



Consultation: Utility Regulator's Consumer Protection Strategy
2015-2020

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Introduction

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 and food. These include considering consumer complaints and enquiries, carrying out research and educating and informing consumers. In addition, from April 2014, we have taken on responsibility for representing consumers in respect of postal services in NI.

The Consumer Council is also a designated body for the purposes of super-complaints, which means that we can refer any consumer affairs goods and services issue to the Competition and Markets Authority (CMA), where we feel that the market may be harming consumers' best interests. In addition, we have 'super-complainant' status for financial services, with powers to bring super-complaints on financial matters to the Financial Conduct Authority (FCA).

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.

The Consumer Council welcomes the opportunity to respond to this consultation and looks forward to working with the Regulator and other stakeholders to improve the energy markets for vulnerable consumers. The Consumer Protection Strategy (CPS) provides a genuine opportunity to make a difference for vulnerable customers. The Consumer Council supports the aim to develop a strategy which will protect all regulated energy and water customers with a particular focus on vulnerable customers who tend to benefit least from competitive markets. We would also like to commend the Regulator for its work in recent years to improve the energy markets for vulnerable consumers. The implementation of the supplier Codes of Practice and the Gas to the West project are two examples of this. We also note that the Regulator's flagship projects will continue to develop further benefits for consumers.

Consultation questions

We will respond only briefly to the consultation questions as we will expand on our view within the main body of this response.

1. The four strategic objectives are acceptable in as much as they broadly describe the areas that require the attention of the CPS. However, the success of the CPS will be judged on whether it delivers the Action Points contained within each objective;
2. There would be no point in developing further strategic objectives when delivery on Action Points is the key issue;
3. We have addressed this question within our overall response;
4. In our response we raise additional activities and outputs to those contained in the consultation;
5. Competition is now at the heart of energy policy in NI. We believe measures that both utilise competition to deliver benefits for vulnerable consumers and ameliorate the impact on vulnerable consumers should be prioritised. These are:
 - a. Investigating the need for market intervention;
 - b. A campaign to raise awareness of the benefits of shopping around; and
 - c. A trustworthy interactive energy price comparison website.
6. Our further comments are contained in the main body of our response;
7. We agree that the impact of the CPS is likely to be positive for energy and water consumers;
8. As a consumer representative we feel that other organisations are better placed to consider if the proposals meet the equality provisions.

Clarity of billing – The Consumer Council fully supports further work on improving clarity of billing for consumers. However, clarity in billing should also encompass measures and incentives for suppliers to ensure the accuracy of bills through correct meter readings, and administrative processes. The Consumer Council is aware from anecdotal evidence, research and directly from our complaints centre, that often consumers issues with billing relate to a disparity in how much energy the consumer believes they have used and the final amount charged. The Consumer Council firmly believes in the principles in place in Great Britain (GB) where there is a limitation on how long

companies can back bill consumers. A limitation on back billing provides an incentive for clear, accurate and prompt billing of consumers. At present all of the responsibility rests on the consumer and it is the consumers who are required to pay all of the costs of something that is the supplier's responsibility. GB consumers have benefitted from the protection of limited back billing since 2007¹.

Energy Theft:

The Consumer Council has a project within its energy work plan for 2015-16 to address a number of concerns around energy theft. We wish to work with the energy industry and other stakeholders on this matter. We therefore welcome the Regulator's undertaking to work with stakeholders on prevention of, and processes for dealing with meter tampering and energy theft.

The Consumer Council believes that a sustained and coordinated campaign to reduce meter interference and theft across all utilities including water is needed. Water theft presents a financial burden on both NI Water and public funds and it also risks contamination of drinking water. Energy and water theft are not victimless crimes and all consumers suffer as a result. The Consumer Council believes that a public health and safety campaign to change consumer attitudes in relation to energy and water theft is needed.

Licenses could include a condition on suppliers and distributors to work with other stakeholders such as the Consumer Council, the Regulator the PSNI and the Health and Safety Executive to deliver such a campaign. There are a number of such successful campaigns in GB on this issue and the Consumer Council would welcome the opportunity to be involved.

The Consumer Council has recently agreed through the Gas Market Opening Group (GMOG), to the provision of a Household Alert document to be provided to consumers who have been disconnected as a result of meter tampering. This provides details of contacts for agencies such as local health trusts and debt advice charities. The Consumer Council would like to see this practice adopted throughout the energy and water sector and wherever possible provided prior to disconnection.

