



# Utility Regulator Determination on Clarifications to the Marketing Code of Practice for Energy Suppliers in Northern Ireland (Non-Domestic Customers)

April 2020



## About the Utility Regulator

The Utility Regulator is the independent non-ministerial government department responsible for regulating Northern Ireland's electricity, gas, water and sewerage industries, to promote the short and long-term interests of consumers.

We are not a policy-making department of government, but we make sure that the energy and water utility industries in Northern Ireland are regulated and developed within ministerial policy as set out in our statutory duties.

We are governed by a Board of Directors and are accountable to the Northern Ireland Assembly through financial and annual reporting obligations.

We are based at Queens House in the centre of Belfast. The Chief Executive leads a management team of directors representing each of the key functional areas in the organisation: Corporate Affairs, Markets and Networks. The staff team includes economists, engineers, accountants, utility specialists, legal advisors and administration professionals.



### Our mission

To protect the short- and long-term interests of consumers of electricity, gas and water.



### Our vision

To ensure value and sustainability in energy and water.



### Our values

- Be a best practice regulator: transparent, consistent, proportionate, accountable and targeted.
- Be professional – listening, explaining and acting with integrity.
- Be a collaborative, co-operative and learning team.
- Be motivated and empowered to make a difference.



## Abstract

This decision paper sets out the Utility Regulator's (UR) final decisions on the UR Marketing Code of Practice for Non-Domestic customers following the information paper, published in January 2020.

This paper explains that the newly drafted code for non-domestic small business customers clarifies any ambiguities that existed in the non-domestic code as previously drafted. These changes reflect the changes that were made to the domestic code in September 2017.

## Audience

This document is most likely to be of interest to regulated supply companies in the energy industry, consumer organisations, government and other statutory bodies.

## Consumer impact

This paper sets out the UR's decisions for the Marketing Code of Practice for non-domestic small business customers. Once the Marketing Code of Practice for Non-Domestic Customers is complete and in place (post publication of this paper) it will promote best practice and contribute to the protection of energy customers against potential mis-selling practices. It will therefore have a direct impact on the consumer's sales experience in NI, with all suppliers of energy being compelled by their licence obligations to comply with this Code. Failure to do so will result in a potential licence breach and may be subject to enforcement action.



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# 1. Introduction

## Background to the Marketing Code

- 1.1. The Implementation of the EU's Third Package of energy market Directives (IME3) resulted in licence modifications to energy supplier licences which required their compliance with a new Supplier Marketing Code of Practice. This requirement was added to condition 40 in electricity supply licences and condition 2.21 in gas supply licences. The Directive called for a "high level of customer protection" and the UR felt to achieve this it was appropriate to install a mandatory code of practice to guard against mis-selling to customers (especially in doorstep/face to face selling situations).
- 1.2. The process for the development and consultation of the Marketing Codes of Practice ran throughout 2013 and 2014. The Marketing Codes of Practice were developed for gas and electricity domestic customers as well as small business customers. The threshold for application to non-domestic small business customers is less than 732,000 kWhs in gas. The threshold for application to non-domestic small business customers is less than 70kVA or an annual consumption less than 150MWh in electricity.

### Updates to the Code since coming into force in June 2014

- 1.3. After the Codes became 'live' there were a number of occurrences whereby advertising carried out by suppliers appeared to have not been in keeping with the relevant sections of the Code.
- 1.4. As a result the Codes (both domestic and non-domestic small business) were **updated in June 2015** to help alleviate this and make them clearer for suppliers.
- 1.5. Following the June 2015 update a number of ongoing issues came to light in the domestic market. Clarifications and changes were made to the code for domestic customers, which helped remove any ambiguity that was perceived in the domestic Code. This **came in to effect in September 2017**.
- 1.6. Most recently, in **January 2020** the UR published an information paper which highlighted the latest changes which were going to be made to the Marketing Code of Practice for non-domestic small business customers. This update was largely an exercise in mirroring the changes previously made to the domestic Code in 2017.
- 1.7. Stakeholders were asked to respond to the information paper where they believed there may have been a factual error or some other technical issue with the changes being made to the Marketing Code of Practice for Non-Domestic Customers.





## 2. Responses

2.1 The deadline for responses to the information paper was 28<sup>th</sup> February 2020.

### Information Paper Responses

- 2.2. The UR received two responses to the information paper. Both responses were requesting clarity in some areas of the updated Code which were then addressed bi-laterally by the UR.
- 2.3. Both stakeholders were satisfied with the response of the UR to these queries and they will be reflected in the final publication of the Marketing Code of Practice for Non-Domestic Customers.
- 2.4. The most important issue raised was the fact that the code for non-domestic small business customers had a stray reference in it to a “cooling off” period. Cooling off periods only apply to domestic customers and this reference has been removed from the final version of the non-domestic code.

## 3. UR Determination

- 3.1 In relation to the Marketing Code of Practice for Non-Domestic Customers, the Utility Regulator has considered the responses from various stakeholders and is content that the proposed modifications should be made for the reasons outlined in the information paper. Please refer to the information paper for these changes.<sup>1</sup>
- 3.2 The UR will be contacting all energy suppliers to notify them of the change to the Code for non-domestic small business customers going forward.
- 3.3 Suppliers will have three months from the publication of this decision paper to implement the changes. Failure to do so will result in a potential licence breach and may be subject to enforcement action.

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<sup>1</sup> <https://www.uregni.gov.uk/news-centre/updates-marketing-code-practice-business-customers>