



Campaigning for Warm Homes

Consultation on the Undue Discrimination Prohibition standard licence condition

Comments from National Energy Action (NEA)

Background

NEA is a national charity working to ensure affordable warmth financially disadvantaged and vulnerable households. NEA actions to achieve this key objective include advocacy of policies and programmes to: improve heating and insulation standards; to maximise direct financial support for disadvantaged energy consumers; to reduce energy costs through targeted subsidies or discounts; and to ensure sympathetic and equitable treatment of vulnerable consumers in the competitive energy market.

NEA recognises and values the significant contribution of regulatory interventions in protecting the health, welfare and general well-being of disadvantaged energy consumers. We recognise that, in recent years, Ofgem has become more focused on issues beyond economic regulation and increasingly engaged with the need to protect and promote the interests of low-income and other vulnerable households.

Since the Energy Supply Probe, considerable progress has been made, and continues to be made, both in addressing basic equities in the retail market and in more proactive measures to support vulnerable households.

The Concept of Undue Discrimination

Commenting on Ofgem's initial consultation on undue discrimination NEA expressed reservations over the use of the term and suggested that 'unjustified discrimination' might be a more appropriate description; this was because we took the view that 'undue' implied that some degree of unfair discrimination was acceptable and NEA did not subscribe to that view. We had suggested 'unjustified' as an alternative because we felt that this better reflected the need for consistent and transparent fairness in the competitive market. NEA adheres to this view and would see no case for any departure from cost-reflective pricing outside of measures intended to promote positive discrimination in favour of vulnerable consumers which NEA would endorse.

We would however, in this context, observe that even positive discrimination measures should have limits where they are funded by redistributing resources from domestic energy consumers to support a range of well-intentioned schemes such as the Warm Home Discount and the imminent Energy Company Obligation. Clearly NEA welcomes and values these initiatives but believes that the regressive nature of the funding mechanism used can in practice be detrimental to many fuel-poor households who are non-beneficiaries.

The statutory guidance to Ofgem on social and environmental matters requires the regulator to assist Government in meeting its targets to eradicate fuel poverty. NEA would suggest that Ofgem might contribute to this objective by stressing the regressive nature of levels on energy consumer bills and supporting fuel poverty campaigners in seeking to ensure that Government social policy objectives are funded through the more equitable route of HM Treasury.

NEA's comments in relation to the specific issues raised in the consultation document are set out below.

Consultation Issues

We welcome views from stakeholders on our 'minded to' proposals and any other considerations in this consultation.

NEA notes Ofgem's assessment that the differential between charges to 'in-area' consumers and 'out-of-area' consumers has reduce to £13 per customer per year.

In the absence of any clear justification for even this reduced disparity, or any indication of where the 'undue discrimination' line is to be drawn NEA would support extension of the SLC 25A indefinitely. We see no valid reason to set a two-year time limit on this extension since it risks perpetuating the need for ongoing consultation or, worse, conveys the impression that a degree of discrimination remains acceptable. Clearly the condition can be subject to review at any appropriate future date.

As indicated above, NEA is generally supportive of the principle of positive discrimination where benefits are proportionate and well targeted. Whilst this approach generally covers individual households we see no reason why it should not have much wider application. In our response to Ofgem's recent consultation on The Standardised Element of Standard Tariffs we commented: *'Given the status of both gas and electricity supply as services essential to the health and welfare of all households there should be scope for more innovative thinking on this issue. Since Ofgem is prepared to intervene in the design of a regional adjuster, the regulator might also wish to consider how this element could be shaped to eliminate regional disparities. NEA would see this as an opportunity to introduce the concept of a Universal Service Obligation through the eradication of regional cost differences within the otherwise competitive and cost-reflective energy market.'*

We welcome comments from stakeholders on whether it would be appropriate to review the 50,000 customer threshold as part of a separate process, in the event that we decided to reinsert SLC 25A for a further period of time.

NEA is aware that the regulator sees supplier obligations such as the Warm Home Discount and the Energy Company Obligation as barriers to new entrants to the competitive domestic market. NEA has stated the view that where the barrier is associated with infrastructure costs that are difficult for a small supplier with a small customer base to manage then there may be a case for a temporary exemption. NEA's preference in these circumstances would be for the supplier to make a voluntary commitment to fund fuel poverty initiatives based on the fiscal obligation they would normally incur.

However, we are not convinced that this degree of licence should be offered to small-scale suppliers in the context of this consultation. The implication that energy suppliers with a customer base of less than 50,000 customers should in effect be able to practise 'undue discrimination' seems inadvisable. We do not believe that this issue should be dismissed as a matter of semantics and would see no convincing reason for any exception to the fundamental principle of cost-reflective pricing.

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