

Consultation on the Utility Regulator's Consumer Protection Strategy 2015/16 – 2019/20

Power NI's Response

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Introduction

Power NI welcomes the opportunity to respond to the Utility Regulator's (UR) consultation on its Consumer Protection Strategy.

Power NI is committed to providing the highest levels of consumer protection and has over the years since privatisation implemented numerous process, policy and documentation changes to improve protection for consumers, particularly vulnerable customers.

Power NI is particularly active in a range of areas to ensure that services offered address the needs of all customers, including those who may be vulnerable. Our track record in delivering against the social action plan has led to a number of initiatives and policy changes to ensure that consumers are protected, often going well beyond the any mandatory requirements.

Power NI is also active in engaging with a wide range of stakeholders who represent customers who may be vulnerable. This two way process of engagement helps to ensure that Power NI's policies are appropriate and that we are communicating the services that we offer through a range of channels. Power NI also ensures that we get 'face to face' with vulnerable customers by being represented a range of events such as 'winter warmer days' organised by councils and groups such as Age NI.

General Comments

In introducing a Consumer Protection Strategy the UR must seek to strike a targeted, proportionate and balanced outcome.

A failure to protect consumers or the absence of monitoring could potentially leave customers exposed to poor practice. At the opposite end of the spectrum, excessively prescriptive requirements can be costly to implement (borne by the customer) and remove room for competitive differentiation.

Within the consultation paper the UR has highlighted its statutory duty to protect consumers. The UR should be cognisant that the interpretation of protection should include customers not being subject to either poor practice or excessive implementation cost.

As a general point, both from the consultation document and the stakeholder workshop, it was clear that there are contradictions between the qualitative and quantitative research with customers. The UR should be mindful of ensuring that the views of a few individuals within a focus group do not override the quantitative research undertaken with a larger customer sample (the Ipsos Mori NI omnibus). Asking the right question is a crucial part of any customer survey. When attempting to assess a desire for extra information did the UR simply ask the customer if they wanted additional data or would they be prepared to pay for extra information?

In addition the UR should also seek to distinguish the responsibilities of suppliers from the responsibilities of the network companies. They both play very different roles in the supply chain and it is important that supply companies are not expected to bear responsibilities that would be more appropriately allocated to a network organisation.

Power NI has a major concern that whilst the proposed strategy does have a 'focus on affordability' as a specific objective, it doesn't address or even acknowledge a potential 'herd of elephants in the room' in relation to significant costs that are likely to fall upon consumers in the coming few years. These include: Smart metering; ISEM costs; EMR costs; the costs of the Moyle interconnector and the additional costs of putting in place back up plans; the costs that would otherwise be avoided if a North South interconnector was in place etc. None of these costs are within control of suppliers but rather are policy decisions taken by governments and regulators. They will have very real consequences for customer bills and are likely to impact most adversely on those consumers that this strategy is seeking to protect.

Whilst Power NI is in favour of protecting consumers, the industry, including its regulator, must be open to acknowledging the relativity of the impact of many of the actions proposed in the draft strategy will be minor when compared with the significant impact on customer bills by the issues highlighted above.

As a final general point, the UR has stated that this work stems from its obligations under the Third Energy Package. The UR should be mindful however

that at a principle level, the Third Package is designed to facilitate a competitive market in electricity and gas across the European Union. The requirements on the UR are clear; statutory obligations must be read in the European context and therefore the UR should be developing the competitive market while ensuring the protection of vulnerable customers.

While the UR has been active in increasing the layers of consumer protection, little has been done in the area of encouraging competition. The European Commission and ACER have clearly stated that the Member States should be working towards the removal of price regulation.

Within Northern Ireland a regulatory framework developed in the early 1990's remains in place. Regulation which does not reflect the market characteristics or evolve with the market can inhibit the development of and distort competition. Power NI believes that if a market is demonstrably competitive, the prolonged application of a price control will compromise the proper operation of a competitive market and is in effect counterproductive. This position is consistent with the view at a European level. The UR should be cognisant of potential unintended consequences of continuing and relying upon, frameworks put in place under an entirely different market context.

A number of options exist for how the regulatory framework could be developed. Consumer protection forms an important part of a competitive market framework, in parallel with the implementation of a consumer protection strategy the UR should consider the re-design of its entire regulatory framework and how it operates in a competitive market. This may or may not involve price controls.

