

Response to the Utility Regulator's Consultation
Implementation of the EU 3rd Energy Package

CONSUMER PROTECTION

1 Equality

Q1 Do respondents agree that where this consultation has an impact on the groups listed above (eg persons with and without disability, persons of different religious belief), those impacts are likely to be positive in relation to equality of opportunity for energy customers?

Q2 Do respondents consider that the proposals need to be refined in any way to meet the equality provisions? If so, why and how? Please provide supporting information and evidence.

ESB Electric Ireland believes that these two questions on Equality are best answered by people directly impacted by the proposals or by their representatives.

2 NIAUR Approach

Q3 Do respondents agree with the UR's approach in terms of the precautionary principle?

In deciding on their approach, Regulator's have in general to strike a balance between potentially conflicting objectives: (i) appropriate customer protection, (ii) developing retail competition, (iii) the extent of the regulatory burden on suppliers, (iv) the costs of compliance. It is to be expected that there are lessons to be learned from both from GB and Ireland although the circumstances of both of these jurisdictions in terms of industry participants, market activity etc are not likely to be replicated exactly in Northern Ireland. However given the EU origin of these proposals and the reasonable assumption that customer protection needs in relation to energy supplies are similar, every possible effort needs to be made by both Regulatory authorities (NIAUR and CER) to harmonise their requirements. This will help reduce the costs of implementation for all suppliers and DSO's and benefit customers as a consequence.

ESB Electric Ireland would be concerned that an overly cautious approach would give rise to potentially unnecessary cost - as a result of overly onerous obligations - which would ultimately be borne by the customer. It is our view that regulatory intervention should be appropriate to a given occurrence rather than anticipate events that may not happen.

Q4 Do respondents wish to submit views and evidence on the potential impact of the proposals set out in this section 2?

We will submit views on specific proposals as and when these are made.

Sub-issues

2.2 Universal service

Q5 Do respondents agree with the UR's position as noted above?

Yes

2.3 Change of Supplier and 3 week switching

Q6 Do respondents agree that both electricity and gas distributors and suppliers should have licence obligations to facilitate the 3 week switching requirement of the Directives?

Yes. We note that this is consistent with the requirement laid down in RoI in SI No 463 of 2011- European Communities Consumer Protection Regulations

Q7 Are there any other obligations which should be imposed on licensees to meet the 3 week requirement of the Directives?

No, there does not appear to be any further obligations in this respect.

Q8 Apart from the Master registration code and the Supply Meter Point Agreement, are respondents aware of, or have any views on, other industry codes or agreements that may also need to be revised in order to facilitate compliance with the 3 week switching requirement of the Directives?

No

2.4 Customer information: Consumption data

Q9 Do respondents agree that all customers, Incl PPM customers, should receive relevant consumption data on at least an annual basis but also at any time on request?

Yes and we would note that the CER in its Decision Paper on Customer Protection in the deregulated Electricity Market states that suppliers will be required to provide twelve month rolling consumption figures on the back of customers' bills. It is the CER's intention to develop the methodology for this in consultation with industry.

This is an example of where both Regulatory authorities could together agree on common retail compliance requirements. The issue of providing similar information to PPM customers possibly on a calendar year basis could be the subject of a similar joint approach in consultation with industry.

Q10 Do respondents agree that suppliers should be obliged to keep a record of the reasonable endeavours that they have used to obtain an actual meter reading? If so, is the period of 3 years reasonable?

It is our understanding that it is the responsibility of NI Networks to obtain meter readings and where a reading has not been obtained to provide an estimate. Where a customer provides a reading eg, following an estimated bill, suppliers will have procedures to revise the amount billed. Information is already provided to customers on how to take and provide readings where the reader has not been able to gain access to do so. It is not clear to ESB Electric Ireland why an additional responsibility needs to be placed on suppliers to obtain meter readings. Electric Ireland would in general welcome all efforts to increase the likelihood of customers providing readings where the meter reader has not gained access.

Q11 Do respondents consider that suppliers' obligations on billing and meter readings be supplemented by additional safeguards dealing with under-billing and/or back billing matters? If so, please outline the further safeguards and how they could be implemented?

In our view the most effective way to prevent such issues are to improve performance in obtaining more actual and accurate meter readings. Networks, as noted above, and customers are better placed to do so than suppliers. Placing additional obligations on suppliers to replicate the networks role or take on a task best left in most instances to the customer is inherently inefficient and adds cost.