¹ <https://www.ofgem.gov.uk/ofgem-publications/64010/back-billing-leaflet-2012.pdf>

Customer and Critical Care Registers

The Consumer Council agrees that a review of the customer and critical care registers is an important undertaking. It is needed to ensure that the services offered are fit for purpose and helpful to those they are aimed at. Many of these registers are undersubscribed, especially when compared to the number of consumers who have a disability or are elderly. The Consumer Council undertook a project to increase the uptake of the scheme across all utilities in 2012 and this helped achieve a significant rise in numbers on the register for the NI Water Critical Care register.

We are aware that Bryson Energy has been in discussion with healthcare professionals about setting up a referral system from doctors and other healthcare professionals. This is being endorsed by the Department of Health, Social Services and Public Safety (DHSSPS) and is a welcome development.

The Consumer Council would also like to see other suppliers and distributors employ the same method of enrolment at point of sale/switch as used by SSE Airtricity. In the Consumer Council's previous study, SSE Airtricity had the closest proportional number of subscribers, when compared to figures for consumers in NI that might need to be registered. According to Disability Action, 21 per cent of adults and six per cent of children living in private households in NI have a disability and the incidence is one of the highest in the United Kingdom.

Furthermore, we would like to see links with utility companies be investigated – both in terms of promoting consumer awareness of the Register and exploring opportunities for consistent strategies to tackle bogus callers, such as sharing passwords.

Competition and vulnerable consumers

From the outset of competition in the NI domestic electricity and natural gas markets, the Consumer Council has always maintained that its success will be judged on whether consumers, and in particular vulnerable consumers, feel the benefits.

The most recent Family Resource Survey² carried out by the Office of National Statistics (ONS) in 2012/2013 has shown that 19 per cent of consumer in NI are in relative income poverty which is defined as the proportion of the population living in a household with income less than 60 per cent of the UK median household income.

The survey has also shown that ten per cent of consumers in NI do not have access to a bank account which provides a direct debit facility. It also found that 20 per cent of households in NI, do not have access to the internet and the majority of these are in demographic groups that are financially and socially disadvantaged. Furthermore at 42 per cent of households, NI has the highest level of fuel poverty in the UK.

The Consumer Council is concerned that evidence is emerging which suggests that some vulnerable consumers are missing out on the benefits of competition disproportionately more than consumers in higher socio-economic groups. The same problem has been raised by commentators as a consistent feature of the GB market since its inception in 1996 and is one of the subjects of the current CMA's current GB Energy Markets Investigation.

Along with the CPS, the Regulator is currently in the middle of a review of the effectiveness of competition and is also developing supplier data reporting through its REMM project. The Regulator will no doubt recognise the synergies between the three projects and act to arrest the development of this tendency before it becomes an entrenched feature of the market. The evidence does not hinge on a single statistic or feature of the market but rather the interplay between different features and trends in the market.

Pay As You Go Meters

According to Consumer Council research 96 per cent of natural gas, and 89 per cent of electricity, domestic Pay As You Go (PAYG) meter customers expressed overall satisfaction with using PAYG³. The Consumer Council recognises the benefits to consumers in terms of ease of use and ability to budget of PAYG meters.

² <https://www.gov.uk/government/collections/family-resources-survey--2>

³ <http://www.consumer council.org.uk/publications/social-market-research-report-energy-money-affairs-research/>

The November 2014 Cornwall Energy report *Review of the Effectiveness of Competition in the Northern Ireland Energy Retail Market* points out that the majority of consumers on PAYG are in low income groups and that the proportion of customers using PAYG is highest within low income groups⁴.

Whilst the cheapest Pay As You Go tariff is the cheapest of all electricity tariffs, that specific tariff is only used by 17 per cent of PAYG customers⁵. The vast majority of PAYG consumers (83 per cent)⁶ are on a PAYG tariff which, after the “standard tariff” (discussed below), is the most expensive tariff their supplier offers.

The initial conclusion to be drawn from this is that low income consumers are disproportionately paying higher PAYG tariffs than those in higher socio-economic groups.

It is bizarre that 89 per cent of electricity customers are satisfied with their PAYG meters⁷ but at the same time are paying more for their electricity than they need to. PAYG customers do not need to change their meter to save money; they simply need to switch to a different supplier with a more competitive PAYG tariff. The only barrier to this will be if they are in debt to their supplier and the switch is blocked due to an objection by a supplier.

