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Nicola Parker
Utility Regulator
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Dear Nicola,

Domestic Marketing Code of Practice

Power NI welcomes the opportunity to respond to the recent document published by the Utility Regulator (UR) on changes to the Domestic Marketing Code of Practice.

Power NI is committed to providing the highest levels of customer service of which the Codes of Practice play an important part of. The Marketing Code of Practice is a service commitment which Power NI has and continues to place great importance on, not only in the wording of such a commitment but the intention behind the document.

Within the Consultation Paper the UR has highlighted its statutory duty to protect consumers against unfair or misleading selling methods, which the Marketing Code of Practice has achieved over the last number of years. Power NI has proactively engaged in making the Marketing Code of Practice an integral part of all marketing activity, to ensure consumer protection whilst safe in the knowledge that a level playing field across all suppliers was being applied.

Contained within the Consultation Paper, the UR is proposing to make a fundamental change to the application of tariff comparisons allowed under the Marketing Code of Practice. The reasoning for such a change has been given as increasing competition, although the paper recognises that competition is well established; and facilitating Price Comparison Websites

(PCWs) although the paper also recognises that a CCNI PCW already exists. It is therefore questionable if a change is in fact required.

If, however the UR remains minded to make a change in order to facilitate even further competition via the mass entry of PCWs; it is incumbent upon the UR to ensure that the required regulatory frameworks are in place beforehand. Failing to put in place such frameworks risks unintended consequences, uncertainty and poor customer outcomes.

Power NI believes the UR must put in place 2 specific regulatory items before contemplating the proposed change to the Marketing Code of Practice. The requirements are a regulatory accreditation scheme for PCWs and a clear regulatory roadmap in relation to regulated domestic electricity prices.

Accreditation

Power NI understands that in other jurisdictions PCWs require a form of verification or accreditation from the regulatory authorities. This may not be underpinned by a licence as with suppliers, but rather be a standard which would allow customers to have confidence that the site has been subject to regulatory scrutiny and they abide by requirements set by the regulatory authorities.

Issues which a standard would address could include; paid for commission, ensuring that all tariffs and offers are available not just those paid to be promoted and that true 'like for like' comparisons are being made.

Power NI note the point that domestic tariffs have evolved, with numerous incentives available for customers to switch which can make it difficult for customers to compare tariffs in a transparent manner. Whilst "sign-up" incentives are hard to compare to normal unit rate tariffs, comparison using an annualised cost would only be transparent if a like for like comparison of rates is being made i.e. online offers should not be compared to a competitor's 'standard' offer but rather their equivalent online offer.

It is incumbent upon the UR to ensure customers are protected. Lessons in relation to how PCWs operate in other jurisdictions should be learnt. To make an amendment to the Marketing Code of Practice to facilitate PCWs without other controls in place and without fully assessing the regulatory structure or policy which may be required to support consumer protection, risks damaging customer experience and eroding the customer trust which the electricity industry and UR has built.

Regulatory Roadmap

In December 2016 the Utility Regulator (UR) concluded Phase II of its 'Review of the Effectiveness of Competition in the Northern Ireland Energy Retail Market' and in a Decision Paper entitled Regulatory Implications communicated an intention to monitor the retail electricity market and implement one of four identified options should it decide to end price

regulation. Power NI strongly believes that it is inherent upon the UR to conclude the process undertaken under the heading of 'review of the effectiveness of competition'.

As the UR is aware, the nature of the regulated domestic electricity price and the associated licence conditions restrict what Power NI can offer domestic customers by way of contracts, offers, discounts, incentives etc. and limit Power NI's ability to compete with other suppliers on an equal basis.

The Price Control also prevents Power NI from engaging with a PCW on a 'paid for' basis as there is no allowance given by the UR for this and no ability to lock a customer in for a period of time to recover the cost.

The UR therefore appear through the Consultation Paper, to be minded to support the entry of PCWs but remain unsupportive of Power NI using such a facility. This is clearly discriminatory.

In addition to this inequitable approach in relation to participation, the UR also has no clear position on what the regulatory framework would be if PCWs stimulate even greater levels of competition and Power NI's market share erodes further. Are the UR still minded to implement one of their previously identified four options? Which one? Or is the UR prepared to simply lift price regulation completely? None of these questions have been answered in the Consultation Paper.

To consider PCWs in the context of the Marketing Code of Practice in isolation fails to recognise the ramifications in terms of the broader regulatory framework.

Conclusion

Power NI believes it is incumbent upon the UR to put in place a regulatory regime which protects customers, supports competition and treats suppliers equally. The proposed change to the Marketing Code of Practice in isolation does not meet these objectives and should only be implemented alongside a form of accreditation and a clear regulatory roadmap which gives certainty to all stakeholders.

Should you wish to discuss the content of this response please do not hesitate to contact me.

Yours sincerely



Claire McElroy
Power NI