



The Consumer Council

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Mary Jones  
Utility Regulator  
Queens House  
14 Queen Street  
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E-mail: [mary.jones@uregni.gov.uk](mailto:mary.jones@uregni.gov.uk)

Dear Mary,

**Re: IMPLEMENTATION OF THE EU THIRD INTERNAL ENERGY PACKAGE – Notification of proposed final decisions and accompanying licence modifications**

**Introduction**

The Consumer Council (CCNI) welcomes the opportunity to respond to the Utility Regulator's (Regulator) proposed final decision and accompanying licence modifications for the Implementation of the EU Third Internal Energy Package.

CCNI acknowledges the Regulator's recognition of the guiding principles of the Directives that are part of the EU Third Energy Package. These aim to ensure high levels of consumer protection, especially vulnerable consumers. However, CCNI is concerned that under the proposed final decision and licence modifications the Regulator will lack effective monitoring and enforcement controls.

CCNI recommends the introduction of licence changes along with any supporting documents, such as Codes of Practice, that will enable the Regulator to monitor and enforce effectively the implementation of the EU Third Energy Package at local level. For example, it would be helpful if the penalties for non compliance, including the level of fines where appropriate, were clearly stated. Any cost incurred by the energy companies due to non compliance must not be passed onto the consumer through tariffs.

While CCNI supports the overall aims and objectives of the Regulator's proposed final decision paper, we have some comments and concerns about the proposed practical implementation in each of the key areas. The Consumer Council would ask the Regulator to give them appropriate consideration. I have listed them below.

### **Disconnection**

It is CCNI's policy that energy companies should pro-actively support consumers with debt issues rather than disconnecting those who are struggling to repay their debt. CCNI also believes that both electricity and gas should be deemed as essential services for heat and light.

We note the Regulator's proposals to cap repayment recovery levels, under Enhanced Customer Protection Provisions. CCNI is disappointed and concerned that the Regulator is simply proposing to align and strengthen provisions for non disconnection by extending it to "domestic customers who are chronically sick or disabled" during the winter months.

Given Northern Ireland's high level of fuel poverty and the rising cost of energy, CCNI calls on the Regulator once again to extend the 'no disconnection' policy it has for electricity customers to include gas customers. This provision should be accompanied by the requirement on the Regulator and energy companies to hold regular meetings with Section 75 groups to monitor the impact that the disconnection policy is having, particularly amongst vulnerable consumers.

### **Universal service**

CCNI notes that under Article 3(3) of the Electricity Directive, consumers have the right to a supply of electricity at reasonable prices. However, the wording of point 2.2.2 of the Regulator's proposed final decision makes reference to a consumers' right to a supply "irrespective of their geographical location", omitting any reference to prices.

CCNI asks the Regulator to make an explicit reference to "reasonable prices" in the Final Decision to enforce in full article 3(3) of the Electricity Directive. We also believe that clarification is required in practical terms about "reasonable prices" in the context of affordability of new connections. We would like to bring to the attention of the Regulator well published cases of remote properties near Castlerock where households were unable to secure electricity supply for decades due to the high connection costs involved, in excess of £50k.

In relation to the same issue of "reasonable prices" and affordability, CCNI calls on the Regulator to include in the final decision paper the provision of financial assistance for new connections to low income families. This has added significance now that the Regulator has removed the 40 per cent subsidy for new electricity connections.

## **Change of Supplier and three week switching**

CCNI is disappointed that the Regulator has rejected our proposal to include the ten days cooling off period as part of the maximum three weeks switching period. It is unfortunate that it appears that technical issues are currently preventing the implementation of our suggestion. Therefore we ask the Regulator to review the maximum switching period at the earliest opportunity.

## **Consumption data**

We welcome the requirement on suppliers to agree a standard bill format in consultation with the Regulator and CCNI. We look forward to working with the Regulator and suppliers on the standard bill and also producing guidelines on best practice in relation to billing.

CCNI acknowledges the Regulator's proposal to include compensation for inaccurate and delayed billing in the Terms and Conditions of electricity and gas contracts. However, CCNI believes that any compensation scheme for billing issues should be formally developed in the form of our Financial Remedy Framework (FRF), which has been successfully adopted by some suppliers. We would like to work with the Regulator to update and develop the FRF in order that it can be used as a framework for inclusion in energy contracts.

## **Consumer checklist**

We welcome the Regulator's provisions around the Consumer Checklist. While we support the publication and promotion in its current form, we believe it can be improved significantly. We will continue to work with the Regulator to improve the current document and to make it more consumer friendly.

## **Dispute Settlement Rights**

CCNI acknowledges the Regulator's proposed provisions under Dispute Settlement Rights and look forward to working with the Regulator and other interested parties to ensure a successful and timely implementation.

