to the Utility Regulator ("**UR**") consultation on the Marketing Code of Practice for suppliers.

PNGL is responsible for developing the natural gas industry in its Licensed Area where natural gas is now available to circa 90% of properties. This capital investment will be paid for by existing and future consumers under the terms of PNGL's licence. However at the end of 2012, just over one half of these properties have connected to the network. PNGL believes that any adverse publicity generated by the marketing activities of suppliers has the potential to damage the growth of the natural gas industry in its Licensed Area and across Northern Ireland. PNGL is therefore supportive of UR's development of a Marketing Code of Practice for suppliers.

The need for a Marketing Code of Practice for suppliers is a necessary requirement of IME3 as was the need for a Marketing Code of Practice for natural gas Distribution System Operators (DSOs); the natural gas DSOs jointly developed a Gas Distribution Marketing Code which has been approved by UR and came into effect in March 2013.

As a general comment, and as previously advised, PNGL accepts that changes are necessary to implement the requirements of IME3. However PNGL strongly objects to any proposals which are not a specific requirement of IME3. It must be recognised that there are always cost implications for consumers in delivering licence requirements and it is therefore inappropriate for UR to bring forward proposals which are outside the remit of IME3 given that the requirements of IME3 are stringent and regulated licensees are already subject to a challenging regulatory regime and rigorous legislative requirements.

In developing the Gas Distribution Marketing Code, one of the primary objectives for both UR and the natural gas DSOs was to ensure that the contents of the Code were measurable and defensible. PNGL's review of the draft Marketing Code of Practice for suppliers has concluded that these objectives may not be met as in many instances the proposals are ambiguous, immeasurable and overly prescriptive. PNGL has detailed below some of these areas of concern together with more specific comments on the draft Marketing Code of Practice for suppliers which PNGL believes goes beyond the remit of IME3. PNGL believes that such heavy regulation may damage the natural gas industry e.g. it may hinder the development of effective supply competition with potential gas suppliers finding the stringent conditions too prohibitive to enter the market. A balance must be sought to ensure that consumers are adequately protected and that suppliers have a set of measurable, transparent guidelines upon which to base their marketing activities.

PNGL's specific comments on the draft Marketing Code of Practice for suppliers are detailed below:

Consultation

Introduction

PNGL notes that both the consultation and the *'Consumer Council Annual Enquiries and Complaints report'* to which it refers advise that as switching activity has increased, complaints relating to the marketing activities of suppliers has also increased. PNGL would highlight that this increase in complaints is specific to the electricity sector and despite over 24% of gas consumers choosing to switch supplier, marketing based complaints for natural gas are minimal. It may therefore be useful for UR to review the approach adopted by the natural gas industry in developing supply competition to ascertain if there are any processes from which the electricity sector may benefit e.g. the natural gas industry has developed a robust erroneous transfer process which clearly sets out the timescales for addressing the issue and ensures that the customer is not adversely affected financially by an incorrect transfer. PNGL understands that no such process exists in the electricity sector.

Background to the Consultation

PNGL notes that in GB, five of the six largest suppliers have stopped door-to-door selling. PNGL understands that UR is not minded to abolish door-to-door sales however the heavy regulation approach may arguably lead to the same practice being adopted by Northern Ireland suppliers.

PNGL is concerned that without door-to-door selling, consumers may not be readily made aware of the potential benefits of switching supplier if Sales Agents are no longer able to call at their homes e.g. consumers without internet access or housebound.

Publication of the Marketing Code of Practice for suppliers

PNGL notes the requirement for suppliers to send copies of the Marketing Code of Practice for suppliers to advice giving organisations, charitable organisations which seek to help vulnerable customers and those organisations which request one. It may be more appropriate for UR to provide a copy to organisations who participated in the consultation process given that suppliers may not have the appropriate contact information and the Marketing Code of Practice for suppliers will be readily accessible from their websites.

Draft Marketing Code of Practice for suppliers (the "draft Code")

Section 2.3.2

Strict equal opportunities employment legislation governs the recruitment of personnel; the draft Code already recognises this and requires suppliers to be compliant. It therefore seems inappropriate for the draft Code to ask suppliers have due regard to the *"behaviour and appearance"* of new Sales Agents recruits. This is an example of the provisions of the draft Code being ambiguous, immeasurable and overly prescriptive.

Section 2.4.3

The draft Code requires all new Sales Agents to provide the supplier with a business reference. Not all applicants will have a business reference e.g. university graduates, and may, under the draft Code, require the supplier to exclude them from the recruitment process. Strict equal opportunities employment legislation governs the recruitment of personnel; the draft Code already recognises this and requires suppliers to be compliant. UR should therefore consider whether the requirement for two appropriate references may be more appropriate.

Section 2.4.4

The requirement for suppliers to carry out a CRB check needs to be detailed e.g. what convictions may exclude a person from obtaining a job as a Sales Agent?, is there a time period? The draft Code leaves this to suppliers who may be required to seek legal advice to ensure that they are not in breach of relevant employment legislation. This could prove costly, particularly for smaller businesses or new market entrants. PNGL understands that a CRB check may take a considerable time, again having adverse effects on a business and its recruitment policies.

Section 2.6

In general the provision for training of Sales Agents is overly prescriptive.

In particular, there is no definition of a vulnerable customer for the natural gas industry. PNGL would suggest that section 2.6.4 refers to training on the recognition and treatment of consumers on the care scheme of the gas supplier.

Section 3.1.1

UR should be mindful that the requirement for suppliers to include an expiry date for the validity of an identity card may prove costly. As it stands the draft Code proposes that identity cards should be retrieved from employees leaving a company. It could be argued that the need to include an expiry date for the validity of an identity card is therefore redundant.

Sections 3.1.2 and 5.3

The requirement for a Sales Agent to inform a customer they can be removed from the contact list is an example of the provisions of the draft Code being overly prescriptive. UR should consider whether "*on request*" may be more appropriate.