However, switching rates for domestic customers are low. Only 6.7 per cent of consumers switched in 2014 and a number of these will be the same customers who switched more than once. Significantly, those most likely to switch are in the socio economic group ABC1⁸.

The overall conclusion with regard to PAYG meters is that not only are low income consumers disproportionately paying the higher PAYG tariffs but they are also disproportionately failing to switch away from the higher tariffs compared to higher socio-economic groups.

PAYG customers do not necessarily choose that payment method. Consumer Council research shows that 71 per cent of gas and 63 per cent of electricity

⁴ 68 per cent in electricity and 83 per cent in gas. *ibid*

⁵ Utility Regulator- Annual Transparency Report 2014

⁶ *ibid*

⁷ *ibid*

⁸ <http://www.consumerCouncil.org.uk/publications/social-market-research-report-energy-money-affairs-research/>

domestic customers inherited their PAYG meter when they moved in to their home⁹. Furthermore, customers who are in debt to their supplier may choose to go onto, or even be forced onto a PAYG meter in order to avoid disconnection and to repay debt. Moving from a PAYG meter to a credit meter, which a consumer may wish to do to avail of Direct Debit (DD) and online billing tariffs, may involve a charge and will involve more hassle than a simple tariff switch to an alternative supplier.

Self disconnection is a serious problem associated with PAYG meters. The Consumer Council's most recent research found that on average natural gas and electricity customers self disconnected six times in the previous year and that almost seven per cent of electricity customers had self disconnected because they could not afford to top up¹⁰. However, the Consumer Council and the Regulator do not have access to regular monitoring data from the industry on self-disconnection.

Standard Tariffs

The November 2014 Cornwall Energy report *Review of the Effectiveness of Competition in the Northern Ireland Energy Retail Market*, describes how many suppliers refer to having a standard tariff which does not have a subscribed payment method such as DD or billing method such as online billing. In all instances the "standard tariff" will be the most expensive tariff available. The report states that very few customers are on the "standard tariff". Even so, it is logical to deduce that those consumers who are on a standard tariff will include those who do not have a bank account and do not have access to the internet. These are some of the most economically and socially disadvantaged consumers in NI.

A consumer whose household does not have a PAYG meter, but also cannot pay by DD and consumers who owe a debt, are often charged a deposit to switch supplier or may be blocked from switching completely. This is a barrier to a consumer switching to a better tariff.

⁹ <http://www.consumer council.org.uk/publications/social-market-research-report-energy-money-affairs-research/>

¹⁰ SMR Energy and Money Affairs Research April 2014.

Cost reflectivity and cross subsidy

Currently for most suppliers the cheapest tariff that can be accessed without a meter change, and therefore the tariff that is most likely to be switched to, is the online billing and (DD) option. Consumer Council research has established that consumers in socio economic group ABC1 are more likely to switch and hence take advantage of these tariffs.

All consumers need to have confidence that the price they are paying reflects the true cost of supplying them with energy. The difference in cost of delivering the different payment methods should be examined by the Regulator and shared with consumers. This will remove any concerns that cross subsidisation may be taking place between different customers on different payment methods and hence between different socio-economic groups.

Again we need to learn from the experience of GB. The CMA energy market investigation reveals that GB suppliers make the largest profit margins on their standard variable tariffs¹¹.

Proposed action for the CPS

The failure of the competitive market to protect vulnerable consumers in the GB market is well documented. In recent years the GB Regulator, Ofgem has intervened in an attempt to rectify this. For example, suppliers are now required to tell their customers what their cheapest available deal is. The signs of this same tendency for vulnerable consumers to lose out in a competitive energy market are now emerging in NI. It is welcome that the market has delivered some low cost tariffs but this can only be regarded as a success when all consumers can and do switch to them.

An important part of the solution is to raise awareness of the benefits of shopping around and switching supplier. To this end the Consumer Council started its 'Switch & Save' campaign last year and will continue with it this year. However, the GB experience so far has shown that trying to raise consumers' awareness and proficiency is difficult and may not be enough to

¹¹ Competition & Markets Authority. Energy Market Investigation, Updated issues statement. February 2015

protect vulnerable consumers. Indeed, it may be necessary for the Regulator to take some form of limited market intervention in NI.