As with the Consumer Protection Strategy, Power NI urges the UR to consider broader regulation which moves away from an approach focusing solely only on Power NI and instead is based on a framework that regulates the market as a whole.

Specific Questions

1. Do you agree with the four strategic objectives in the Consumer Protection Strategy?

Power NI is broadly in agreement of the four strategic objectives. In relation to empowering customers, it is suggested that this should be broadened to be more a two way process i.e. empowering customers and also ensuring (encouraging) customers to act responsibly in relation to their energy/water supplies.

2. Are there any additional objectives which should be included in the Strategy?

No

3. Do you agree that the activities and outputs identified under each of the objectives are the right ones?

Objective	Proposed activities	Power NI comment
Focus on affordability	Billing CoP	<p>While Power NI fully supports the provision of accurate and understandable information to customers, the UR should be mindful that all suppliers conduct customer research and seek to make their billing and general information as customer friendly as possible. While regulations may demonstrate compliance it is important that such guidance is limited to only the areas within the EED and is as 'light touch' as possible.</p> <p>Accurate, timely and understandable billing should be a cornerstone of any suppliers' customer proposition. Given the competitive market which exists in the electricity industry should a supplier fail to deliver the supplier is conscious that there are alternatives available to the consumer. This creates competitive pressure to ensure that bills are of high a quality as possible. It is therefore not necessary for the UR to be excessively prescriptive in this area.</p> <p>Suppliers must be allowed discretion to differentiate themselves in a competitive market; overly prescriptive requirements applied universally will dampen this ability. Additionally, it is again important to recognise that supplier adherence and the required changes to billing and print facilities will come at a cost to the consumer.</p>
	CoP for energy theft	<p>Energy theft is a growing issue and of significant concern to Power NI. In advance of the development of a CoP, in the first instance, appropriate resources should be allocated (UR and meter operators) to ensure the opportunity for energy theft is minimised. The UR has, to date, failed to adequately resource the network operators to deal with this issue at the meter. Rather than focus on supplier response a strong network led approach should be adopted. Units which are stolen are ultimately paid by other 'honest' customers. To fail to proactively and decisively ensure theft is kept to a minimum the UR is failing in its statutory duty to protect consumers and is ignoring its affordability objective.</p> <p>Any subsequent CoP needs to outline the responsibilities of all</p>

		parties including the supplier, the network/meter operator and the customer.
	Debt communication guidance	There is already a code of practice in operation for debt. Research carried out by the UR highlighted that when a customer engages with their supplier on debt issues, they are treated fairly. Therefore Power NI suggests that there is a focus on encouraging customer to engage with their suppliers at an early stage if they experiencing payment difficulties.
	Consumers in crisis	Power NI is of the view that suppliers are not in a position to make assessments on particular customer circumstances which are leading to consumers in crisis. This role is undertaken informally through a range of voluntary/advice sector organisations and through the benefits system (social fund). Furthermore, in addition to the challenges of administering such a crisis fund, the costs would have to be borne by all customers as suppliers cannot determine which customers should contribute and which shouldn't. This proposal could easily spiral out of control both in relation to the cost of administering as well as the cost of provision of funds to customers.
Ensure equal access to utility services	Review care registers	Supplier Codes of Practice including the customer care register were reviewed in 2014. Power NI has already noted requirements which we believe should not sit with a supplier. Power NI puts significant effort into promoting its register however uptake is still relatively low. It should be remembered that joining a care register is a voluntary activity by the customer. Using a volume metric to measure success is not appropriate.
	Provisions for customers	<p>Power NI strongly believes that the requirement in relation to the provision of special controls is unreasonable, impractical and erroneously remains in suppliers licences. In all probability the clause is a legacy aspect of the old public electricity licence which applied to the monopoly generation, distribution and supply business that existed in the early 1990's.</p> <p>It is unclear as to what special controls and adaptors the UR is referring to. If a series of requests are received how is a supplier supposed to source or pay for such equipment? Power NI believes it is unreasonable to require commercial organisations to incur costs by essentially giving away equipment. In relation to price controlled suppliers is the UR prepared to authorise a pass through of costs?</p> <p>Equally outdated is the requirement in relation to reposition meters. This type of adjustment is carried out by the network company following an interaction between the customer and the network company directly. Suppliers are not involved. Repositioning meters may incur significant cost and require movement of underground cables or overhead lines. The customer should also be aware that movements in meter position may often require rewiring inside their homes. An activity which neither a supplier nor NIE is authorised or qualified to carry out.</p> <p>In addition to the safety concerns there is the practicality of carrying out the work and the potential liability it incurs.</p> <p>Power NI therefore urges to UR to update Licence Condition 31, 3 (a) to reflect the current market arrangements.</p>
	COP for network operators	The current contractual relationship between suppliers and the network operator with regards metering operations and data collection lacks meaningful service level commitments. This is a weakness in respect of delivering increased billing