Sections 3.3 and 5.4

PNGL notes that door-to-door sales may be made on weekdays between 9am and **7pm** whereas telesales may be made on weekdays between 9am and **8pm**. PNGL suggests that, to avoid confusion, the timeframes are aligned so that a supplier may contact a domestic customer at home on **weekdays between 9am and 8pm**.

Furthermore PNGL notes that suppliers may not contact a domestic customer at home on any public or bank holiday. UR should be mindful that Northern Ireland observes different holidays than in Great Britain and "*any other Non Business Day of the supplier*" may be more appropriate.

Sections 3.6 and 3.12.1

It is unclear how a Sales Agent would be aware of an individual's circumstances. The requirement for Sales Agents to *"take account of a consumer's personal circumstances"*, *"not exploit a person's vulnerability, credulity, loyalties"* and *"not abuse the trust of vulnerable or inexperienced customers...and not complete an energy supply contract with customers who are not capable...of making an informed decision as to whether or not to enter the contract"* are examples of the provisions of the draft Code being overly subjective.

Sections 4.1, 5.5 and 6.1

If the draft Code is intended for use by consumers, PNGL would suggest that the above sections are fully detailed to ensure that they are easily understandable.

Section 6

PNGL would suggest that the above section is extended to include marketing by social media.

Section 7.1

The draft Code requires that marketing material is *"legal, decent, honest, easily understandable and truthful"*. This seems redundant given the UK Code of Non-Broadcast Advertising, Sales Promotion and Direct Marketing requires that communication must be *"legal, decent, honest and truthful"*. PNGL would suggest that this wording is replicated here or better replaced with a requirement for marketing activities of suppliers to be in line with all relevant legislation (as amended) applicable to Northern Ireland.



Power NI
Woodchester House
50 Newforge Lane
Belfast
BT9 5NW

www.powerni.co.uk

Sinead Dynan
Utility Regulator
Queens House
14 Queen Street
Belfast
BT1 6EB

17 May 2013

Dear Sinead,

Utility Regulator Consultation on the Marketing Code of Practice

Power NI welcomes the opportunity to respond to the above consultation published by the Utility Regulator (UR). Power NI has a strong track record of delivering excellent customer service and welcomes enhanced protection of vulnerable customers.

At the recent workshop hosted by the UR, the Consumer Council (CCNI) presented examples of customer complaints in relation to sales experiences. Power NI considers the customer experience described as wholly unacceptable. For some time Power NI has highlighted examples of poor practice to the UR and CCNI and therefore welcomes both the development of a Marketing Code of Practice and the involvement of Trading Standards in relation to poor sales practice.

While supportive of the principles and goals of a Marketing Code of Practice, Power NI was somewhat surprised by the procedurally prescriptive nature of the conditions. Regulation in this area should follow the principles of Better Regulation and be targeted, proportionate and focus clearly on the outcomes desired rather than being excessively specific.

Power NI is mindful that compliance with other IME3 requirements has already caused a significant financial burden while providing negligible customer protection. A cost benefit analysis on this proposal should therefore be completed by the UR as implementation costs will ultimately be borne by customers.

In relation to the drafting of the Marketing Code of Practice, Power NI is concerned that many of the conditions seek to replicate or extend existing requirements already covered in legislation; particularly in areas of employment and data protection. It is not clear how potential conflicts with the Regulator's requirements will be addressed or if suppliers may now face action by two bodies in relation to the same issue. Clarification in this area would be welcomed. Additionally,

the UR could consider reducing the prescriptive detail within the Code favouring broad principles and references to statutory obligations.

Power NI also believes that the draft Marketing Code of Practice does not adequately distinguish between domestic and commercial customers. Large Energy Users are sophisticated energy consumers who often procure and enter specific, complex energy contracts with suppliers. They are acutely aware of the technical nature of the energy industry and have procurement, legal and energy management capability. It is therefore not appropriate or proportionate to consider domestic customers and in particular vulnerable customers, in the same way as persons who are responsible for managing businesses.

It is equally inappropriate to treat small business owner/operators in the same manner as vulnerable customers. While Power NI can appreciate a desire to have specific protection requirements in relation to this sector, it may be better facilitated by a separate tailored Marketing Code of Practice for those smaller business customers. Such a Code could clearly recognise the difference between a customer responsible for managing a business and a domestic (or vulnerable domestic) customer.

Within the consultation the UR has asked specific questions, Power NI has provided answers as requested within Appendix 1. Should the UR have any queries regarding any aspect of this consultation response please do not hesitate to contact me.

Yours sincerely

A handwritten signature in black ink, appearing to read 'William Steele', written in a cursive style.

William Steele
Power NI

Appendix 1

Q3. Do respondents think that the section of the Code relating to recruitment and training covers all relevant areas? Are there any further comments that respondents have with relation to recruitment and training?

As stated above, Power NI was somewhat surprised by the procedurally prescriptive nature of the conditions and in particular is concerned that many of the conditions seek to replicate or extend existing requirements already covered in legislation. The treatment and resolution of conflicts which may result from this duplication is of concern. Furthermore to require a supplier to have due regard for example to "appearance" as per Section 2.3.2 is potentially discriminatory in nature as written.

The UR could consider reducing the prescriptive detail within this section of the Code and replace with broad high level principles and references to statutory employment obligations.

Q.4 Do respondents think that the practice of doorstep selling is appropriate for Northern Ireland?

While door step selling is an effective selling technique it does require strong market monitoring to prevent miss-selling. The monitoring aspects have not been made clear within the consultation and Power NI would welcome further clarification on the UR's intention with this regard.

Q.5 Do respondents think that the section of the Code relating to doorstep selling covers all relevant areas? Are there any further comments that respondents have with relation to doorstep selling?

As stated above, Power NI does not believe that the Code adequately deals with the differences between domestic and commercial customers. Power NI would welcome a complete exclusion for Large Energy Users and a more tailored code for smaller businesses.

Power NI does welcome the requirement to make like for like comparisons when attempting to persuade consumers; however failure to adequately meet that requirement is a breach of trading standards legislation.

The UR may also wish to consider provisions on the number of attempts an agent can make to persuade the customer i.e. a restriction on the number of re-visits or repeat calls.

