



Consultation: THE IMPLEMENTATION OF THE EU THIRD INTERNAL ENERGY PACKAGE

Date:

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Executive Summary

With fuel poverty levels in Northern Ireland at 44 per cent many households are currently struggling to adequately heat their home. It is therefore vital that the energy market in Northern Ireland is designed in a manner that will give customers the best possible deal and that consumers are empowered in terms of knowing their rights,

The energy market in Northern Ireland has changed significantly in recent years. It has seen the expansion of the gas network to Londonderry and Newry, the introduction of a Single Electricity Market and competition within the electricity and the natural gas supply markets. Furthermore, with the launch of Northern Ireland's Strategic Energy Framework there is a clear policy direction which aims to provide more sustainable forms of energy within the Northern Ireland energy mix. However, despite these interventions many households are still struggling to adequately heat their homes.

Competition if designed correctly can help consumers by offering reduced energy prices and improved consumer service/protection. However, competition in the domestic electricity and gas markets supply in Northern Ireland is still in its infancy, and it is therefore important that it is developed in a manner that will produce the maximum benefit for consumers in Northern Ireland.

The European Union Third Energy Package (IME3) offers a real opportunity to increase, consolidate and strengthen existing consumer protection in Northern Ireland particularly to the most vulnerable in our society; whilst increasing and encouraging competition in the electricity and gas markets.

The Consumer Council is therefore pleased that the Utility Regulator has noted and recognised the EU desire that "...consumer interests should be at the heart of this Directive".

The Consumer Council has recently undertaken several consumer panels discussing competition and consumer protections issues. The evidence we have gathered from these panels is that there is little awareness of either the benefits or problems associated with competition. It is therefore important that all stakeholders within the competitive market work proactively and progressively together to empower and protect consumers so that they can be confident in shopping around for the best possible deal for their needs.

The Consumer Council is committed to ensuring all consumers can access the benefits that competition brings to ensure all consumers pay fair prices for electricity and gas. We have developed a series of practical guides for consumers, and a price and service comparison tool on our website to inform consumers on what is the best possible deal for their energy needs.

It is essential that Northern Ireland consumers clearly know the levels of price, consumer service and protection that they should reasonably expect. It is therefore important that there is a consistent policy approach to energy issues which puts the consumer at the centre of every decision.

From our research we have identified issues that inhibit competition or act against consumers interests. The Consumer Council believes that the Utility Regulator needs to investigate these issues further and have the powers to ensure that energy suppliers serve the interests of Northern Ireland's consumers. In order to achieve this both licence conditions and codes of practice need to be;

- Standardised across gas and electricity,
- Monitored;
- Enforceable;
- Relevant to consumer needs;
- Regularly reviewed, and;
- Informed by the experience of other markets

Introduction

The Consumer Council welcomes the opportunity to respond to ‘the Department’s’, consultation on Implementation of the IME3.

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.

The Consumer Council has specific responsibilities for energy, public transport and water. We also have a general duty to represent and protect consumers’ interests.

A key feature of the Consumer Council’s work is to carry out research to determine consumer concerns and to campaign for the best possible standards of service and protection. The Consumer Council has a major role to play in educating consumers so that they will have the skills and confidence to meet the challenges of the future.

Context

Currently, there is no consistent level of consumer protection within the regulated gas and electricity industries in Northern Ireland. Existing regulatory licence conditions provide partial consumer protection through various codes of conduct.

The Consumer Council would question whether these codes are suitable for the modern, competitive, regulatory environment as they are ad hoc in nature, fail to deal with the important consumer issues such as debt, marketing, compensation for service failure etc. Often the conditions within them are vague and do not provide the Utility Regulator with effective monitoring and

enforcement controls, which often means that the energy companies are left to act as they feel appropriate.

Consumer confusion also exists as there is a lack of harmonisation on consumer facing issues within the codes of practice for the gas and electricity industries.

Furthermore a lack of information and transparency on the practicalities of switching and the benefits it could provide has led to apathy amongst consumers towards switching.

There is also evidence that consumers simply do not trust the energy companies. As one respondent in our panel said:

‘For all we know, the two of them could be sitting in cahoots....it’s quite easy for them two electricity companies and two gas companies to work with each other and, you know, say we’re going to put this percentage on and you go with that and you’ll still have the difference. It’s fairly easy to do it like that, maybe it’s cynical, but no, it’s very easy for something like that to happen.’

