The Consumer Council
Elizabeth House
116 Holywood Road
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Robert Stewart
Utility Regulator
Queens House
14 Queen Street
Belfast

22 March 2013

Dear Robert

Re: Approach to the 2014 Power NI Supply Price Control

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.

This Power NI Price Control comes at an important time for the regulated electricity market in NI. Competition is developing and switching is increasing steadily. A Price Control is normally about protecting consumers within a monopoly scenario. However, this Price Control is as much concerned with the development of competition as it is with the business costs of the dominant incumbent supplier.

The aim of the Regulator in the current scenario in NI, must be to protect consumers in the transition from a monopoly to a competitive market.

The Consumer Council supports competition so long as it:

- Provides value for money to the consumer;
- Provides better customer service;
- Is available to all classes of consumers, and;
- Provides increased and targeted protection to vulnerable consumers.

To date, competition has delivered tariffs that are currently lower than those in GB and ROI, however there is no guarantee that this will continue. We have also seen some new innovative tariffs and payment methods providing consumers with greater choice. However, we have also seen a sharp increase in the number of electricity complaints received by the Consumer Council, including complaints about marketing practises and the switching process, (see Tables 1 and 2), and our research shows that consumers in lower socio-economic groups are not switching as much as those in higher groups[1].

Table 1

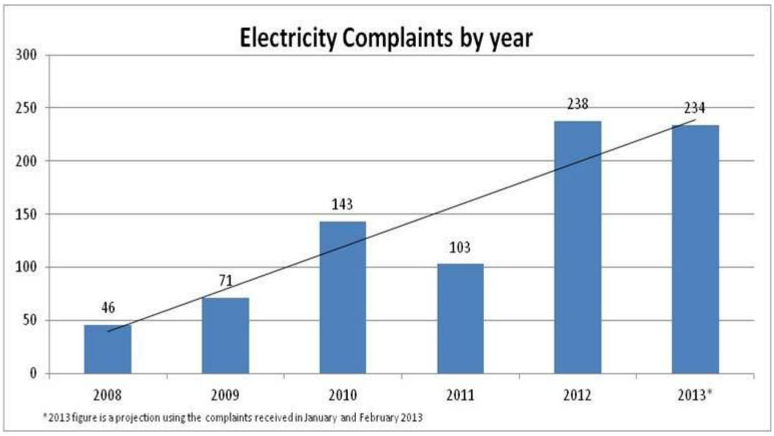
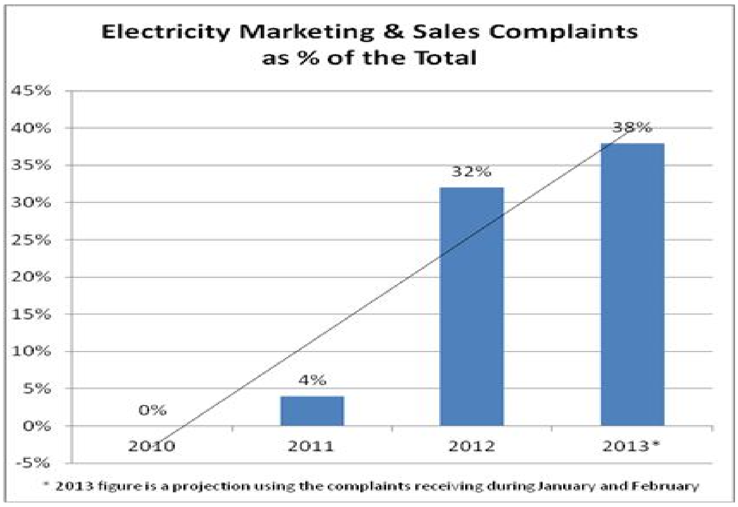


Table 2



It is clear that decisions on this price control will be heavily influenced by an understanding of the electricity market and where it is going in the future. Overall we see that the Regulator recognises this and is making sensible proposals on how to assess this. However, aside from the statistical information on market shares and switching rates there is also a need to understand consumers' experiences and views on the market. To this end we believe that it is important to engage with consumers.