Q.6 Do respondents think that the section of the Code relating to face to face selling covers all relevant areas? Are there any further comments that respondents have with relation to face to face selling?

As with door step selling.

Q.7 Do respondents think that the section of the Code relating to telesales covers all relevant areas? Are there any further comments that respondents have with relation to telesales?

As with door step selling.

Q.8 Do respondents think that the section of the Code relating to internet marketing covers all relevant areas? Are there any further comments that respondents have with relation to internet marketing?

As with door step selling.

Q.9 Do respondents think that the section of the Code relating to marketing materials covers all relevant areas? Are there any further comments that respondents have with relation to marketing materials?

Power NI welcomes the reference made to the CAP code and suggests that this approach to dealing with potential requirement overlap could be replicated in areas of statutory obligation particularly the employment legislation areas replicated in Section 2.

Q.10 Do respondents think that the section of the Code relating to marketing by email/text message covers all relevant areas? Are there any further comments that respondents have with relation to marketing by email/text?

Many of the requirements the UR is proposing in relation to electronic marketing are covered by Data Protection legislation. As with other areas Power NI is concerned that conflicts or inconsistencies may develop if activity is regulated through multiple channels.

Q.11 Do respondents think that the section of the Code relating to marketing by post covers all relevant areas? Are there any further comments that respondents have with relation to marketing by post?

Power NI has no additional comments other than those made above.

Q.12 Are there any other areas which you believe the Marketing Code of Practice should cover?

Power NI believes the Code should clarify the concerns described above.

Q.13 Do respondents think that the approach to monitoring is appropriate? Are there any further comments that respondents have with relation to monitoring, reporting and compliance?

Power NI would welcome clarification on the potential conflicts between statutory obligations and clauses contained within the Code. Power NI would also welcome further details on the UR's proposed compliance monitoring and the division of responsibilities between the UR, CCNI and Trading Standards.

Q.14 Do respondents think that the publishing requirements outlined cover all relevant areas? Are there any further comments that respondents have with relation to publishing the Marketing Code of Practice?

The publication of the Code of Practice on web sites and the provision on request are reasonable requirements. As the Code of Practice will be applicable to all suppliers and written by the UR, it would be more cost effective for the overall industry if the UR were in a position to fulfil any alternate format requests.

Advice NI Response to the Consultation Paper on the Marketing Code of Practice for Electricity and Gas Suppliers.

17th May 2013

General

Advice NI welcomes the opportunity to respond to this consultation and the development of a new marketing code of practice that will help protect vulnerable gas and electricity customers from inappropriate marketing practices.

As a result of new suppliers into the energy retail sector in Northern Ireland, Advice NI members have dealt with a number of clients presenting themselves with issues in relation to product information, pricing and switching energy supply. Advice NI is also aware of the significant issues throughout the rest of the UK around energy suppliers marketing practices and their impact on vulnerable customers, especially around the issue of mis-selling.

Advice NI understands the benefits that competition can bring to consumers which can result in lower prices and increased levels of customer satisfaction. At a local level these possible benefits become even more significant given that Northern Ireland consumers currently pay more for their energy than consumers anywhere else in the UK mirrored with the fact that Northern Ireland has the highest level of fuel poverty in the UK.

It is Advice NI's hope that ultimately with the development of this mandatory marketing code of practice in Northern Ireland, for energy suppliers, consumers will be empowered to make informed, practical, non-pressurised decisions on whether or not to change their energy suppliers. It is also hoped that alongside the protection of consumers the marketing code of practice will help ensure high standards in the delivery of services by suppliers and sound compliance monitoring by the regulator in adherence to the code.

Advice NI is a membership organisation which exists to provide leadership, representation and support for independent advice organisations to facilitate the delivery of high quality, sustainable advice services. Advice NI provides its members with the capacity and tools to ensure the delivery of effective advice services. This includes: advice and information

management systems, funding and planning, quality assurance support, NVQs in advice and guidance, social policy co-ordination and ICT development. Membership of Advice NI is normally for organisations that provide significant advice and information services to the public. Advice NI has over 65 member organisations operating throughout Northern Ireland, providing information and advocacy services to over 100,000 people each year and dealing with over 227,000 enquiries on an extensive range of matters including: debt, social security, housing, consumers and employment issues. For further information, please visit www.adviceni.net.

Advice NI's Debt Action Project, aimed at helping the most financially vulnerable in Northern Ireland, has provided free independent debt advice to 5,210 clients and dealt with £83.4 million pounds of debt from the period 1st August 2012 to 16th May 2012. The project currently has over 27 professionally trained money and debt advisers based in 19 Council areas who in the above period have dealt with: -

- £45,662.51 worth of debts relating to Gas
- £53,901.26 worth of debts relating to electricity

Advice NI's Response: Utility Regulator Marketing Code of Practice

Q1. Do respondents agree that where this consultation has an impact on the groups listed above, those impacts are likely to be positive in relation to equality of opportunity for energy consumers?

Advice NI believes that the proposed marketing code of practice should impact all customers positively given the level of protection it presents.

Q2. Do respondents consider that the proposals need to be refined in any way to meet the equality provisions? If so, why and how? Please provide supporting information and evidence.

Advice NI would advocate that as a matter of good practice and good business, energy suppliers should treat everyone accessing their goods, facilities or services fairly, regardless of their age, gender, race, sexual orientation, disability, gender reassignment, religion or belief, and guard against making assumptions about the characteristics of individuals.

However, Advice NI would be concerned regarding the potential impact on clients who are in debt and are struggling to pay off utility bill arrears, in terms of options for tariffs and switching suppliers.

Q3. Do respondents think that the section of the Code relating to recruitment and training covers all relevant areas? Are there any further comments that respondents have with relation to recruitment and training?

Advice NI believes that the area of recruitment and specifically training of employees is fundamental to ensuring that any marketing and sales practices within the energy industry in Northern Ireland adhere to good practice and responsible selling that puts the client's needs at the core. Advice NI would particularly encourage training for agents around vulnerability and risk of debt.