It is ultimately down to the conduct and practices of energy companies to win consumer confidence. By creating a comprehensive framework that both protects and informs, consumers will feel more confident in exploring the benefits that competition can bring.

Evidence from consumers here and Great Britain

Through interacting with consumers, the Consumer Council has built up a picture of where Northern Ireland energy consumers believe they are not receiving adequate and consistent levels of protection. These areas include:

- Billing frequency and accuracy;

- Frequency and accuracy of meter readings;
- An inconsistent approach to dealing with customers in debt;
- A lack of awareness and inconsistent provision of services for vulnerable customers;
- Marketing practices;
- Compensation for poor levels of service; and
- Disconnections in the gas industry.

Complaints

The Consumer Council has a dedicated team, Consumer Support, which assists consumers with their complaints and enquiries in our statutory areas of transport, natural gas, electricity, coal and water. Our service is free, independent and confidential. We make every effort to obtain fair and realistic outcomes for the consumers who contact us.

The following tables show a breakdown into categories of contacts regarding electricity and gas issues between 2006 and 2009.

Table 1- Gas contacts by category

Issue	2009-2010	2010-2011	Total
Billing	84	73	157
Metering	44	34	78
Supply	35	38	73
Communications	6	10	16
Appliances	4	4	8
Initial Connection to supply	5	0	5
Carbon Reduction Measures	2	0	2
Safety of supply	2	0	2
Supply (Other)	2	0	2
Price Increase	1	0	1
Statutory standards/Charters	1	0	1
Total	186	159	345

Table 2. Electricity contacts by category

Issue	2009-2010	2010-2011	Total
Billing	412	427	839
Supply	139	368	507
Metering	63	83	146
Communications	27	46	73
Price Increase	44	0	44
Carbon Reduction Measures	6	8	14
Initial Connection to supply	15	0	15
Supply (Other)	11	0	11
Supply (Debt & Disconnection)	10	0	10
Appliances	2	6	8
Fuel poverty campaign 2010	0	5	5
2nd Tier Supplier	4	0	4
Marketing and sales	3	0	3
Complaints and redress	1	1	2
Other Energy	1	1	2
Statutory standards/Charters	1	0	1
Total	739	945	1684

Consumer Panels and Surveys

The Consumer Council carry out surveys and speak directly to consumers on energy issues on a regular basis. To help inform our response to this consultation, we commissioned Perceptive Insight to recruit four consumer panels across Northern Ireland. The panels were held in Belfast, Ballymena, Armagh and Enniskillen between 3 and 11 August 2011 and were representative of a cross section of Northern Ireland energy consumers.

It is clear from the consumer panels that energy consumers in Northern Ireland are beginning to realise that they can choose their supplier. It is clear

however that consumers do not feel in control of their domestic energy supply and have low expectations of their energy supplier.

This perceived lack of control has come about because of the historical lack of competition and lack of choice in energy and the attitude that there is no viable alternative to the incumbent suppliers.

At the start of the panel meetings, consumers were asked what information energy companies should provide. A typical answer was:

'It's not something that is a priority to me, it's like the time of the credit crunch, you know, my priority is to get it paid and move on from it. It's not something that I dwell on.'

However, as the group discussions developed consumers began to see how they could use the newly competitive market to their favour and discussed specific issues such as the clarity of bills. They began to see how the proposals made in IME3 could help them.

If consumers are confident about the options available to them energy competition in Northern Ireland can flourish. As it grows so consumers awareness of competition will increase and the expectations placed on the services energy companies provide will also increase.

However, there is a real danger that the conduct and practises of energy companies will not always be in the consumer interest as has been the case in GB. The experience of GB is therefore important and we agree with the Regulator's 'precautionary approach'. In March 2011, Ofgem found that competition was being stifled by a combination of tariff complexity, poor supplier behaviour, and lack of transparency¹.

¹ Ofgem Press Release 21 March 2011- www.ofgem.gov.uk

The impact of The GB market is already colouring consumers' opinion of competition in Northern Ireland. As a respondent in our panel commented:

'The problem I had with it, this is when I was over in Scotland, I had door-to-door people came round and persuaded me to switch and then I got into the problem..., but I basically ended up paying the two companies for my gas bill, and it took months and months to get it sorted. So that's kind of jaded my opinion... I didn't find it easy to complain or to get it sorted or anything.'

