



The Consumer Council

Elizabeth House,
116 Hollywood Road,
Belfast BT4 1NY
Tel 028 9067 2488
Fax 028 9065 7701
e mail info@consumercouncil.org.uk

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Barbara Cantley
Utility Regulator
Queens House
10-18 Queen Street
BELFAST
BT1 6ED

Dear Barbara,

Re: Regulatory Approach to Energy Supply Competition in Northern Ireland

The Consumer Council is a Non-Departmental Public Body set up in legislation to safeguard the interests of all consumers, and particularly the vulnerable and disadvantaged. The Consumer Council is an independent organisation which operates to promote and protect the consumer interest.

We welcome the opportunity to respond to this consultation on the regulatory approach to energy supply competition in Northern Ireland.

It is the position of the Consumer Council that any decision about the regulatory structure of the Northern Ireland Energy Market should only be undertaken in the interest of the consumer. With fuel poverty levels in

Northern Ireland reaching crisis levels, with one in two households struggling to adequately heat their home, it is important that the regulatory structures look to minimise the cost of energy to consumers.

Energy supply competition in the Northern Ireland domestic market is still in its infancy. It must be carefully monitored over the next few years to ensure competition produces the best possible outcome for all consumers in Northern Ireland.

The Consumer Council's position on competition remains that it must improve the customer experience for all consumers, and it will only do this by:

- Providing lower prices to the consumer;
- Providing better customer service;
- Being available to all classes of consumers, and;
- Providing increased and targeted protection to vulnerable consumers

The Consumer Council therefore believe that it is important that the Utility Regulator continues to monitor competitive energy markets both in the short and long term to ensure they are and continue to act in the best interests of consumers.

Policy goal

The Consumer Council believes that more needs to be done to empower energy consumer and place them at the centre of energy policy and regulation in Northern Ireland.

Domestic competition in the Northern Ireland electricity market began in June 2010. It is the position of the Consumer Council that competition, if designed correctly, can be a key mechanism in delivering lower prices and choice to consumers. However, to be viable competition must improve the experience for all consumers, and no customer should be worse off as a result of

competition and the price of energy must not increase due to measures taken to introduce/develop competition.

The small size of the Northern Ireland market may ultimately be a barrier to full competition, and the Consumer Council believes that the Utility Regulator through price and tariff controls must act as a proxy for competition to ensure the consumer gets the best possible deal.

As energy competition in Northern Ireland is relatively new compared to that in Great Britain and the Republic of Ireland. The Utility Regulator has the opportunity to learn from mistakes that occurred when developing competition within these jurisdictions to ensure consumers here are provided with the best possible deal for their energy needs.

The Utility Regulator should be wary of removing the regulatory framework and the price control process, and should only consider this if it is in the best interests of consumers. Consideration must be to the length of time that price controls and whether this should be extended beyond the three years.

Creating a perfectly competitive market in the utility sector may be more challenging than in other sectors. Though a homogenous good will be traded the information available to all market participants is not perfect. The product in the market is an essential item for all households and therefore each supplier is effectively selling a good which all households 'must have'. It is important that the development of competition does not result in consumers being forced to pay artificially inflated prices for a good they are required to purchase.

In order to achieve a truly competitive market that works for consumers the following is required:

- Consumers must benefit from competitively lower prices;

- Consumers must have a clear choice of the level and type of service they receive;
- All consumers must be fully informed about the product they are buying. Transparency in the market is required to ensure consumers know they are paying a fair price for the product they receive;
- A quick and easy switching process with no extra risk of cost involved;
- Protection for those not engaging or not able to engage in the market;
- Suppliers must compete on price and use efficiency savings to keep the price low over a long period of time (by reduce costs);
- Product diversity provided products are easily comparable for all consumers;
- Easy of access to the market for suppliers and potential suppliers;
- Protection for consumers against suppliers who leave the market; and
- Stringent and transparent market monitoring.

All-island context

It is essential that any decision to change the regulatory structure of the all-Ireland Energy Market should only be undertaken if there is a no detriment to the position of the Northern Ireland consumer, and ultimately improves the experience of the Northern Ireland consumer.

There are a number of similarities between the Northern Ireland and Republic of Ireland retail markets. However, there remain some differences. Convergence with RoI must take account of the different circumstances in NI.