1 Consumer Council research on switching energy suppliers- due to be published April 2013.

The Consumer Council has recently undertake research into consumers views on energy switching and regularly tests consumers views more generally around consumer proficiency, switching suppliers of financial services, etc. The Consumer Council is willing to work with the Regulator to engage with consumers to help inform decisions on this Price Control.

Uncontrollable costs that are passed through to consumers on a 100 per cent basis need to be carefully considered by the Regulator. In doing so the Regulator must bear in mind that its primary responsibility is to protect consumers. If there is any influence that Power NI can exercise to reduce its costs they must be made to do so. Power NI should be incentivised to actively seek out how it can most efficiently manage all of its activity and the principle operating behind the Economic Purchasing Obligation should not apply only to wholesale energy purchases.

The Consumer Council does not believe that marketing expenses undertaken to win new customers should be recovered through consumers and therefore should not be allowed in the supply price control. It is not reasonable to expect customers to pay for marketing material which aims to increase the business value for shareholders. It is however appropriate for marketing material aimed at improving customer awareness to be allowed provided this spend on marketing is carefully monitored and appropriate.

We agree that the Regulator should keep under review the issue of deregulation and welcome its commitment to do this as part of this Price Control. We note that one of the criteria to be used is the Customer Experience of the competitive market. To assess this criteria, it is essential that the Regulator engages with consumers. The Consumer Council regularly undertakes research into consumers' views of the energy market. We urge the Regulator to use this and all available information that provides the consumer perspective. We would welcome the opportunity to work with the Regulator as it develops its proposals for the Price Control to work on tailored consumer engagement. We are aware that the Regulator's Retail and Social Directorate plan to develop a market monitoring system that will use key indicators relevant to consumers. The Consumer Council has agreed to work with the Regulator in this area.

In considering the duration it may be helpful for the Regulator to consider a road map that would indicate the milestones achieved that would trigger de-regulation of a market segment. This approach was taken by CER.

The Consumer Council recognise the benefit of the 67 per cent v 33 per cent split on Allowed Revenue recovery in providing an incentive to both retain existing and capture new customers. However, it may be helpful to provide a further incentive scheme within the Price Control that specifically addresses customer service. For example, the split between set Allowed Revenue and the variable Allowed Revenue could change depending on how close Power NI come to achieving clearly defined customer service targets. Targets could include the number of complaints made to the Consumer Council or customer protection targets that relate to compliance with IME3. We would be happy to discuss this further with the Regulator.

In the past Power NI have claimed that as they lose customers in the competitive market its bad debt will increase and an additional allowance needs to be made for this. In anticipation of this arising again it is our view that consumers should not pay for sums that are a consequence of Power NI's inability to retain customers. Furthermore, any supply company needs to have an incentive to properly manage bad debt both for its impact on business costs but also the societal benefits it provides. The increase in the cost of energy is a major source of pressure for consumers. In our report, 'Consumer 2010', the Consumer Council noted the impact of energy prices on consumers and tested their views on the emerging competitive market. At that time it was estimated that 78 per cent of consumers in arrears with their electricity or gas bill, were classified as suffering from fuel poverty.

Regarding the margin that Power NI should be allowed to earn. The paper rightly points out that regulation provides protection for the profits of Power NI from the cut and thrust of competition via the pass through and k factor mechanisms. However, the priority of the Regulator is to protect the consumer. The Regulator must ensure that measures that protect the company only remain for so long as they protect and provide a benefit for consumers. The margin should be set to ensure that the company is worth running and shareholders get a sufficient return to ensure that they invest just as much as is required to provide an efficient and high quality service.

If you wish to discuss the attached in more detail, please do not hesitate to contact Richard Williams on 028 9067 4895, email: rwilliams@consumercouncil.org.uk

Yours sincerely

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