

1 March 2023

Liam Gault
The Utility Regulator
14 Queens Street
Belfast
BT1 6ED

Dear Liam,

Response to Call for Evidence on Protection for Consumers During Energy Decarbonisation

Dear Liam,

firmus energy operates as a bundled Distribution (feDL) and Supply business (feSL). We welcome the opportunity to respond to this call for evidence. firmus energy has engaged extensively with the UR in relation to the Consumer Protection Programme and welcomes the opportunity to provide further insight in the context of the move to energy decarbonisation. This is an interesting time for the Northern Ireland energy market with opportunity for significant change that can significantly alter how consumers engage with the energy industry. With new technologies and services being introduced to facilitate the transition to net zero, consideration of measures to ensure consumers remain protected are vital. firmus energy remains fully committed to protecting our customers through this time of transition and welcome this opportunity is being taken to ensure emerging sectors that currently have inadequate consumer protection are addressed.

firmus energy's primary concern is that an equal approach is taken to all participants undertaking the same activities in the energy market. A failure to uphold consistent consumer protection standards may unfairly penalise or promote some sources of lower carbon energy over others. The interests of consumers will be best served by ensuring all participants providing energy services face the same consumer protection framework.

Consumer Protection Landscape

The overview outlined in 3.1 of the Call for Evidence documents provides a comprehensive summary of the key organisations governing energy consumer protection in Northern Ireland currently from a gas supply and distribution perspective. It also lists the most relevant consumer protection instruments available to the agencies to ensure consumer rights are safeguarded. In addition to the protections listed, firmus energy would suggest the regulated tariff mechanism is a fundamental consumer protection device in the Northern Ireland energy market, ensuring customers pay an appropriate price. The importance of the protection afforded by such regulation should be considered in the context of developing decarbonised energy sources to ensure end consumers continue to receive fair energy prices and the market operates in a way that is sustainable and facilitates delivery of net zero.

firmus energy has first-hand experience of the strong working partnerships between the Utility Regulator (UR), the Consumer Council for Northern Ireland (CCNI), Trading Standards and the

Competition and Markets Authority (CMA) and how these partnerships safeguard the rights of energy consumers in Northern Ireland. As both an energy supplier and network operator we have welcomed the opportunity to work collaboratively with these organisations to ensure customer protection is central to all aspects of our business. Framework already exists within Northern Ireland to facilitate successful partnership, working through well-established processes and policies, industry forums, and regular dialogue. Continued strong co-operation between the existing organisations and government departments will be essential to ensure a necessary agile approach to protecting customers during energy transition as the number of market participants increases and diversifies. As Northern Ireland transitions to net zero and the mix of contributors to energy provision increases the organisations listed must take care to ensure existing forums can facilitate consideration of new entrants to energy provision and establish necessary new forums to work collaboratively to ensure energy consumers are adequately protected. Not only must UR, CCNI, Trading Standards and CMA work effectively together but they must ensure appropriate, cooperative engagement with participants providing solutions enabling energy transition.

Current energy consumer protection frameworks are structured in such a way that comprehensive protection is afforded to customers. Different agencies have a different remit that assists consumers in various aspects of their energy experiences. As the energy mix changes and new technologies emerge, future consumer protection frameworks can only be guided so far by the existing frameworks. As more stakeholders enter the market, offering more diverse options, consumer protection frameworks will need specific reassessment to ensure they can adapt to the new challenges decarbonised, digitalised and decentralised energy will bring. As has been identified in the ASPIRE¹ model, less prescriptive, more innovation-orientated frameworks may be best served to deliver the necessary levels of protection.

Increasing number of energy market stakeholders and a greater spectrum of energy consumer types will bring greater complexity. Consumer protection approach must consider how to simplify, how to ensure consumers still find energy choices accessible, understand the component parts and end price and know where to go or who to contact if they have queries or concerns.