In order to avoid this consumers must be provided with the information needed to make the choices that are right for them, so that consumer will be more confident and have enhanced expectations of their energy company.

As energy consumers become empowered they will need protection as well as information. This is a further lesson to be learnt from GB. Vulnerable consumers who cannot readily access the benefits of competition and choice must not be left behind².

IME3 offers the opportunity to empower consumers by providing information whilst at the same protecting consumers where required.

Retail and Consumer Issues

Disconnection

Equality of opportunity for all consumers must be at the heart of this consultation. The success of the implementation of the IME3 will be judged by its ability to promote and co-ordinate action by the utility companies to ensure that all customers, regardless of their personal circumstances, are able to access and benefit from the enhanced services they provide at a price they can afford.

² Involving the consumer watchdog in the regulatory process- Consumer Focus December 2010

In our response to the Utility Regulator's Social Action Plan consultation we recommended that the Regulator meet on a regular and ongoing basis with representatives of Section 75 groups. We reiterate this recommendation in relation to the implementation of the IME3. We believe that this is essential to ensure the Regulator can assess and monitor the effectiveness of the changes it makes.

As many of the proposals in the consultation will impact on vulnerable groups it is appropriate that a full Equality Impact Assessment is undertaken. It is Consumer Council policy that energy companies should pro-actively support consumers with debt issues rather than disconnecting those who are struggling with their debt. We therefore call on the Utility Regulator to extend the no disconnection policy it has for electricity customers to include gas customers.

Universal Service

The Consumer Council believe that both electricity and gas should be deemed as essential services for heat and light. With such high levels of fuel poverty in Northern Ireland, it is essential that the same levels of protection that are given to electricity consumers are also given to consumers using natural gas.

Currently, within the electricity market in Northern Ireland there is a positive policy that no domestic consumers can be disconnected for being in debt. However, gas is deemed a luxury commodity, and therefore disconnection for domestic customers is permitted. The Consumer Council strongly believes that this position needs to be revisited and that a 'no disconnection' policy should be implemented for natural gas customers.

Currently consumers in isolated locations without an electricity supply will be charged a connection fee, which may run into thousands of pounds, to connect them to the network. This is a real barrier to customers receiving an

electricity supply. A mechanism is needed to overcome this barrier to ensure universal service is available to all consumers regardless of location and/or ability to pay.

Change of Supplier and three week switching

The Consumer Council welcomes the requirement within the IME3 that the switching process should be completed within three weeks. For competition to be effective and benefit all consumers in Northern Ireland the switching process must be straightforward, quick, consumer focused, transparent, accurate, and hassle free. We therefore welcome the Regulator's proposals to modify company licences in this regard.

The three week period should be seen as an absolute maximum and the Ten day cooling off period should be incorporated within this three weeks. The Ten week cooling off period is an important consumer safeguard and must remain within the switching process. However, we believe that the EU Directive meant for the three week period to be from the moment a consumer applies to switch to the moment the switch takes place. There should be no need for the cooling off period to end before the switching process begins.

In switching supplier consumers need:

- Accurate and unbiased advice on potential savings based on the best information available;
- A clear understanding of the process and dates involved in switching suppliers;
- To be kept informed by the new supplier throughout the process with a telephone helpline being provided to help consumers with any questions they have, and;

- Current and new suppliers to actively cooperate with one another to resolve any problems that the consumer experiences during the switching process.

The Utility Regulator needs to agree with energy suppliers licence conditions that ensure that these requirements are in place so that they can be monitored and enforced. These conditions must be fair, reasonable and clearly understood by consumers.

The Consumer Council believe that it would be appropriate for the three week switching period to be within the Guaranteed Standard of Service for both supply and distribution companies. This would mean that a customer would receive a financial payment if the switched was not made in time, without good reason.

Consumption data

The Consumer Council believe that the provision of consumption data will help consumers to monitor their energy use. This is a key tool in helping consumers manage their energy usage and become more energy efficient.

The proposal to introduce an 'Annual Statement' is therefore welcome. However, there is a need to learn from practice elsewhere, as in GB where the manner in which this information has been provided has led to considerable consumer confusion.