## **Transparency of Information**

We welcome the requirement on suppliers to agree a standard bill format in consultation with the Regulator and CCNI, and to produce a Code of Practice on the Payment of Bills. We look forward to working with the Regulator and suppliers in this area.

## **Enhanced Customer Protection Provisions**

CCNI welcomes the requirement on suppliers of a Marketing Code of Conduct enforceable by the Regulator as a licence condition. CCNI calls on the Regulator to adopt our Marketing Code of Conduct as the blueprint for the final document. This has been adopted on a voluntary basis by the industry.

We would welcome the opportunity to work with the Regulator to develop this document.

CCNI acknowledges the Regulator's proposal to introduce a cap on recovery rates for debt on prepayment meters. However CCNI opposes strongly the proposed 40% figure as being unrealistically high and having the potential to plunge consumers further into debt with other household bills.

Based on CCNI's evidence obtained from suppliers while fulfilling our complaints handling role, 40% is the standard recovery rate currently applied. The Regulator's own research shows that 61% of electricity customers and 57% of gas customers in arrears found it difficult to repay them. Also Ofgem has indicated that "levels of debt recovery which are too high are counter-productive." Therefore CCNI calls on the Regulator to reduce the final maximum recovery rate for prepayment customers to 20%.

We support the requirement on suppliers to reduce the recovery rate if the customer presents evidence demonstrating their inability to pay. However, CCNI has concerns about suppliers' fairness and impartiality when assessing customers' ability to pay. Therefore we call on the Regulator to strengthen the wording of this provision by requiring the use of the Common Financial Statement<sup>1</sup> by all energy suppliers, ideally in conjunction with an independent advice agency such as Citizens Advice Bureau. CCNI would welcome the opportunity to discuss these options in more detail.

We suggest that suppliers are required to make arrangements so that 'overpayments' towards arrears can be made by a customer, outside of the fixed prepayment recovery amount agreed with the supplier. This will stop customers being tied to unrealistic repayment schedules that they have agreed under pressure, whilst at the same time allowing the debt to be repaid as quickly as possible.

CCNI is of the opinion that the introduction of a 20% cap on recovery rates will ensure, along with the Regulator's provisions requiring suppliers to reduce the recovery rate if customers can demonstrate their inability to repay, the maximum level of protection and support for consumers in debt.

CCNI is disappointed that the Regulator's has ignored our call to prohibit security deposits. We remain opposed in principle to security deposits, and are concerned about the impact these might have on consumer's ability to avail fully of competition.

We acknowledge that under the Regulator's proposal there will be a cap equivalent to three months of supply, refundable after 12 months, potentially limiting any distorting effect on competition. However, we would ask the Regulator to monitor the impact of deposits on switching, particularly amongst low income families, within the context of its Social Action Plan.

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<sup>1</sup> <http://www.moneyadvicetrust.org/section.asp?sid=14>

## **Supply Contracts**

CCNI welcomes the provisions included in the Regulator's final decision in relation to contract variations. In particular we note the imposition of a 21 days notice requirement for any changes to the terms and conditions of the contract, including tariffs. This is in line with the three week switching period and should effectively remove potential barriers to switching from a contractual point of view.

CCNI also supports the modification requiring suppliers to provide evidence annually to demonstrate the cost reflectivity of payment methods and would welcome the opportunity to discuss with the Regulator the preferred reporting method.

## **Unbundling Distribution of Supply**

CCNI notes the Regulator's plans to issue separate consultations on this issue during 2012 and will be outlining our views in our responses.

## **Gas Distribution System**

CCNI welcomes the proposed licence modification requiring gas distributors to prepare joint a Code of Practice and complaints handling procedure. Given our own statutory complaints handling role in energy complaints, amongst other, we support the initiative and offer our assistance and expertise drafting the relevant documents.

## **NI Domestic Market Opening 6 Month Review**

CCNI welcomes the proposed licence modifications in and around evergreen tariffs and end of contract default provisions. We also acknowledge the requirement on suppliers to agree a standard bill layout with the Regulator and CCNI. We look forward to working on this area, including the development of guidelines on billing.

However, we are disappointed with the Regulator's reference to "reasonable steps" to enter into a Contract with the consumer "as soon as practicable". While we acknowledge the Regulator's reasoning, given suppliers repeated failure to address this issue, CCNI calls once again on the Regulator to impose a deadline on suppliers to issue a deemed contract scheme.

I hope you find these further comments useful. We would be happy to discuss them in more detail. You can contact me on 028 9067 4839 or by e-mail at [pgarcia@consumercouncil.org.uk](mailto:pgarcia@consumercouncil.org.uk) .

Yours Sincerely,

**PAULINO GARCIA**  
**Consumer Affairs Officer (energy)**