Over the past 12 months Advice NI members have dealt with a significant number of clients who have had bad experiences especially around the practice of door step selling. Advice NI understands that these complaints may have arisen due to bad practices of individual agents who for whatever reason may not have been following their company's policies and procedures.

Advice NI particularly welcomes the safeguards and securities that Section 2 of the Marketing Code of Practice introduces, particularly for vulnerable customers. We are principally pleased to see that: -

- Suppliers must follow appropriate procedures in the selection of representatives who will be involved in direct customer engagement
- In the recruitment and selection of Sales Agents their knowledge, skills and experience will be an intrinsic part of the process
- Security checks for all Sales Agents
- The Marketing Code of Practice will be central in the training of all staff and representatives who communicate with customers

In relation to point 2.6.5 (training on the recognition and treatment of vulnerable customers), Advice NI has developed and delivered NVQ Advice and Guidance modules that deal with this particular topic and would welcome any engagement with the energy suppliers should they wish Advice NI to deliver this training to employees that they feel would benefit from it.

Advice NI believes the detail provided in the points within Section 2 of the code of practice will help ensure that energy suppliers, through effective monitoring and enforcement by the Utility Regulator, will deliver a fair, transparent and high standard of customer service.

Q4. Do respondents think that the practice of doorstep selling is appropriate for Northern Ireland?

Advice NI is aware of the unhappy experience of consumers regarding doorstep sales in the rest of the UK as highlighted in Consumer Focus Report ‘the end of the road – energy consumers’¹. The evidence from this report, such as only 1 per cent of consumers find doorstep selling a useful way of finding out about products, overwhelmingly suggests that consumers would like to see an end to un-solicited doorstep selling.

Additionally, based on evidence from our advisers and the CCNI presentation at the Utility regulator Stakeholder Event on the 23rd March, Advice NI would have great concerns regarding the practice of doorstep selling by energy suppliers in Northern Ireland. Particularly in the current economic climate where people are already under considerable amounts of stress.

Advice NI also recognises that doorstep sales can have certain advantages such as: -

- It avoids the need to travel, particularly in the case for isolated vulnerable customers who may have mobility problems
- If the product requires time to discuss its features it may be more convenient for consumers to have the opportunity to have this demonstrated at home, such as the perceived complex process of switching suppliers
- Proactive selling could help address consumer resistance to change that could be of benefit to them, such as cheaper tariffs

Advice NI believes that if Section 3 of the proposed Code of Practice is strictly adhered to, monitored and any breaches enforced, there are significant safeguards to consumers to protect them against issues such as mis-selling, high pressure sales tactics or the exploitation of vulnerable people.

Advice NI would also stress the need for the utility regulator to have the power to restrict or stop doorstep selling should it become apparent that the principles set out in the code of practice are not being adhered to. To help with this process Advice NI recommends that steps should be taken by the Utility Regulator to encourage consumers to make complaints and provide evidence of potential enforcement matters. Advice NI would also welcome training delivered to the Advice Sector to help support clients in making complaints.

In addition to this Advice NI would recommend that all consumers making a contract for goods or services provided by the energy supplier in their own home should be afforded

¹ <http://www.consumerfocus.org.uk/files/2011/07/The-end-of-the-road.pdf>

special cancellation rights over and above current provisions. Advice NI believes that this will help consumers, who may have been mis-lead, pressurised or coerced in to purchasing products.

Finally, to help safeguard vulnerable consumers, Advice NI recommends that all consumers should be given a standard leaflet about their rights when buying products and services at home at the beginning of any visit where a doorstep sale may be made. Advice NI would additionally welcome details to be included on the standard leaflets on access points were clients can get further independent help and advice on issues such as debt or their benefit entitlements. Advice NI would be happy to work in partnership with the energy suppliers to provide this information and ultimately support to customers.

Q5. Do respondents think that the section of the Code relating to doorstep selling covers all relevant areas? Are there any further comments that respondents have with relation to doorstep selling?

Advice NI believes that if the code is implemented in its current form, consumers should benefit from a high level of protection around the whole practice of doorstep lending.

Advice NI is pleased to see that in clause 3.1.x, agents must present an identity card, give a reason for the visit and provide the consumer with a sales checklist. Advice NI believes these safeguards will help put the consumer at ease whilst providing them with the opportunity not to proceed and have their contact details removed from contact list if desired.

With regards to product details, specifically unit rates, Advice NI is pleased to see that the code recognises the difficulty that consumers would have in interpreting prices effectively and to avail of the best deal. Advice NI understands that the objective of the code is to make information clear and easy to understand. Therefore Advice NI welcomes the proposals regarding the display of unit rates, discounts and savings. However, to make the process even clearer to consumers, Advice NI would make the recommendation to only display one unit rate which includes VAT. Advice NI would recommend that the energy suppliers link up with the financial capability strategy particularly in relation to measuring consumer awareness and understanding of such issues.

Q6. Do respondents think that the section of the Code relating to face to face selling covers all relevant areas? Are there any further comments that respondents have with relation to face to face selling?

Advice NI believes that the codes additional stipulation in Section 4.0 with regard to face to face selling/contact with consumers should continue to help protect customers whilst ensuring switches are fair, honest, and transparent and carried out with the consumer's full knowledge and consent.

Advice NI would advocate that the Utility Regulator monitors this closely to ensure that there are no breaches of the code by the suppliers.

Q7. Do respondents think that the section of the Code relating to telesales covers all relevant areas? Are there any further comments that respondents have with relation to telesales?

Advice NI is aware of the broader issues around nuisance calls and messages and therefore is pleased that the Code stipulates times that sales calls can be made to consumers and that consumers can have their details removed from the contact list should they request so.

Advice NI is also pleased to see that the Code stipulates that if the consumer states that they do not wish to precede the tele-sales agent must end the call. To supplement this Advice NI would recommend that a limit of calls is placed on contact attempts by the energy suppliers, were the sales agent has been able to get through but has been advised by the customer that they do not wish to proceed at present. Advice NI believes that often vulnerable clients would, over the phone, struggle to express assertively that they do not wish to proceed. Advice NI believes this would help prevent customers feeling pressurised in to potential purchases.