Suppliers should be encouraged to offer consumers choice at all times. In order to avoid confusion consumers should be offered the opportunity to opt in and out of services such as quarterly bills and annual statements.

Pre Payment and on line customers must not be disadvantaged and they should be given the same information as all other customers.

It is essential that the consumption data that is provided by energy suppliers is credible. Therefore, it is vital that accurate billing and meter reading happens regularly to gain a meaningful picture of consumption. Currently, under their licence conditions suppliers must only “endeavour” to take a meter read once a year. For this condition to work, both gas and electricity licences need to be strengthened, with an obligation placed on suppliers to take a meter read at least once a year. However, this is far from best practice – the Energy Retail Association recommends that a meter should be read every three months.

Inaccurate billing leads to debt. This was highlighted in the Utility Regulators ‘Customer Debt Project Report’³, which recommended that a Code of Practice should ensure that accurate bills are carried out through more meter reads or by utilising advances in metering technology to provide better quality information.

The Consumer Council believe that the current percentage target for meter reads within suppliers’ licences in Northern Ireland is not robust enough to meet the consumption data aspiration within the IME3. We would ask the Regulator to examine a means of strengthening this.

We welcome the proposal within the consultation to require energy companies to maintain records of their endeavours to read customers meters.

Additional safeguards are necessary for consumers in circumstances where the supplier is at fault for under-billing a domestic customer. The Consumer Council has developed a Financial Remedy Framework (FRF)⁴ which gives consistency in approach to the application of a financial remedy for domestic billing complaints received by the Consumer Council about energy suppliers.

The FRF was developed using recommendations from Ofgem. The FRF requires that the supplier should write off unbilled arrears going back further

³ Social Action Plan, Customer Debt Project Code of Practice Report- Utility Regulator, April 2010

⁴ Financial Remedy Framework for Complaints – Oct 06, The Consumer Council

than two years. The FRF has been used successfully by Power NI, but has unfortunately not been adopted by all suppliers here.

The Consumer Council believes that under IME3, the Regulator should ensure that all energy providers agree to apply the FRF when considering the resolution of billing complaints. This will provide protection for all consumers who have been billed incorrectly through no fault of their own, which quite often results in financial hardship. It will also ensure that in an open energy market, that all suppliers handle billing complaints in a fair and consistent manner.

We believe that all suppliers' licences should be modified to include or adopt the FRF. The Consumer Council would be willing to review the existing FRF in conjunction with the Regulator in order to implement it as a licence condition.

Whilst our framework was initially developed to protect domestic consumers, we believe this now needs to be extended to include and to protect commercial and business customers.

The Utility Regulator must be able to monitor, evaluate and enforce levels of performance. We believe that these modifications could be enforced by being included as an overall Guaranteed Standard of Service (GSS).

Consumer Checklist

The Consumer Council welcomes the opportunity to work with the Utility Regulator to develop a consumer checklist in Northern Ireland. The Consumer Council has unique experience in representing consumers both at individual and policy level and can use this to ensure the consumer checklist is user friendly and customer focused.

The template provided in the Directive, is comprehensive but not user friendly. In developing the template consideration must be given to how consumers

can best access and use the information. It is essential that consumers benefit from this checklist and that it actively meets their needs.

We agree that as a minimum the checklist should be given to consumers at the beginning of their contract and on request. It will also be necessary to make specific provisions for customers with special needs and it will be appropriate to consult with Section 75 representative groups on this matter.

Dispute Settlement Rights

The Consumer Council welcomes the acknowledgment of its role in dispute settlement. We support the proposed modifications and wish to see the following additions:

- All suppliers must have an accessible Complaints Handling Process, ensuring that the consumer can make a complaint in the format that best suits their needs;
- Any consumer making a complaint should be given a copy of the company's complaints procedure;
- A template complaints procedure that states the minimum standard that are required from energy companies;
- The company's complaints handling procedure must clearly define the roles and responsibilities of different parties and the timescales involved;
- It must be made clear to consumers that they have the option to contact the Consumer Council at any point during the investigation of their complaint by the company;
- All complaints should be logged, regardless of how they are submitted. From our work with suppliers it is evident that some service providers classify telephone complaints as enquiries if they are dealt with at the point of contact and only class them as complaints if they are made in writing.