Principles and Goals for Consumer Protection

While a decarbonised energy system will be more complex and de-centralised and a greater spectrum of consumers will emerge, consumers will face the same fundamental harms the current consumer protection framework seeks to provide protection from. In the 2030 ASPIRE Long-term Energy Transition for Sustainability and Climate Neutrality published by Council for European Regulators (CEER) along with the European Consumer Organisation (BEUC)², the vision for energy consumers focussed on:

- Affordability • Simplicity • Protection • Inclusiveness • Reliability • Empowerment

firmus energy welcomes a principles-based approach and believes these principles build on existing processes to ensure that all customers receive a superior level of service. These principles are precisely what Regulated Licence Conditions, Price Controls, Codes of Practice and Energy Order requirements seek to protect in the current framework and will be equally applicable to consumer protection in a

¹ <https://www.ceer.eu/documents/104400/-/-/3b167ae3-9a7a-fd36-a02e-c64ad7595a51>

² <https://www.ceer.eu/documents/104400/-/-/3b167ae3-9a7a-fd36-a02e-c64ad7595a51>

decarbonised energy system We welcome an approach that will ensure sufficient flexibility to encourage innovation in delivering the consumer outcome, while also recognising the requirement for adequate clarity in the principles to ensure compliance and consistency across the industry.

The key potential new consumer harm that must be considered is being left behind in the transition to net zero. Any adaptation of consumer protection must address means to ensure consumers who are difficult to engage are led towards products and services that contribute to decarbonisation. In the context of Northern Ireland's energy transition, it is important that the opportunity presented by natural gas to simplify the consumer experience is not overlooked in favour of alternative higher cost solutions.

To ensure consumers are adequately protected, consumer protection measures need to be implemented across all groups of market participants in the context of a decarbonised energy system. Historic focus on energy suppliers has been somewhat justified as electricity and gas supply companies have been responsible for the vast majority of services. As energy provision diversifies with more options open to the public in the transition to net zero, it will be essential consumer protection principles are applied to all market participants who facilitate delivery of energy solutions. As has been identified in the Lesson Learned paper, a broader spectrum of service providers will necessitate a change in approach to how consumer protection is implemented by the governing organisations to ensure customers are not at risk.

firmus energy considers there to be risk attached in delivering consumer protection that is either entirely prescriptive or entirely principles based. The main risk in delivering protections that are based primarily on compliance with prescriptive rules is the pace of innovation, new products, services and business models may render a prescriptive approach quickly out of date, with ongoing review and reform required to ensure consumer protection powers are fit for purpose in a period of rapid transition. Conversely, as outlined in the BEIS report by Dr Decker³, an entirely principles-based approach necessitates "trust between a regulator and the community it regulates." firmus energy has worked extensively to build a trusted relationship with UR. This has been achieved by years of collaboration and development of strong working relationships. As the range of market participant becomes more diverse, the required levels of mutual understanding may not be so prevalent with newer market entrants and further guidance and direction will be essential to avoid ambiguity and misinterpretation. A multitude of smaller new market entrants will pose challenges to effectively monitoring adherence to the standards required to ensure consumer protection for all. It will only be through establishing evidence of adherence to principles that promote fair and ethical behaviour that market participants become trusted.

There is a need to strike a balance between encouraging uptake of the various solutions on offer and ensuring consumer protection and firmus energy therefore welcomes a hybrid framework that combines a less prescriptive, objectives-based approach accompanied by clear and accessible guidance on how to apply principles and implementation of rules such as minimum performance standards.

³https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/714185/regulation-goals-rules-based-approaches.pdf

Energy Sectors and Technology

It is clear from the insights provided from the ‘Lesson Learned’⁴ document that the diverse range of decarbonised solutions that will become more readily available to domestic consumers do not currently have appropriate standards of consumer protection when compared to the current frameworks in place for gas and electricity. The overview provided of what is available in the GB market indicates that while various sources of protection have been introduced in GB to give consumers some levels of protection, such as the Boiler Upgrade Scheme, the Trustmark scheme, certifications standards and various codes, the variety of measures available have created complexity and lack of consistency in application of standards.

To fully protect consumers, build trust in new technology, and provide consumers with certainty in their transition to net zero, a unified approach is required in Northern Ireland to newly emerging technologies and sectors. This will ensure both installation and product standards for consumers are appropriate and on a par with other industries such as banking or telecommunications.

Current consumer protection frameworks already contain the suitable types of protection that can be employed to ensure consumers are protected when transitioning to new technologies. A trusted quality mark that is easily recognised is required and codes of practice and customer charters have been used successfully and can continued to be employed. These measures need to be implemented with a unified approach to reduce complexity and provide reassurance for consumers. Furthermore, for such measures to be fully effective they should be mandatory and give consumers the same levels of protection they experience from existing energy industry Codes of Practice. Any new framework development must ensure consistency across the industry, bringing new and existing technologies together in a more unified solution. There needs to be equality between participants engaged in the same energy activities to safeguard a level playing field.