The no disconnection policy in NI must remain due to the high level of vulnerable and fuel poor households.

Movements in the RoI market must be monitored and the impact on NI consumers of any future sale of parts of ESB's network business must be taken into account.

Harmonisation of the markets must prevent gaming opportunities brought about by different exchange rates in each jurisdiction. To that end there will be winners and losers in the wholesale market and ultimately consumers will pay for this.

Consideration also should be given to as whether the NI market could also be more closely linked to the GB market to the benefit of consumers, particularly given that both markets use the same currency and the existence of the Moyle interconnector.

Vertical Integration

The energy market must be designed in a manner that gives consumers the best possible price.

Competition within the wholesale market must help keep prices lower. Until the wholesale markets become fully transparent consumers will never be fully empowered to know if they are being asked to pay a fair price.

Vertical integration could provide some suppliers with the ability to manage their risk better and recover costs. It is important that generation is taken into account to prevent vertically integrated companies making super-normal profits. The generation market, like the supply market, must be fully monitored to ensure it is providing consumers with the best possible deal.

Large vertically integrated companies have the potential to return the market to a monopoly or oligopoly state using their competitive size to force other suppliers out of the market.

If the Regulator's approach is to promote competition it is important they prevent any anti-competitive practices. The ultimate market structure must provide consumers benefits in both the long and short term through lower prices.

Profit margins received by vertically integrated companies need to be monitored as even if the two parts of the business are unbundled it is not unfeasible for companies to move the margin between the wholesale and retail sides of the business.

Retail market sub-sectors

It is important that both gas and electricity customers are protected and that regulatory and competitive structures provide consumers with the best possible deal.

Competition in the gas market is only available to households on the gas network in Greater Belfast and Larne who have gas installed or have the means to upgrade their heating system to gas.

The role of natural gas in Northern Ireland overall heating market should also be considered. Consumer Council research shows that the average household in Northern Ireland could save up to £1,000 a year on their energy bills by switching from heating oil to gas; which could have a major impact on the levels of fuel poverty in Northern Ireland. The Consumer Council remains concerned that the barriers to entry for consumers, especially the more vulnerable in our society, into the gas market remain high.

In the domestic electricity market all consumers must benefit from competition regardless of their chosen payment method. There are a number of barriers to competition which should be removed to ensure effective competition:

- Limits on switching numbers, particularly for keypad meter customers;
- Security deposits for households paying by standard credit; and
- Complicated tariff structures.

Within the domestic electricity sector the Utility Regulator must continue to monitor the following sub-sectors and numbers of each type of customer held by each supplier including switching registrations broken down as:

- Direct debit customers;
- Fixed term contract customers;
- Standard credit customers;
- Keypad meter customers; and
- Vulnerable customers (from vulnerable persons register).

Within the SME, LEU and LSME markets it is important the information provided to the customers is transparent and easily understandable and comparable to allow effective competition to take place. There is already concern regarding the complexity of business tariffs and the process to renegotiate tariffs with suppliers. This is a barrier to switching for many companies/organisations and could results in many companies paying more than they could for the energy they use.

Market monitoring framework

Market monitoring and data collection will be crucial to any decision regarding the future direction of the electricity and gas market. This data should be collated and made publically available on a regular basis. There are a number of important indicators which must be monitored on a monthly basis:

- Number of switches – broken down by direct debit, standard credit and keypad meter (and the transition i.e. keypad to direct debit);
- Number of switch requests – broken down by direct debit, standard credit and keypad meter (and the transition i.e. keypad to direct debit);
- Switches by vulnerable customers;
- Switch rejections and reasons;
- Number of non-switchers, the residual of customers remaining with each supplier;
- Time customer has been registered as a electricity customer with any supplier;
- Length of time customer has been with their most recent supplier;
- Age profiles of switching/non-switching customers;
- Area profiles of switching/non-switching customers; and
- Details of the number of customers who switch to a ‘worse’ deal.

With this information consumers will have the opportunity to have a greater understanding of the market and how competition is developing in the market as well as the attitudes of the customers in the market.

Delivering effective competition

It is the Consumer Council's view that effective competition must provide benefits for all consumers both in terms of price and level of service.