The vast majority of cases the Consumer Council receives are resolved without the need for adjudication. Currently for most disputes the final dispute resolution can only be achieved by application to court. The Consumer Council believe that a final dispute resolution outside of the legal system is required. Having this facility would help focus all parties to resolve an ongoing dispute and would enable the consumer to avoid incurring legal costs.

We would suggest that final adjudication should occur through a panel comprised of a representative from the Consumer Council, the Utility Regulator and an independent individual/organisation. No individual on the panel should have previously been directly involved in efforts to resolve the original dispute.

Transparency of Information

The quality of information available to consumers will dictate how well and how quickly they will take control of their energy supply. At our consumer panels we heard:

'I think the statements are quite confusing. I don't think they're all that easy to understand. When it comes out, it's all different, you know, kilowatts and it could be easier.'

'I always think the terms and conditions when they're written, they're far too long; it's this page of small writing, you know, and you read it and then I can't see it and I read the first couple.'

We believe that the proposals made by the Regulator will help consumers make informed choices in a competitive energy market and we support them. However, we believe the Regulator should actively monitor this process and constantly consider how it can further empower the consumer so that they can be active players in the market.

The GB market is ahead of Northern Ireland in terms of the levels of competition and it is important to learn lessons from it. When 'Energy Statements' were introduced in GB in order to improve and increase information for customers they were heavily criticised for being 'confusing'⁵. To avoid this happening in Northern Ireland, the Regulator should draft the licence modification to provide that the information required on the bill and the Principal Terms of the Contract should be subject to an annual review.

The amount and format of the information is important to avoid consumer confusion. The Consumer Council recommend that the licence conditions require that all energy suppliers use a standard billing and annual statement format. The format should be devised by a supplier's forum in consultation with the Utility Regulator and other stakeholders. This was a suggestion that was strongly supported by attendees at the Regulators' IME3 seminar. It is also worth noting that the bill produced by the new electricity market entrant, Budget Energy was noted by attendees at the IME3 seminar as being an example of current good practice.

Enhanced Customer Protection Provisions

As previously stated, there is no consistent level of consumer protection within the regulated gas and electricity industries in Northern Ireland. The Consumer Council would question whether the existing codes are suitable for the modern, competitive, regulatory environment as they are ad hoc in nature and fail to deal with the important consumer issues such as debt, marketing, compensation for service failure etc. Getting these issues is vital for competition to succeed. One respondent at our panel said:

'I know somebody came to my door once but cold callers is just a slam in the face. I'm sorry, I've no time for you.'

⁵ BBC News online 3 August 2010. <http://www.bbc.co.uk/news/uk-10847420>

The Consumer Council welcomes and supports the modifications that the Regulator is proposing in this section.

However, we cannot support a pre-payment debt recovery level of 40 per cent. We would ask the Regulator to provide justification and the rationale behind this figure. The Consumer Council believe that the Code of Practice should ensure:

- That in the first instance it is the responsibility of the supplier to identify and support customers in debt;
- That each case must be negotiated individually between the consumer and the supplier;
- That that repayment levels are set at an amount that consumers can realistically afford;
- That in order for customers to clear their debt when they are able, the supplier should provide a facility for additional payment to be made other than by making Pre payment meter payments at no cost;
- That for those customers who are in receipt of state benefits the amount must not exceed the current fuel direct recovery rate;
- That each customer should be referred to a recognised debt advice agency such as the CAB or Advice NI. The supplier should be required to abide by the recovery amount recommended by the advice agency using the Common Financial Statement.

There should be a requirement to actively promote the vulnerable customers register beyond that of informing customers annually of its existence. Joint research by the Consumer Council and the Utility Regulator shows that overall awareness and take-up is low of customer care schemes for customers with special needs and that it should be a priority of the Regulators Social Action Plan (SAP) to ensure better communication of the available services.⁶

⁶ Research into consumers' views on initiatives by energy suppliers to help disadvantaged and vulnerable customers.

The Consumer Council has developed a Marketing Code of Conduct that has been adopted by the industry. We understand that the Marketing Code of Conduct proposed by the Regulator will be enforceable as a licence condition. With our previous experience in this area the Consumer Council would welcome the opportunity to work with the Regulator to further develop a Marketing Code of Conduct that is a licence condition. Applying the precautionary approach adopted by the Regulator we propose that door step selling is prohibited. Recent evidence from the GB market ⁷ questions the appropriateness of the practice and British Gas and SSE have recently suspended all door step selling.