Q12 Do respondents consider that further provisions are required in order to meet the requirements of the Directive relating to customer access to consumption data? If so, please outline the further provisions considered necessary.

Effort is probably required at an industry level to design the process whereby the data is provided by Networks to suppliers.

In relation to bill design, Electric Ireland firmly believes that the final decision on bill format must rest with the supplier. The main purpose of the bill is to inform the customer how much is owed in respect of services provided, how this has been calculated and how it may be paid. While input on format from interested parties is of course welcome and will be considered, the final decision on layout must rest with the supplier.

2.6 Customer Information: Consumer checklist

Q 13 Do respondents agree with the above proposals in relation to the Consumer Checklist?

We agree with the proposals to provide the checklist on sign-up with the initial contract and on request but do not agree with the proposal to re-issue the checklist annually on grounds of cost effectiveness. Customers' attention can be drawn to the checklist on the supplier's website and on the Regulator's website. Customers can also be advised how they may obtain a copy if required.

2.6 Customer Information; Dispute Settlement Rights

Q 14 Do respondents agree with the UR's proposals in relation to dispute settlement?

Yes subject to our comments above on bill design. However, the requirement to include this information with other materials is unnecessary and onerous. The decision on which other materials this information should be included with should be left to suppliers as it is to a supplier's advantage to draw a customer's or potential customer's attention to complaint processes where appropriate.

2.7 Customer Information: Transparency of Information

Q 14 Do respondents agree with the UR's proposals in relation to transparent information?

The UR is being overly prescriptive on how bill data is to be presented e.g. requiring comparison with same period last year may not be useful/relevant to current circumstances and may be explained by eg the number of consumption days in each billing period. Furthermore it is likely to result in an increase in calls to Contact Centres. As noted previously, the proposal to provide a rolling summary of annual consumption on the back of customers' bills should provide relevant information to customers.

A discount will in any event, if applicable, be shown explicitly on the customer's bill. The length of discount period will be set out in the Terms & Conditions.

2.8 Enhanced Customer Protection Measures

Q16 Do respondents have any views on the appropriate maximum level of debt repayment from each credit amount purchased? Respondents are asked to submit their views on the maximum percentage that should be permitted.

We note that the CER recently proposed that the maximum % be set at 30%. While there is no intrinsic reason for this to be the same in Northern Ireland The alignment of thresholds in this manner would facilitate the harmonisation of retail markets.

Q 17 Do respondents agree with the proposals for protecting prepayment customers from self-disconnection?

Apart from identifying instances where prepayment customers have not purchased credits over a period of weeks and endeavouring to contact them, it is not clear what extra steps a supplier might reasonably be expected to take. There could be a number of reasons for such a gap in the purchase of credits not all of which would be indicative of fuel poverty.

Perhaps both the UR and the CER could propose for discussion the sort of steps they believe are reasonable to expect a supplier to take.

Q 18 Do respondents agree that there should be alignment between the licence obligations in electricity and gas?

Yes it is an important requirement to ensure consistency of regulatory approach between the sectors. This will aid customer understanding and facilitate compliance by suppliers. To the extent possible Regulators should also take into account the extent to which proposed obligations do not fall on suppliers of other forms of fuel for heating to implement.

Q 19 Do respondents have any views on the proposal to standardise the definition of disabled?

Electric Ireland considers this to be a sound idea. Furthermore, the UR should provide suppliers with interpretative guidance as to what customers will be eligible under the definition. And where it is feasible in the context of different legislative framework to agree on such guidance with the CER.

Q 20 Are there any further comments that you would like to make on the proposed enhancements to consumer protection provisions in particular the proposal in par 2.8.12? (This gives the UR the ability to make further consumer protection measures in supplier licences following the normal consultation process.)

No

2.9 Supply Contracts: Transparency

Proposals are contained in 2.10

2.10 Energy Supply Contracts: Specific Provisions

Q 22 Do respondents have any comments on the UR's proposals in relation to transparency requirements for energy supply contracts?

Electric Ireland does not agree that all suppliers should be obliged to have a standard tariff. It should be left to suppliers to determine if they would offer evergreen contracts in the first place. Where a supplier

offers evergreen contracts then it would be reasonable to require that supplier to have a standard tariff for such contracts.

2.11 Energy Supply Contracts:

Contract Variations

Q 23 Are respondents in agreement with the UR's proposals in relation to contract variations?

