



***Consultation: NIAUR Consultation on NIE's payment security policy***

***Date: 27 May 2014***

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***Our (PID) reference number: 1826***

The Consumer Council welcomes the opportunity to respond to this consultation.

The General Consumer Council for Northern Ireland (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 and have specific functions in relation to energy, water, transport, food and postal services. These include considering consumer complaints and enquiries, carrying out research and educating and informing consumers.

The Consumer Council believes that the whole concept of NIE's 'Payment Security Policy' (PSP) is flawed and fundamentally unfair to consumers. We believe that the policy should be reviewed in full and a new more equitable system devised. We have outlined below details of our concerns and conclude with a series of recommendations which we would be grateful for a response from NIE and/or the Regulator.

Until this consultation was released the Consumer Council was unaware of the existence of the NIE PSP. Considering the impact that the existing payment under this policy may have on domestic and business consumers, it could be characterised as a hidden charge to consumers. Transparency is key to consumer confidence in the energy industry. Therefore consumers need to know how much they are currently paying

for the PSP and what has happened to the payments already made. Consumers are also entitled to know if there are any other 'hidden charges' on their electricity bill and if so, whether or not the charges are fair.

Central to the whole issue of PSP is the level of risk of a supplier defaulting. NIE argue that the risk has increased in recent years but provide no firm evidence. Our own enquiries with the energy industry suggest that NIE are overestimating the risk of supplier default. We are advised that Option 2 which provides an additional £50m of cover would only be required if every supplier in NI defaulted at the same time. This seems an unlikely scenario as we understand that to date no NI electricity supplier has ever defaulted on payment to NIE.

We would like to point out that under the current PSP arrangement, that despite having no control over the supplier's financial status or how NIE deal with it, consumers are carrying all the risk. Consumers are entitled to know what NIE is doing to mitigate and control the risk of default. By passing all the risk to consumers NIE has no incentive to control or mitigate the risk of default, and this in itself increases the risk to consumers.

In a competitive market NIE would not automatically pass this cost to consumers as it may make them uncompetitive. It is our view that the Regulator should be acting as a proxy for competition, rather than simply allowing NIE to pass the whole cost of the risk to consumers.

In our view, the most equitable scheme would be one in which consumers would not be expected to carry the cost of a risk over which they have no control. The company should carry the cost as it has the ability to take measures that can control the level of risk.

If the Regulator believes that a zero cost to consumers approach is not appropriate, a next preference position is for consumers, suppliers and NIE to share the cost of covering the risk of supplier default. The principle of the sharing of risk between consumers and shareholders has been firmly established by the Competition Commission in its RP5 Final Determination. The Competition Commission completely rewrote the Regulators Price Control for NIE and established a 50/50 risk sharing principle between NIE and consumers.

### **Recommendations**

1. NIE and the Regulator must tell consumers how much is currently being paid by them to support this 'insurance' against supplier default and what has happened to the money already paid;
2. NIE and the Regulator should reveal if there any other 'hidden charges' and allow consumers to consider whether they are fair;
3. NIE must quantify and explain in detail the actual risk of suppliers defaulting;
4. NIE must explain the measures it takes to minimise and mitigate the risk of suppliers defaulting;

5. The Regulator should require NIE to cover the whole cost of the risk of suppliers defaulting as consumers have no control over this risk but NIE do;
6. Failing the adoption of recommendation four, the Regulator should adopt a policy based on the allocation of risk established in the 50/50 risk sharing principle in the Competition Commissions' RP5 FD.

The Consumer Council would welcome the opportunity to explore the issues we have raised with the Regulator if that would be helpful.



**The Consumer Council**

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