As well as enhancing its ability to monitor the implementation of the Codes, the Regulator must ensure that it has the power to enforce them. It would be helpful if the Regulator would state clearly the penalties for non compliance, including the level of fines where appropriate. Where it is necessary to impose a fine, the Regulator must ensure that the cost is not passed back to the consumer through tariffs. The requirement to provide the Codes of Practice as defined within the licence should be included as an Overall Guaranteed Standard of Service.

There should be a requirement that in all contact with the customer the supplier must make the customer aware of the best available tariff for them;

We agree with Regulator that at this early stage in competition in Northern Ireland energy markets many of the impacts of competition are yet to be seen. Even in GB, with its mature competitive market, new consumer impacts frequently arise and Ofgem has seen fit to act to deal with this on a proactive basis. The Regulator should be able to act as necessary to protect consumers in a timely manner. The Consumer Council supports the Regulators proposal to have the ability to introduce further consumer protection measures as and when necessary following public consultation.

⁷ Consumer Focus, 11th October 2011. www.consumerfocus.org.uk/news/consumer-focus-response-to-british-gas-ending-cold-call-doorstep-sales

The Consumer Council believe that all customers must benefit from competition. As competition enters Northern Ireland we have seen suppliers requiring security deposits of up to £300 from certain customer groups. The outcome means that households that cannot afford the security deposit are unable to avail of the lower prices that switching supplier could bring. With such high levels of fuel poverty in Northern Ireland this is unacceptable. The Consumer Council propose that there should be a licence condition that prohibits suppliers from requiring security deposits. We understand that suppliers require security, but this can be obtained by using more prepayment meters and promoting direct debit payments options. If the Regulator is not prepared to prohibit security deposits be prohibited, we believe that they must be restricted to £50, which currently represents an average bill for one month⁸. The length of billing period that the security deposit amount represents, needs to reflect the average time it will take to switch suppliers. The licence should also include a requirement that if the bills have been paid promptly for three months the deposit should be returned immediately to the customer.

Supply Contracts

Clear contractual terms will enable consumers to understand what they can expect from their energy company and in return what they as a customer are required to do. Understanding this will provide the consumer with confidence to explore the market.

In practical terms as well, the terms of the contract must not present a barrier to switching. The period of notice required to end the contract is far more important now that customers can switch:

‘with the old NIE in fine print you’d have 28 days before you change supplier.... now there are more options and you would want to know

⁸ The Consumer Council calculate the average gas bill in Northern Ireland is £50 per month and the average electricity bill is £49 per month.

that information. Well, is it going to take me three months to then get out of this contract or is it going to take me a full year?’

We note and welcome the amendments made to the fixed term contract notice period in the ‘Six month market review document’. However, the majority of customers are on ‘evergreen’ contracts. We are aware that within its standard ‘evergreen’ contract Phoenix Supply Ltd require its customers to give 28 days notice in writing. This is not currently an issue as this period runs concurrently with the switching period which is typically six weeks. However, this could become a barrier to switching once the requirement to switch within three weeks comes in. Suppliers should be required to remove any requirement for the customer to give notice to end their evergreen contract .

The Consumer Council has been concerned for some time that payment methods are not cost reflective and welcome this modification in principle. However, the problem has always been in obtaining the evidence that demonstrates, or otherwise, cost reflectivity. We propose a modification is introduced that requires suppliers to provide evidence on annual basis to the Regulator to demonstrate cost reflectivity.

Unbundling Distribution and Supply

It is of paramount importance to the consumers of Northern Ireland that their interests are protected as the energy industry moves to a more competitive structure.

The Consumer Council has evidence from consumers that the current branding of certain supply and distribution companies does distort and hinder competition in Northern Ireland. Responses to our panels included;

‘that (Phoenix running the network) might put you off going with say Firmus for your gas, because you might think, oh, just keep it all at Phoenix because at the end of the day they are your supplier of your gas.’

Confusion also exists amongst consumers regarding the supplier and the network operator in the Belfast gas area. Phoenix Supply Limited is the sole supplier to domestic customers and whilst the name is known by most consumers they make no distinction between it and Phoenix Natural Gas, who make new connections and manage the network. This is significant as the Belfast gas market prepares for domestic competition.