Where customers are billed and the inclusion of revised terms and conditions with a bill meets the required notice period then informing customers in this way should be sufficient and additional notice not required. The cost of individual written notice to customers is significant in the context of low retail margins both in absolute terms and relative to other retail sectors.

Choice of Payment Methods

Q 24 Do respondents have any comments on the UR's proposals in relation to choice of payment methods?

No

2.12 Dispute Settlement Procedures

Q 25 Do respondents agree with the UR's proposal in relation to dispute settlement?

Yes

2.13 Unbundling Distribution and Supply: Communications and Branding

Q26 Do respondents agree with the UR's proposals for branding separation in the gas sector in the manner proposed?

Yes

Q 27 Do respondents agree that the UR should issue a direction to NIE to switch on the provisions in paragraph 3E of its current network license?

No longer applicable

Q 28 Do respondents agree that associated supply businesses (ie those within the same vertically integrated undertaking as a distribution business) should also be subject to licence provisions as proposed?

Electric Ireland agrees with the proposed new Condition 45 as set out in Annex 1.

2.14 Fuel Mix Information

Q 29 Do respondents have any comments on the UR's proposals in relation to fuel mix information?

As this data is now assembled on an all-island basis under SEM, the format for presentation of the information to customers should be aligned.

We note that there was a separate SEM consultation on proposals for the calculation and format of fuel mix disclosure, Ref SEM 11-058. The outcome of this process could result in the alignment of both.

2.15 Record Keeping – Wholesale Contracts

Q 30 Do respondents have any comments on the UR's proposals in relation to wholesale contracts?

It is not evident to us how this specific proposal is supportive of consumer protection measures and why it should apply to suppliers whose tariffs are not regulated.

GAS TRANSMISSION SYSTEMS

3.2 Cross Border Capacity

Q 31 The UR welcomes views on whether or not the proposed new license condition is appropriate to promote the provision of cross border gas transmission capacity.

ESB Electric Ireland would welcome a licence condition that would promote cross border trade. This should be considered in the context of both the CAG and the EU target model and should result in efficiency savings which can be passed on to the consumer as overall costs are reduced.

3.2 Duty to promote effective Competition

Q 32 The UR welcomes views on whether the proposed new license condition is sufficient to require the TSO's to promote competition in the gas industry.

If further licence conditions to promote competition are to be introduced, there is a requirement to review these in the context of the all island market. It is only in this context that system efficiency can be equalised and overall costs - north and south - for transmission services harmonised.

Without the effective harmonisation of tariffs with equivalent quality services discrepancies between the north and south will remain that will not add value to the consumer.

GAS DISTRIBUTION SYSTEMS

5.2 Non-discriminatory conduct and Effective Competition

Q 33 Do respondents agree that the existing obligations on gas distribution licensees be strengthened in the manner proposed?

ESB Electric Ireland welcomes all decisions that would lead to any reduction in discrimination. Electric Ireland would also welcome any advances in the provision of information that will provide a complete and accurate picture of the underlying conditions that supply companies would need to compete in.

5.3 Designation of Distribution System Operators

5.4 Unbundling of Distribution System Operators

Q 34 Do respondents agree that the proposed modification are in line with the requirements of the directive?

Although ESB Electric Ireland believes that there should be full compliance in all respects the requirement imposed on a company with less than 100,00 customers may add to costs which are not justified in any benefits either in the short or long term that can be projected.

5.5 Consumer Protection: Marketing Activities of Gas Distributors

Q 35 Do respondents agree with the UR proposals to regulate the marketing activities of gas distributors?

Electric Ireland welcomes effective marketing by distribution companies. As we have noted in previous responses there should be no exclusive regional markets. As such the information provided by the distribution company should be related to technical matters alone regarding safety and connection issues and those of the supply business (or related to the supply of gas to end users) should deal with marketing in the general understanding of this term.

Q 36 Are there any other matters which ought to be covered by the DMC?

The DMC should in general require the Networks operator explicitly to inform customers that there are a number of suppliers and encourage customers to shop around.

5.6 Complaint Handling Procedures

Q 37 Do respondents agree that gas distributors should have a licence obligation to establish and operate a complaints handling procedure?

Yes.

5.7 Customer Information: Transparency of information

Q 38. Do respondents agree that gas distribution licensees should have a licence obligation to prepare and comply with a CIC which has the objective of ensuring customers receive clear, accurate and up to date information from gas distributors?

Yes