In addition to inclusion of new technologies and sectors within any new consumer protection framework, firmus energy believes that the UR and CCNI, should seek opportunities to support consumer sectors that currently have little or no consumer protection. Home Heating Oil is one such market, currently overlooked. Currently, across Northern Ireland, there are approximately 250k households availing of natural gas. However, there are approximately 500k households burning Home Heating Oil in a market worth over £300m per year. This means approximately 70% of domestic households are actively participating in a market that does not have the same level of consumer protection that gas customers benefit from. There are over 200 Heating Oil distributors in Northern Ireland and while Trading Standards has some recourse in this sector, these consumers miss out on consumer protections available to other energy users. Once again, we would like to stress there needs to be equality between participants engaged in the same energy activities to safeguard a level playing field and a review of consumer protection creates an opportunity to address this.

Consumers who continue to use fossil fuel sources of heat are among those most at risk of being left behind in the transition to net zero. Extending consumer protection framework to this sector also provides opportunity to improve engagement and help these customers recognise the benefits of the lower carbon alternatives available. Promotion and optimisation of Northern Ireland’s natural gas network can be leveraged to provide an easily accessible transition to consumers who shy away from a proactive approach to decarbonisation.

⁴ [Lessons Learned on Energy Transition Consumer Protections.pdf](#)

firmus energy considers education is key for consumers to make informed choices. There should be an independent, trusted and consistent source of the truth for consumers. The recent consultation on development of an Energy One-Stop-Shop⁵ highlighted the need for an agency with specific remit to help consumers seeking information, advice and guidance on energy-related matters, with specific regard to decarbonisation.

The One Stop Shop could play a vital role in providing consumer protection along the decarbonisation journey by consolidating advice, guidance and support in energy-related matters. This agency would be perfectly placed to ensure application of a new consumer protection framework is further safeguarded by working in partnerships with other trusted organisations and providing advice on how consumers can ensure they are protected during a transition to decarbonisation. The remit of the One Stop Shop has already been identified as extending to training, toolkits and developing net zero kitemark certifications. Consideration should be given to the benefits of accelerating the roles and responsibilities of the Energy One Stop Shop so it can be fully utilised to protect consumers as soon as possible.

Business Practices

The fundamental business practices that need consideration in the context of energy transition remain the same as the current core business practices. Care must be taken to ensure business practices employed by market participants have positive consumer outcomes that facilitate decarbonisation, make it easy and rewarding for consumers to engage with energy providers and ensure consumers pay fair prices as the energy they use becomes green.

Affordability is a key consideration in protecting consumers during the energy transition. In order to ensure consumer engagement, the most cost-effective approaches to delivering decarbonisation will be crucial. Gas networks are already contributing by delivering lower carbon, lower cost solutions in the present energy market, but the existing gas network infrastructure can continue to ensure affordable energy pricing by delivering zero carbon gas e.g. biomethane and hydrogen, in the longer term, with very low conversion costs compared to the cost of retrofitting for electric heating. In the context of Northern Ireland's energy transition, it is important that the opportunity presented by natural gas to simplify the consumer experience is not overlooked in favour of alternative higher cost solutions. When comparing the financial impact per household, electrification of heat was deemed significantly more expensive than decarbonisation via Biomethane.⁶

As the mix of energy products available to consumers diversifies there is a risk pricing structures will become more complex. No matter how they engage in the market transition, all consumers should pay fair prices for their energy. Maintaining clarity and transparency is essential to ensure customers are fully informed and can make decisions on what is suitable for them. Governance on pricing and billing needs to make sure pricing information remains comparable across competing energy sources with metrics to enable consumers to compare overall expenditure for different methods of energy provision and how the source of energy chosen contributes to net zero targets. Consistency of presentation across the industry will be key to help public understanding and empower consumers in their choices.

⁵ [Energy Consultation on the Plan for the Implementation of the Energy One Stop Shop \(economy-ni.gov.uk\)](https://www.economy-ni.gov.uk/energy-consultation)

⁶ [Ervia](#)

Consumers will be faced with choices between various energy sources with differing energy costs and levels of decarbonisation. It will be crucial that the information being provided by suppliers is consistent, transparent and reliable.

firmus energy has been a Northern Ireland market leader in customer engagement for promoting the transition to net zero. Energy UK research⁷ found there to be an over-reliance on the use of bills and statements in encouraging consumers to assess energy costs and consumption. firmus energy has a more holistic business practice in this regard. We are the only UK utility to train staff in Energy Awareness, 100% of firmus energy staff are City & Guilds trained; we provide energy efficiency tips on our website and our staff offer energy efficiency advice to customers and prospect customers; we support improved efficiency via the boiler replacement scheme and 0% interest free credit; hold natural gas information days throughout communities in licensed network area and the environmental benefits of converting to natural gas underpin all marketing initiatives.