The Consumer Council has previously commented on unbundling in general terms and we are please to see that DETI and the Regulator are taking action to amend the licenses of unbundled companies to ensure that governance is adhered to.

The Consumer Council recognises the broad aim of the unbundling provisions is to promote competition within the gas and electricity industries. In order to achieve this, unbundling must give confidence to current and potential players that the market operates on a level playing field and that they have every chance of competing successfully. Furthermore, consumers must share this confidence of a transparent and fair competitive market. In order to achieve this confidence amongst industry and consumers the following are needed:

- The separation of businesses must be highly visible to the industry and to consumers. One way that this can be achieved is by the distinct rebranding of previously united businesses;
- The strategic and operational independence of the separate businesses must be real. The results of unbundling must not exist on paper only;
- In order to enforce the independence of businesses, strict governance rules must be in place, and;
- Governance must be enforced actively and be seen to be enforced by an independent body.

Fuel Mix Information

The Consumer Council note that electricity suppliers in Northern Ireland are currently providing information on their fuel source. The data used for the latest information is from 2008. As competition increases and customers consider switching on a more regular basis, a way must be found to ensure that the data used is more accurate and based on actual consumption during that period.

The Consumer Council believe it is appropriate for the Regulator to formalise the current voluntary arrangements.

Gas Distribution System

The Consumer Council recognise that the conduct of distribution companies will have a significant impact on how successful for competition is for the consumer. We recognise that these modifications aim to eliminate discrimination and promote effective competition in the natural gas industry. The test for these modifications will be how effectively they are monitored and enforced by the Regulator.

The Consumer Council support the modification that will require gas distributors to jointly prepare a code of practice (Distribution Marketing Code) for approval by the Regulator and that which requires distributors to prepare a complaints handling procedure. The electricity distribution sector already has this requirement and it is overdue in gas. With our experience in this area the Consumer Council is willing and able to assist and advise in drawing up the both the code and the complaints procedure.

The Consumer Council has gathered evidence from consumers showing their lack of understanding of the natural gas industry and how this can inhibit switching. Therefore we welcome the proposal to require gas distributors to prepare a Customer Information Code. We would invite industry to discuss with the Consumer Council how this code could be developed.

NI Domestic Market Opening 6 month Review

The proposals made in the six month review document are in part covered by the proposals in the main consultation. We wish to add the following comments:

- We support the requirement that a new supplier must inform the customer that their PPM payment options may change;
- The additional requirements on Terms and Conditions are welcome. However, we would also like to see a requirement that the principal terms of the contract are clearly stated ahead of the 'small print'. The principal terms and conditions will include:
 - The price;
 - The length of the contract, and;
 - how the contract can be ended.
- At the coming to an end of a fixed term contract, the customer should automatically rollover onto the *best available* 'evergreen' tariff unless they have explicitly agreed otherwise;
- The requirement to make and issue a deemed contract scheme should have a deadline. This is an issue that suppliers have repeatedly failed to address and many customers are left with uncertainty in their legal relationship with their supplier. As competition encourages switching and raises consumer expectations all consumers must be able to understand their rights and obligations under contract, and;
- Bill layout- the unit rate should be expressed in the same unit that is used by the meter. This will allow customer to compare meter reads directly with the bill.

Conclusion

The Utility Regulator and the energy companies have a responsibility to ensure that consumers get the best possible deal for their energy needs.

The latest official government statistics show that in 2009, 44 per cent of households in Northern Ireland were struggling to afford their energy needs. Since then households have suffered two of the coldest winters on record and experienced significant increases in energy prices.

It is therefore important that energy consumers are clear and confident in knowing their rights in regards to their energy needs, so that they can fully participate within the Northern Ireland energy market.

Domestic energy competition in Northern Ireland is in its infancy, and for it to be deemed successful it must improve the customer experience for all consumers. It will only do this by providing lower prices to the consumer, better customer service, be available to all groups of consumers and by providing increased and targeted protection to vulnerable consumers.

The experience from GB shows that these consumer priorities are not always the main priorities for energy companies. Therefore, the Utility Regulator needs to have and use the necessary powers that ensure consumers are provided with the information and protection they need to fully exploit a competitive market.

We welcome the proposals made by the Regulator for the implementation of IME3 and ask that our comments and suggestions are given due consideration.



The Consumer Council

Making the consumer voice heard and making it count

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