Again Advice NI would advocate that the Utility Regulator monitors this closely to ensure that there are no breaches of the code by the suppliers.

Q8. Do respondents think that the section of the Code relating to internet marketing covers all relevant areas? Are there any further comments that respondents have with relation to internet marketing?

As the main emphasis of internet marketing activities would be through written electronic literature, Advice NI are pleased to see that the Code stipulates that any information that a consumer is exposed to should be as clear and accurate as possible.

As with all e-communications, Advice NI believes there could be a potential risk in the possibility of customers sharing sensitive data online such as bank account details, with scammers using 'phishing' methods. Therefore, Advice NI would recommend that the

energy suppliers take preventative measures to ensure that customers are not exposed to potential scams.

Advice NI would like to see any internet marketing literature reviewed and monitored on a regular basis to ensure that it continues to meet the marketing code's standards.

Q9. Do respondents think that the section of the Code relating to marketing materials covers all relevant areas? Are there any further comments that respondents have with relation to marketing materials?

Advice NI fully welcomes the proposed provisions of the code in relation to marketing materials and literature.

Advice NI would particularly like to ensure that all marketing materials are understandable, jargon free and easily available in various different formats to ensure that no vulnerable consumer group is unable to access the materials.

Q10. Do respondents think that the section of the Code relating to marketing by e-mail/text message covers all relevant areas? Are there any further comments that respondents have with relation to marketing by e-mail/text?

Advice NI welcomes the inclusion of an 'opting out' clause and a requirement to hold a 'not for contact' database within the Code.

In any e-communications, along with the stated information to clients regarding the supplier, Advice NI would like to see an easy method for customers to make a complaint or report any breaches in the Code. This should be shown clearly on all e-communicate. Advice NI would like to see this monitored and reviewed regularly by the regulator.

Advice NI would also like to ensure that any communications via a customer's mobile phone will be at no expense to the customer.

Q11. Do respondents think that the section of the Code relating to marketing by post covers all relevant areas? Are there any further comments that respondents have with relation to marketing by post?

Advice NI welcomes that the Code provides safeguards in terms of ensuring that customers do not get harassed with unwanted communication from a supplier. Again Advice NI would advocate that this is monitored and reviewed to ensure compliance.

Q12. Are there any other areas which you believe the Marketing Code of Practice should cover?

As organisations continue to look for new innovative ways of marketing products and services, such as live online chat facilities and social media tools, Advice NI would like to see the Code flexible to the ever changing external marketing environment with the provision of new protection and safeguards being easily implemented should the need arise.

Q13. Do respondents think that the approach to monitoring is appropriate? Are there any further comments that respondents have with relation to monitoring, reporting and compliance?

Advice NI welcomes the provisions set out in the code around monitoring, reporting and compliance. Advice NI is also willing to work with the regulator to assist with the recording and reporting of any customer issues, that Advice NI would deal with, around the marketing activities of energy suppliers.

Q14. Do respondents think that the publishing requirements outlined cover all relevant areas? Are there any further comments that respondents have with relation to publishing the Marketing Code of Practice?

Advice NI welcome the opportunity to distribute copies of the Marketing Code to advice giving organisations and can provide the Utility Regulator and up to date database of Advice NI members.

Advice NI would again advocate the production of the code in various formats to ensure that all customers across Northern Ireland have access.

Contact information:

Bob Stronge (Chief Executive) bob@adviceni.net

Fiona Magee (Deputy Chief Executive) fiona@adviceni.net

Kevin Higgins (Head of Policy) kevin@adviceni.net

Advice NI

1 Rushfield Avenue

Belfast

BT7 3FP

Tel: 028 9064 5919, Fax: 028 9049 2313, Website: www.adviceni.net



The Consumer Council

Consultation: Utility Regulator Consultation on the Marketing Code of Practice (Pursuant to September IME3 modifications)

Date: 17 May 2013

Contact: Marian Cree

Our (PID) reference number: PD200101496

1. Introduction

The Consumer Council welcomes the opportunity to respond to this consultation.

The Consumer Council is an independent consumer organisation, working to bring about change to benefit Northern Ireland (NI) consumers. Our aim is to make the consumer voice heard and make it count.

We have a statutory remit to *promote and safeguard the interests of* consumers in NI and we have specific functions in relation to energy, water, transport and food (the Consumer Council and the Food Standards Agency (FSA) have a memorandum of understanding and the Council's strategic focus on food is primarily in relation to food prices and customer experience). These include considering consumer complaints and enquiries, carrying out research and educating and informing consumers.

The Consumer Council is also a designated body for the purposes of supercomplaints, which means that we can refer any consumer affairs goods and services issue to the Office of Fair Trading, where we feel that the market may be harming consumers' best interests.

In taking forward our broad statutory remit we are informed by and representative of consumers in NI. We work to bring about change to benefit consumers by making their voice heard and making it count. To represent consumers in the best way we can, we listen to them and produce robust evidence to put their priorities at the heart of all we do.

2. Background

CCNI is fully aware of the benefits that effective competition can bring to consumers. These include lower prices, increased levels of customer service and increased consumer confidence in the energy market. Key to the success of competition is the development and implementation across the

electricity and gas industries of sound and fair marketing practices that ensure the following:

- that consumers are protected;
- high standards of service in energy supply; and
- the protection of vulnerable customers.

The experience of the development of competition in the energy supply market in GB provides a stark warning of how the widespread use of unfair and abusive marketing practices can have a profound negative impact on consumers. These included, amongst others, tariff complexity, poor marketing practices, lack of transparency and neglect of the needs of vulnerable consumers.

The fallout from the inappropriate widespread marketing practices in GB is well known and documented. Ofgem carried out a formal investigation, and imposed fines on EDF and SSE of £4.5m and £10m respectively. Even more tellingly, five of the “Big 6” suppliers in GB stopped their “doorstep selling” activities. Therefore CCNI welcomes and supports fully the Utility Regulator’s (Regulator) recognition that we must learn from the problems that occurred in the energy market in GB.