		<p>accuracy for customers.</p> <p>The issue of network company performance in this area cannot be overlooked. Northern Ireland unlike GB operates under a common services model. While this model provides efficiency benefits to the Northern Ireland market it does make suppliers dependent upon network company performance. The regulatory approved industry agreements which tie a supplier to the network company i.e. Distribution Use of System Agreement (DUoS) and Market Registration Code offer the supplier little recourse in relation to poor meter reading or meter data quality.</p> <p>Power NI would welcome the UR strengthening the provisions within industry contracts aimed at improving network company performance in this area. For some considerable time Power NI has advocated a 13 month long term adjustment cut off in relation to DUoS billing which would effectively incentivise NIE in this case to improve meter data quality by imposing a recovery cut off. Unfortunately Power NI has had little regulatory support in this endeavour. Given the feedback in relation to this topic Power NI hopes the UR will revisit this area with the network companies.</p>
	Major incident communication	No comment
Empower customer through education and transparency	Switching info for consumers	The research highlights that the majority of customers are aware of their ability to change supplier. Furthermore, recent switching events organised by CCNI were very poorly attended. The fact that a customer hasn't switched does not necessarily mean that they haven't engaged in the competitive market - they may have made an active choice to stay with their current supplier (given the relatively low and short term cost savings and their satisfaction with their current supplier).
	Consumer fact sheets	Power NI is unclear of what a fact sheet may contain which is over and above the publications (including the consumer checklist, codes of practice, CCNI information etc) which are already in place.
	Guidance for tenants	Suppliers, housing providers and tenants have responsibilities which should be made clear.
	Comparison tools	Promoting comparison tools when an incumbent supplier remains price controlled and explicitly not allowed to price compete, is unduly discriminatory and does not align with the EU drive to create a fair and level playing field for suppliers.
	Published GSS and OSS	These are almost exclusively focused on network operator performance and need to be considered alongside enhancements to the "common services" contractual relationship.
Provide leadership through being a best practice regulator	Reports on affordability	Power NI believes that maintaining electricity retail price control is at odds with being a best practice regulator.
	Host consumer summit	Power NI is unclear of the purpose of a consumer summit.

4. Are there any additional projects or areas of work which should be included in the Strategy?

Under the affordability objective, Power NI has a major concern that whilst the proposed strategy does have a 'focus on affordability' as a specific objective, it

doesn't address or even acknowledge the significant costs that are likely to fall upon consumers in the coming few years. These include: Smart metering; ISEM costs; EMR costs; the costs of the Moyle interconnector and the additional costs of putting in place back up plans; the costs that would otherwise be avoided if a North South interconnector was in place etc. None of these costs are within control of suppliers but rather are policy decisions taken by governments and regulators. They will have very real consequences for customer bills and are likely to impact most adversely on those consumers that this strategy is seeking to protect.

Whilst Power NI is in favour of protecting consumers, the industry, including its regulator, must be open to acknowledging the relativity of the impact of many of the actions proposed in the draft strategy will be minor when compared with the significant impact on customer bills by the issues highlighted above. Work is required by the UR to ensure transparency in relation to the impacts of these policy decisions/consultation processes – Power NI believes that this should be included in the consumer protection strategy.

5. What do you think should be the top three priority projects for the Consumer Protection Strategy? (Please also provide supporting reasons).

Whilst Power NI takes the broad issue of consumer protection extremely seriously, with suppliers already having undertaken considerable amendments in relation to changes instigated by IME, the scope for significant changes as a result of this strategy are relatively minor.

Power NI considers the top three priority projects for the UR should be -

- Striking a balance between setting reasonable standards, cost to customers and ensuring there is sufficient room for suppliers to differentiate and compete.
- Ensuring transparency in relation to the impacts of major policy decisions which will increase customer bills.
- Further work is required on energy theft to ensure that the UR, meter operators and suppliers agree appropriate actions and resource allocation to ensure that the opportunity for energy theft is minimised in the first instance.

6. Is there anything else you would like to add in relation to the Consumer Protection Strategy?

See general comments