The Consumer Council recommends that:

- As part of its CPS and its 'Review of Effectiveness of Competition' the Regulator should investigate further how vulnerable/low income consumers are experiencing competition;
- The Regulator should make recommendations for consideration by policy makers if it concludes that market intervention is required;
- The Regulator should use REMM to gather and publish accurate data on the cost to serve of different payment methods to ensure they are cost reflective;
- The Regulator should review debt blocking in the switching processes and the practise of requiring a deposit prior to a switch;
- The Consumer Council continues to work with the Regulator and the energy industry to raise awareness of the benefits of shopping around and switching supplier; and
- Notwithstanding technological and Data Protection constraints, suppliers should be required to develop systems that monitor on an ongoing basis the number and identity of households that are self disconnecting. This data could be used to identify and help those households most at risk of self disconnection.

Consumer awareness of switching process and levels of switching

The number of domestic customers switching their energy supplier in NI is low and lowest amongst the lower socio economic groups. For vulnerable consumers in NI to get the best deals from the energy market they need to be aware that they can get a better deal, the tools to access those deals and the skills to use the tools.

The Consumer Council provides natural gas and electricity tariff comparison tables on our website, runs a consumer proficiency programme of outreach events and last year ran a 'Switch & Save' campaign.

We intend continuing with this work in 2015-16 and would like to work closely with the Regulator on promoting awareness of the benefits of competition.

Recent research by the Consumer Council showed that consumers think that educating consumers in how to shop around for the best deal is the single best way the Consumer Council can help consumers¹².

Comparison website and provision of tariff information for consumers:

The Consumer Council currently hosts a comparison table for NI tariffs. However it is a PDF document and doesn't allow consumers to compare their own energy use as interactive comparison sites do. We intend developing and improving our comparison tool to benefit consumers and would like to work with the Regulator and other stakeholders to achieve this.

In addition to web based comparison sites, there should still remain alternative methods for consumers with no internet access.

Codes of Practice

The codes of practice have provided a useful framework for improving service levels and transparency. The Consumer Council believes more work needs to be done to make consumers aware of the codes and to ensure that companies are adhering to them. For example the Consumer Council has concerns about the availability, accessibility and general ease of use of tariff information on some supplier's websites. The majority of supplier websites offer the facility to switch online. This means that they should be subject to the terms of the current Marketing Code of Practice which include stipulations about clarity of tariff information and comparison with other suppliers.

Financial Support for vulnerable customers

In GB many older people benefit from a warm homes discount scheme which provides them with a discount of £130 off their electricity bill during the winter. The Consumer Council would like to see a similar scheme set up in NI so that pensioners here get the same help as those in the rest of the UK.

In 2012 DETI was in the process of preparing an Energy Efficiency Obligation (EEO), applicable to all energy suppliers, as part of its Energy Bill. Whilst the Bill will not be progressed in the current Assembly Mandate (up to Spring 2016),

¹² Consumer Council Northern Ireland Consumer Outlook Tracking. May 2015

significant policy work is being carried out by DETI on the EEO. The Consumer Council supports the concept of an EEO but with significant caveats.

A fundamental problem with an obligation placed on any company within the energy supply chain is that the costs are likely to be passed onto consumers. Ideally this should be avoided completely. Obligated companies should be encouraged to fund measures by identifying the competitive advantage they could accrue by winning new customers rather than increasing the volume of sales.

For the scheme to be acceptable it must reduce fuel poverty in NI. This means targeting measures at fuel poor households and ensuring that any costs that consumers are required to bear are at such a level that no household will be pushed into fuel poverty by the scheme.

Balancing the need to allow energy companies to have an input into the type of measures delivered, with the need for Government to direct the type and recipients of measures will be a crucial task. If the principle of an EEO is adopted, this will be considered in the detail of the secondary stage. If this element is not successful the whole scheme will be flawed.

In reality, it is highly probable that obligated companies will pass on the costs of a scheme to customers. Again, addressing this issue will take place at the secondary stage of the legislative process. This is where the detail will be worked out and where the really important work for consumers will take place. The secondary stage must use a process that is both transparent and inclusive of all stakeholders. It must also be recognised that if the detail worked out at the secondary stage cannot demonstrate a clear benefit for consumers it may be necessary to reconsider the options for delivering energy efficiency.

With its technical expertise and data on the regulated energy industry we would like to see the Regulator provide options for DETI and the NI Assembly to consider on the EEO and possible alternative models.

Conclusion

The experience of vulnerable consumers in GB and the emerging evidence of the growing tendency in NI for vulnerable consumers to be marginalised by the competitive energy market, emphasises the timely nature of this consultation.

We ask the Regulator to consider our comments and the opportunities for joint working between our organisations.