At the Regulator’s Marketing Code of Practice Stakeholder Workshop on 21 March 2013, CCNI presented key findings of our consumer research and complaints around marketing activities along with a sample of case studies taken from actual complaints¹. The evidence presented at the workshop showed that inappropriate marketing practices have already emerged in Northern Ireland since the introduction of competition, particularly in the electricity supply sector. I have included a few headline complaints figures below for information²:

- 54 per cent increase in energy contacts from 2011 to 2012;

¹ A copy of the presentation is available at www.consumercouncil.org.uk.

² Using CCNI energy contacts for the period 1 January 2011 to 31 December 2012.

- 131 per cent increase in electricity complaints from 2011 to 2012;
- 1800 per cent increase in electricity marketing and sales complaints from 2011 to 2012³;
- Electricity marketing and sales complaints represented 32 per cent of total electricity complaints in 2012 compared to 4 per cent in 2011; and
- The increase in complaints figures is not mirrored by gas suppliers.

CCNI is deeply concerned about this development, particularly given that competition is still in its infancy and our voluntary Marketing Code of Conduct has been subscribed to by the majority of suppliers here.

CCNI has already discussed some of these issues directly with the Regulator, Trading Standards Service (TSS) and Suppliers. However, given the experience in GB it is imperative that the Regulator introduces a strong and enforceable Marketing Code of Practice for electricity and gas suppliers (the Code), in particular in the following key areas:

- Protection of vulnerable consumers;
- Cold calling doorstep selling;
- Recruitment & training; and
- Monitoring and enforcing.

CCNI believes strongly that good marketing practices and materials will encourage switching and help develop effective competition. In order to assist the Regulator with the proposed Code, I have outlined our more specific comments in the following section.

3. CCNI views on UR proposed Marketing Code of Practice

Q1. Do respondents agree that where this consultation has an impact on the groups listed above, those impacts are likely to be positive in relation to equality of opportunity for energy consumers?

³ 4 complaints in 2011, 76 in 2012 and a projected 90 during 2013 based on the complaints received during January and February 2013.

CCNI is satisfied that the Code in its proposed form will have a positive impact on the level of protection afforded to all consumers, particularly the most vulnerable.

Q2. Do respondents consider that the proposals need to be refined in any way to meet the equality provisions? If so, why and how? Please provide supporting information and evidence.

CCNI has no comments to this question.

Q3. Do respondents think that the section of the Code relating to recruitment and training covers all relevant areas? Are there any further comments that respondents have with relation to recruitment and training?

Consumer research undertaken by CCNI and the marketing and sales complaints we have investigated to date indicates unequivocally that the area of recruitment, and more importantly training, is essential to ensure that electricity and gas suppliers in Northern Ireland adhere to fair, honest and transparent marketing and sales practices.

The evidence is demonstrated by the sharp increase in the number and the serious nature of electricity supply complaints on marketing and sales that CCNI continues to receive as shown in our presentation at the Regulator's Marketing Code Workshop on 21 March 2013⁴. Those complaints, some of a serious nature, arise from the behaviours and practices of individual sales agents, whom suppliers consistently advise have undertaken standard training.

CCNI and the Regulator have liaised extensively with the relevant suppliers to discuss the number of complaints and the nature of the serious practices

⁴ A copy of the presentation is available at www.consumercouncil.org.uk

these have highlighted. During our discussions the suppliers have given assurances about the adequacy of the existing training and recruitment policies and procedures. However, as the projection for marketing and sales complaints for 2013 as outlined in our presentation for the Marketing Code Workshop indicates, some of the recruitment and training currently in place is not carrying through to the door step selling behaviours experienced by consumers, particularly those most vulnerable.

It is in this context that CCNI welcomes and supports fully the Regulator's proposed provisions on this area of the Code. With regards specifically to recruitment, we welcome in particular clauses 2.3.2 and 2.3.3 and 2.4.4 and 2.4.5. CCNI will seek assurance from the Regulator that under the final Code suppliers will be at least obliged to meet existing employment and equality legislation. From a consumer perspective this safeguard will be the absolute minimum required to ensure their safety and wellbeing. This is essential as sales agents are likely to have access to the inside of consumers' homes as part of their doorstep selling activities.

CCNI notes that clauses 2.5 through to 2.6.14 of the proposed Code set the minimum training requirements. Given CCNI's concerns about existing marketing and sales behaviours amongst energy suppliers, we welcome and support fully each of the proposed conditions as essential minimum safeguards that could ensure the consistent and widespread operation of fair, honest and transparent marketing and sales activities.

In particular CCNI is of the opinion that the inclusion of clauses 2.6.3, 2.6.4, 2.6.8 and 2.6.10 through to 2.6.14 are non negotiable as they set clearly and strongly key guiding principles of the Code:

- The special status and additional protections afforded to vulnerable consumers;
- The importance of monitoring; and
- Zero tolerance for suppliers and agents against breaches of the Code.

CCNI is aware that energy suppliers expressed concerns about the prescriptive nature of the Regulator's proposal on recruitment at the Code Stakeholder Workshop.

CCNI believes strongly that every section of the Code, including recruitment, must be sufficiently prescriptive, and expand on the legal requirements set out in the licence. Otherwise we would be simply reiterating the same provisions that are already covered in the licence. By setting a prescriptive code we will achieve two objectives that are fundamental to the effectiveness of the Code:

- Ensuring that compliance with the Code can be monitored and enforced effectively; and
- Helping achieve high consistent standards across all suppliers.

As previously stated, CCNI supports this section of the Code in its current form. In our opinion it strikes a fine balance between being prescriptive and allowing suppliers the scope to innovate. Moreover, from speaking to suppliers, the majority of them do already meet the proposed requirements.

Q4. Do respondents think that the practice of doorstep selling is appropriate for Northern Ireland?