Ultimately competition should bring lower prices and more choice for consumers. However, lower prices should not only be benchmarked against other suppliers but rather to historical prices as well.

Consumers need strong and comprehensive protection from the market to ensure competition is working for them. To help protect consumers there must be understandable information available to them which allows them to fully and effectively engage with the market.

It is therefore important that consumers are provided with clear information, and not the complicated tariff structures and terms and conditions, confusing marketing material and complicated switching processes that have sometimes arisen in the GB market.

In GB the large number of tariffs and complicated tariff structures has resulted in many consumers not knowing what tariff they are on or whether they could receive a better deal. It is therefore important that problems which have arisen in the GB market are not replicated in NI. Prices and services must be easy to compare for all consumers so that they can make an informed choice.

In order for the market to work effectively consumers will need to engage in competition however, it is important to note that not all consumers will engage and those who don't must be fully protected. Non-switching consumers must be provided the same level of protection as those who do, both in terms of prices and levels of service.

During the interim between now and the enduring solution it is important that consumer expectations are managed around the switching limits in the system. Suppliers must adhere to the available capacity and ensure customers at this early stage of competition do not have a 'bad' experience from switching which may deter them from switching supplier in the future.

All consumers need easy access to comparable and easily understandable information to help them make their decision with confidence. We have developed a price comparison tool which aims to assist consumers who are considering switching their energy supply. We will continue to develop this as competition develops and more suppliers and products enter the market.

We have also developed a series of information leaflets in the form of our Switch On pack including information on how to switch electricity and gas supplier. It is important such information is provided to the market to help assist its development through consumer engagement.

Regulatory approach

Regulation in Northern Ireland should look to provide the best possible price for consumers here.

The development of a competitive market in Northern Ireland must learn from mistakes which have been made in GB. Competition can provide benefits for consumers but at the same time many customers can be disadvantaged by competitive practices.

Recent investigations in GB have resulted in many suppliers temporarily stopping doorstep selling. This practice continues in Northern Ireland but is difficult to monitor. Suppliers have signed up to a voluntary marketing code of practice but it is important this code becomes part of licence conditions in the future and doorstep selling is carefully monitored to ensure pressure selling is not occurring and households (particularly vulnerable households) are not

being switched to tariffs which result in them being worse off or if indeed did not want to switch to. Consideration should be given to introducing penalties for instances when this has been proven to occur. If this becomes a serious problem it is important the Utility Regulator follows in the steps of Ofgem to intervene and investigate doorstep selling practices in NI.

All suppliers must offer all three types of payment. Terms and conditions for each payment method must be easily understandable and provide information upfront. Fixed term contracts must present the key facts upfront for consumers. It is vitally important that coming towards the end of a fixed term contract suppliers inform the customer that the contract is ending and the tariff they will move to once the contract period ends. This information should provide easily understandable monetary details of the changes that will occur for consumers once the contract ends. Contracts which automatically renew without the consumers consent should not be allowed in the Northern Ireland market.

There is merit in considering a competitively priced maximum tariff for the incumbent if this produces a better deal for consumers in Northern Ireland. The tariff should be set to give the incumbent's customers the best possible price, whilst encouraging competitors to compete even further on price and levels of service. This however must be carefully managed to prevent the incumbent abusing their market position to force other players out of the market.

Conclusion

The Consumer Council believes that the regulatory approach in Northern Ireland must provide consumers with the best possible deal in terms of price and level of service. It is therefore important that the market is actively monitored as it progresses to ensure these benefits are being realised.

In order for competition to work effectively consumers must be fully informed and have the confidence to engage in the market. Consumer protection will be

one of the most important aspects of the competitive market particularly for those consumers who do not actively engage in the market. These consumers should not be disadvantaged by not taking part in the market.

It is important that the Utility Regulator and the market provide easily understandable information for all consumers allowing them to compare prices and level of service with no difficulty. The market must also ensure the switching processes are easy and do not act as a barrier to engagement for consumers.

The Consumer Council will continue to act in its role to educate and inform consumers and should be considered as a key stakeholder going forward.

I hope that these comments are helpful and are given due consideration. Please contact me if you require any clarification.

Yours Sincerely,

Andrew Murray
Senior Consumer Affairs Officer