The Marketing Code of Practice has been an important tool to ensure consumers are protected from inappropriate and misleading marketing techniques so they are able to make an informed and reasoned decision on switching energy supplier. As the path to decarbonisation develops with more products and services becoming available, firmus energy is of the opinion that all new market participants undertaking an activity that is currently subject to energy consumer protection framework should be held to the same standards as incumbent providers. The same requirements must be extended to all energy products and services that claim to deliver decarbonisation and an update to the existing codes may be the most straightforward means to achieve this. firmus energy note with interest the approach taken by the Marketing and Advertising Code of Practice by the Commissioner for Regulation of Utilities in Ireland which covers “any form of direct or indirect communication from suppliers or third parties acting on their behalf, that is intended to promote energy products, offers or deals and to influence those to whom the information is addressed.” It is important that consumers have appropriate information and knowledge to make effective choices. Marketing information should empower consumers and build trust in participants ability to deliver the decarbonisation agenda.

Minimum Standards and Codes of Practice have been effective means of protecting consumers in the energy market to date. These tools should not be overlooked as the market expands as they provide a consistent benchmark to ensure all players are held to the standards and ensure consistency in approach to consumer protection in a fast-changing landscape. While UK Government review of the energy sector in 2016⁸ determined that adhering to the required legislation, codes and rules was burdensome due to growing in complexity and change implementation being costly, it must be noted that Northern Ireland is on a different scale to Great Britain. firmus energy note with interest however the same study viewed a principles-based approach as an alternative, placing greater emphasis on companies to take their own, proactive steps, to understand what is right for each consumer so they can deliver good outcomes. This has potential to pose difficulty with enforcement and care must be taken that any change in approach will contribute to all energy consumers receiving a consistent baseline level of service with adequate complaint resolution and consumer redress.

⁷ [publication.html \(energy-uk.org.uk\)](#)

⁸ [Cutting Red Tape: review of the energy sector \(publishing.service.gov.uk\)](#)

As is the case now in ensuring energy business practice provides positive outcome for customers, the approach taken to how the vulnerable can be protected in all interactions will be an important focus as the energy transition develops. The protection of vulnerable customers is enshrined in the licences of natural gas companies in Northern Ireland and firmus energy's approach to vulnerability goes over and above what we might consider to be the minimum thresholds detailed within our licences. By contrast, these obligations do not exist in non-regulated energy sectors, such as home heating oil and this must serve as a warning to ensure similar oversight is not permitted as the energy sector expands on the journey to decarbonisation.

Consumer Groups

firmus energy remains fully committed to protecting all our current and prospective customers. firmus energy agree with the premise that a principles-based approach to consumer protection should identify baseline protections applicable to all consumer categories and we consider these should include easy access to clear and accurate information on what products and services are available, data control, complaints resolution and redress.

We are supportive of a more specific, inclusive approach for vulnerable consumers. firmus energy believe that rather than required measures within a mandatory Code of Practice, a similar approach to the development of minimum standards should be taken. firmus energy has always sought to engage with our customers on an individual basis, taking their circumstances into consideration during contact. Our experience is that the current industry procedures relating to vulnerability (and their continual review) are sufficient to ensure firmus energy is capturing vulnerabilities and responding to vulnerable consumers in a way to meet their needs.

firmus energy agrees that a key challenge in the move to decarbonisation will be the risk that those customers less able or willing to engage with the transition are left behind, rendering them vulnerable. firmus energy is ideally placed to facilitate an easier transition to net zero for these customers within the Northern Ireland gas network as it is decarbonised, while also giving this group the established extra protection of the first-class service for vulnerable customers firmus has consistently delivered.

Conclusion

We trust this response proves useful in helping to inform the future of consumer protection and we reiterate our continued commitment to future engagement with the UR and wider industry stakeholders on these matters.

Yours Sincerely,

Siobhán Kane
Regulatory Affairs
firmus energy