Consumer Focus published a report⁵ in 2011 highlighting the views and experiences of energy consumers in GB with doorstep sales. The report called on energy companies to put an “end to un-solicited doorstep sales in the home (...) moving to a system of pre-booked appointments”. The report also produced the following evidence:

- Only 1 per cent of consumers see doorstep sales as a useful way of finding out about products;

⁵ www.consumerfocus.org.uk/files/2011/07/The-end-of-the-road.pdf

- Only 4 per cent of consumers had a positive view of doorstep selling by energy companies. 79 per cent of consumers had a negative view of doorstep sales;
- 41 per cent of consumers felt under pressure to buy on the doorstep; and
- 50 per cent of those who signed up on the door for a product or service and then changed their mind, signed up because they felt pressurised.

The research showed that inappropriate sales practices were widespread across the electricity and gas GB sectors and that the negative impact to consumers was significant, including being persuaded to switch to a more expensive tariff or switching supplier without their knowledge. As a result five of the Big Six suppliers put a stop to their doorstep selling activities.

In Northern Ireland TSS launched in 2012 the “Cold Calling – Don’t Buy It” campaign recommending consumers to say “no” to cold calling doorstep sellers, particularly those offering home maintenance services. TSS also produced evidence on doorstep selling⁶ from a local perspective highlighting the following:

- Consumerline received 200 complaints about uninvited doorstep selling in 2011;
- TSS believes the figure to be considerably higher as many cases go unreported; and
- Consumers lack the confidence to deal with pushy cold calling salespeople.

While the Consumer Focus and TSS evidence and advice to consumers on doorstep selling is not based specifically on experiences with energy companies in Northern Ireland, CCNI would suggest that it gives an indication of NI consumers’ views and experience with doorstep sales practice overall. Furthermore our opinion is supported by the evidence presented at the

⁶ <http://bit.ly/UFYwVu>

Marketing Code Workshop, which documents behaviours and practices of doorstep sellers from local energy suppliers.

Based on the above evidence and our experience with marketing and sales complaints, CCNI has serious concerns about the practice of doorstep selling by electricity and gas suppliers in Northern Ireland. Our concerns are compounded with the fact that those practices continue in 2013 despite extensive liaison with the relevant suppliers, the Regulator and Trading Standards.

However, we acknowledge that if doorstep selling adheres to clear and strong provisions and is carried out under an effective monitoring and enforcement framework it can provide benefits to consumers. These include raising awareness about switching and competition and availing of cheaper tariffs.

In light of TSS' findings outlined above, CCNI shares its concerns in relation to cold calling doorstep selling. Therefore if the Regulator was to approve this practice in the Code, CCNI asks that the following principles are implemented as part of the Code as safeguards to consumers:

- Inclusion of strong provisions regulating the doorstep selling activity;
- Developing an effective monitoring and enforcement regime; and
- The Regulator must have the power to further restrict doorstep selling practices in the future if suppliers act outside the Code.

We have provided additional comments on the specific provisions proposed on doorstep selling under question 5 below.

Q5. Do respondents think that the section of the Code relating to doorstep selling covers all relevant areas? Are there any further comments that respondents have with relation to doorstep selling?

While CCNI opposes in principle doorstep selling, we recognise that the Regulator is likely to allow Suppliers to undertake this practice. It is in this context That CCNI believes that if implemented in the current form, this section of the Code will ensure the highest possible levels of protection to consumers, particularly those most vulnerable, around doorstep selling activities. We have included below more specific comments about some of the clauses under section 3.

General requirements – clauses 3.1, 3.4 -3.7

CCNI recognise the general obligations imposed on Suppliers in relation to doorstep selling. In particular we welcome and give our full support to the following:

- The requirement to provide the consumer with a copy of the standard sales checklist. We believe this is an effective way to ensure consumers are aware of their rights and will serve as a reminder to individual Sales Agents of their obligations.
- Use of the “Quick Check” scheme, which is already used successfully by some suppliers.
- Emphasis on protecting vulnerable consumers from abusive sales practices as set out in clauses 3.5, 3.6.3 and 3.7.3.
- Recognition of TSS “Cold Calling – Don’t Buy It” campaign.

However, CCNI is of the opinion that the clauses on general requirements would benefit from some of the guiding principles set out in Section 7 about Marketing Material/literature. For example, we would welcome the inclusion of a clause similar to 7.1 whereby Sales Agents would be explicitly obliged to ensure that any information they provide is “legal, decent, honest, easily understandable and truthful.” We believe this would be an important addition, particularly given the Regulator’s efforts to ensure Suppliers demonstrate any claimed savings, as set out in clauses 3.8 and 3.9.

Otherwise CCNI would oppose strongly any modifications to this section of the Code.

Visiting hours – clauses 3.2 and 3.3

CCNI welcomes and supports the time limitation to unsolicited doorstep sales visits that the Regulator proposes. The evidence shows that they are broadly in line with the CER Electricity and Gas Supplier Handbook⁷ and CCNI's voluntary Marketing Code of Conduct.

Given the concerns we have expressed about doorstep selling under question four of this document and the stark warning of developments in GB, CCNI would oppose strongly any amendments to the proposed times.

Display of unit rates and savings – clauses 3.8 - 3.10

First of all, our comment above in relation to clause 7.1 also applies here as a way to set out a high level principles and obligations in relation to the accuracy and truthfulness of any information provided by the Sales Agent. Clauses 3.8 to 3.10 would enhance and strengthen the provisions similar to 7.1 by putting them into context.

Secondly, we would like to make reference once again to GB. Other than malpractice around marketing activities, another problem has been the large number and complexity of the tariffs on offer. This has made it near impossible for the average consumer to compare prices effectively and to avail of the best deal. It is in this context that we welcome the Regulator's proposals about how unit rates, discounts and savings must be displayed and demonstrated.

With regards to the display format, one of the objectives of the Code is to make the information to consumers clear and easily understood. CCNI

⁷ <http://bit.ly/QVu66o>

believes that it would be more beneficial to consumers to simply display one unit rate, including VAT. In our opinion including both figures, ex. VAT and inc. VAT, does not add any value and can lead to confusion and in CCNI's view can be misleading for consumers.

CCNI welcomes also the Regulator's proposals on clause 3.9 and 3.10. In particular we appreciate the restriction on Sales Agents to guarantee savings unless they can ascertain the consumers' unit rate or consumption. In this context it is essential that Suppliers maintain records of their visits as detailed in clause 3.10 to ensure effective monitoring and enforcement of the provisions.

Contracts – clauses 3.11-3.16

As we have outlined in the Background section, the evidence shows that some Suppliers are currently switching consumers without their knowledge, paying poor regard to the needs of vulnerable consumers, and misrepresenting other companies in order to obtain new customers.

It is in this context that CCNI welcomes and supports the level of detail that the Regulator has included in the proposed provisions on contracts. We believe that this section of the Code in its proposed form will ensure that any future switches are fair, honest and transparent, and carried out with the consumer's full knowledge and consent. Therefore CCNI would oppose strongly any major modification.

Q6. Do respondents think that the section of the Code relating to face to face selling covers all relevant areas? Are there any further comments that respondents have with relation to face to face selling?

Our comments to question five apply here also as the provisions are by and large the same.

Q7. Do respondents think that the section of the Code relating to telesales covers all relevant areas? Are there any further comments that respondents have with relation to telesales?

Our comments to question five apply here also as the provisions are by and large the same.

Q8. Do respondents think that the section of the Code relating to internet marketing covers all relevant areas? Are there any further comments that respondents have with relation to internet marketing?

Our comments to question five apply here also as the provisions are by and large the same.

Q9. Do respondents think that the section of the Code relating to marketing materials covers all relevant areas? Are there any further comments that respondents have with relation to marketing materials?

CCNI welcomes and supports fully the proposed provisions around marketing materials and literature covered under section seven of the Code. We would oppose strongly the removal or softening of any of the clauses set in section seven of the Code, particularly since it also affects the requirements on sections eight and nine of the Code on marketing by e-mail, text message or by post.

Q10. Do respondents think that the section of the Code relating to marketing by e-mail/text message covers all relevant areas? Are there any further comments that respondents have with relation to marketing by e-mail/text?

CCNI welcomes and supports fully the proposed provisions around marketing materials and literature covered under section seven of the Code. In particular we are pleased to see the inclusion of clauses on unsubscribing and opting out as well as the requirement to maintain a “not for contact” database.

The requirement to use telephone or mailing preference services will ensure the highest levels of consumer protection in this area. We would oppose strongly the removal or softening of any of the clauses set in section eight of the Code.

Q11. Do respondents think that the section of the Code relating to marketing by post covers all relevant areas? Are there any further comments that respondents have with relation to marketing by post?

CCNI welcomes and supports fully the proposed provisions around marketing materials and literature covered under section seven of the Code. We would oppose strongly the removal or softening of any of the clauses set in section nine of the Code.

Q12. Are there any other areas which you believe the Marketing Code of Practice should cover?

CCNI believes that the Code in its proposed form will result in high levels of protection for consumers in the area of marketing and sales as well as fairer and more transparent competition. However, we note the lack of provisions around marketing and sales using social media tools such as twitter and facebook. We anticipate an increase in the use of this media as a viable medium, in fact some suppliers already have facebook pages. Therefore we recommend extending the provisions in sections six and/or eight to social media.

Q13. Do respondents think that the approach to monitoring is appropriate? Are there any further comments that respondents have with relation to monitoring, reporting and compliance?

CCNI supports the Regulator's proposal to formulate a monitoring regime to ascertain compliance with the Code. CCNI has already held discussions with the Regulator around this area and we expressed our commitment to assist the Regulator develop and implement this regime during 2013-2014.

In addition we would like to raise the following points:

- CCNI agrees with the Regulator that it's essential that effective monitoring and reporting systems are introduced. This the best way to ensure that Suppliers comply with the requirements set in the Code and also help identify emerging issues that need addressed. CCNI has successfully adopted the same approach to our complaints handling role and worked closely with electricity and gas suppliers.
- CCNI acknowledges the Regulator's approach of enforcement through a "trigger" approach. CCNI welcomes the recognition of our complaints handling role as a monitoring tool and restate our commitment to continue working with the Regulator and suppliers to help identify and address potential breaches in relation to the Code.
- Proactive and reactive monitoring. While TSS and CCNI have a role to play, we welcome the Regulator's indication that Suppliers will be responsible for demonstrating their compliance with their Code.
- CCNI is concerned about the opinions from some Suppliers voiced at the stakeholders' workshops calling for a less prescriptive Code that is based solely around objectives. The experience in GB and with our own voluntary Marketing Code of Conduct has shown that any regulatory framework can only be effective if it can be monitored and enforced adequately.

CCNI is of the opinion that this can only be achieved through a strong and prescriptive Code that sets out well defined requirements on suppliers in each of the key areas. We would caution the Regulator against "watering down" the Code by adopting a "high level principle" approach" based around objectives. We believe we would be doing a

disservice to consumers, as those objectives and principles are already reflected adequately in the existing legislation and Suppliers' licences.

Q14. Do respondents think that the publishing requirements outlined cover all relevant areas? Are there any further comments that respondents have with relation to publishing the Marketing Code of Practice?

CCNI acknowledges the publishing requirements that the Regulator has set out in the Code. We recognise that they should help raise awareness about the new requirements and protection for consumers. However, we believe that copies of the Code should be made available free of charge to individual consumers or organisations on request?. This is standard practice with the other IME3 Codes of Practice that have been approved. CCNI asks the Regulator to amend this section of the Code accordingly.

If you wish to discuss the attached in more detail, please do not hesitate to contact Marian Cree, Head of Policy (energy) on 028 9067 2488 or by e-mail @ mccree@consumercouncil.org.uk .



The Consumer Council

Making the consumer voice heard and making it count

Elizabeth House
116 Holywood Road
Belfast
BT4 1NY

Telephone: 0800 121 6022
Textphone: 028 9067 2488
Fax: 028 9065 7701
E-mail: info@consumercouncil.org.uk
Website: www.consumercouncil.org.uk