

January 2000

Marketing Gas and Electricity

Consultation Document

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1. Introduction

1.1 This document invites views on Ofgem's proposal to extend the operation of the existing licence requirements on the marketing of gas and electricity to domestic customers for a further two years from 31 March 2000. In addition the document seeks views on various areas where Ofgem considers that enhancements to existing conditions may be appropriate. The objective of any changes would be to provide further protection for customers from inappropriate sales techniques whilst enabling suppliers to market actively the new opportunities for customers brought about by the competitive gas and electricity markets.

Background

1.2 The present marketing conditions in the gas and electricity supply licences are reproduced at Appendix 1 and 2 respectively. The conditions provide for largely identical requirements on gas suppliers and electricity suppliers. They were introduced, in light of experience in the early stages of the new domestic gas market, to supplement existing general regulations on direct selling and provide the Director General with powers to protect customers in the particular circumstances of the gas and electricity markets.

1.3 In summary the present licence conditions require supply licensees in respect of direct sales to:

- set up appropriate procedures for staff selection and training; ensure that sales agents are readily identifiable and that contact with customers takes place at reasonable times;
- conduct an audit of all doorstep or telesales either in writing or by telephone to ensure that the customer understands the position and is content to proceed;
- take reasonable steps to cancel the contract where the customer requests cancellation;
- maintain contact with the customer if there is a delay in processing his or her contract;

- provide in their complaint handling procedures for the payment of compensation to customers in appropriate cases;

In addition the conditions prohibit suppliers from entering into agreements with agencies which seeks payments in advance from customers.

Termination and Renewal of Conditions

1.5 Both the electricity and gas marketing conditions provide for the condition to cease to have effect on 31 March 2000 unless the Director concludes that “the development of competition is such as to require the continuation of any part of this condition”. A continuation may be for up to a further two years.

1.6 Prior to deciding whether to extend the condition the Director is required to consult relevant suppliers, the Gas Consumers’ Council or electricity consumers’ committees and (in the case the case of electricity) such other persons or bodies as is the opinion of the Director are representative of those likely to be affected.

Structure of Document

The Chapters in this Consultation Document are structured in the following way:

Chapter 2 reviews the activities of suppliers in marketing gas and electricity and describes the views of customers

Chapter 3 discusses possible enhancements to the conditions

Chapter 4 summarises the conclusions and sets out the next steps

Comments Invited

Comments are invited on the issues raised in this document and in particular Ofgem’s proposals. It would be helpful to receive replies by 28 February 2000.

Responses should be sent to:

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It is open to respondents to mark all or part of their responses as confidential. However, we would prefer it if, as far as possible, responses were provided in a form that can be placed in the Ofgem library. If you have any queries concerning this document Paul Tonkinson (0121 456 6405) would be pleased to help.

2. Marketing and Customers

2.1 This section reviews the activities of suppliers in marketing gas and electricity and describes the views of customers including customer complaints.

2.2 Most suppliers active in the gas and electricity market report that doorstep selling or other forms of direct sales (such as approaches in shopping centres and telesales) provide the most effective means of attracting customers to switch suppliers. The majority of suppliers active in the domestic market have large scale field sales forces. In many cases these are not employees of the licensee but employed (or engaged on a self employed basis) by specialist local agencies hired to work on behalf of the licensee.

2.3 Since the gas market first opened in the South West in 1996 there has been extensive use of doorstep sales agents. MORI's latest study for Ofgem (Appendix 3 sets out the methodology MORI used) sought customers' views on direct sales. It is clear that direct sales represent an important source of information for customers and particularly for those that have switched supplier. About 95% of electricity customers and 96% of gas customers are aware of competition. For these customers the most important single source of information is doorstep selling.

Table 1: Sources of Information

Switchers and Non Switchers compared				
	Electricity		Gas	
	Non-switchers % (1,585)	Switchers % (662)	Non-switchers % 1,372)	Switchers % (678)
Door to door salespeople	55	64	51	70
Radio/TV advertisements	48	41	49	43
Advertising/leaflets/brochures	46	42	48	40
Newspapers/Magazines	31	24	32	24
Radio/TV Programmes	26	20	26	24
Friends/Neighbours/Relations	15	13	15	15
Posters	10	7	10	9
Exhibition stands	12	17	13	11

Base all those informed about competition. Source: MORI

2.4 In total 62% of all customers reported having had some contact with new electricity or gas suppliers through doorstep selling. This suggests perhaps 15 million households have had one or more doorstep sales visits. Table 2 sets out the data in more detail. It shows that doorstep selling has been particularly frequent amongst more disadvantaged groups.

Table 2: Contact with new electricity/gas suppliers by method of contact

		Doorstep	Leaflet	Telesales	Contacted supplier
	Base	%	%	%	%
All	(2,315)	62	42	17	5
Low income	(166)	60	31	13	3
Age 65 +	(535)	69	38	17	4
State Pension only	(260)	74	36	10	3
Other benefits	(535)	71	32	16	3
AB	(416)	47	52	18	9
C1	(646)	56	49	17	6
C2	(463)	70	38	22	3
DE	(790)	72	32	13	3
Working	(1,340)	58	44	17	7
Not-working	(975)	66	39	18	4
Single parents	(151)	71	34	9	2
Single person Household	(417)	56	38	14	3
No bank account	(200)	70	23	9	3

Source: MORI

2.5 Ofgem believes that doorstep selling is one of the most important ways in which the benefits of competition are drawn to the attention of lower income and other disadvantaged groups. If direct sales are conducted professionally and with sensitivity they are an important and valid part of the market place and one which brings important benefits to the disadvantaged.

2.6 A substantial majority of customers who have been in contact with suppliers report no problems. However, in relation to doorstep sales when prompted a majority reported some problems. The results are set out in Table 3.

Table 3: Problems with Doorstep Salespeople

Which if any have you personally experienced when visited by doorstep electricity and/ or gas salespeople?	
Too pushy	30%
Inconvenient time	23%
Did not leave any written information	17%
Information unclear/confusing	12%
Salesman did not tell me all relevant information	12%
Salesman did not tell the truth	9%
None of these	39%

Base all those who have been visited by doorstep salesperson (1,525) *Source: MORI*

2.7 Similar results arose in relation to telesales. The significance of these issues is not known. Some may reflect general customer concerns about doorstep sales. Others suggest some customers have experienced more deep seated problems.

2.8 Despite these problems a clear majority of customers now rate the contact they had with doorstep salesperson as informative (61%). Interestingly social groups AB are least likely to rate doorstep contact highly (49%).

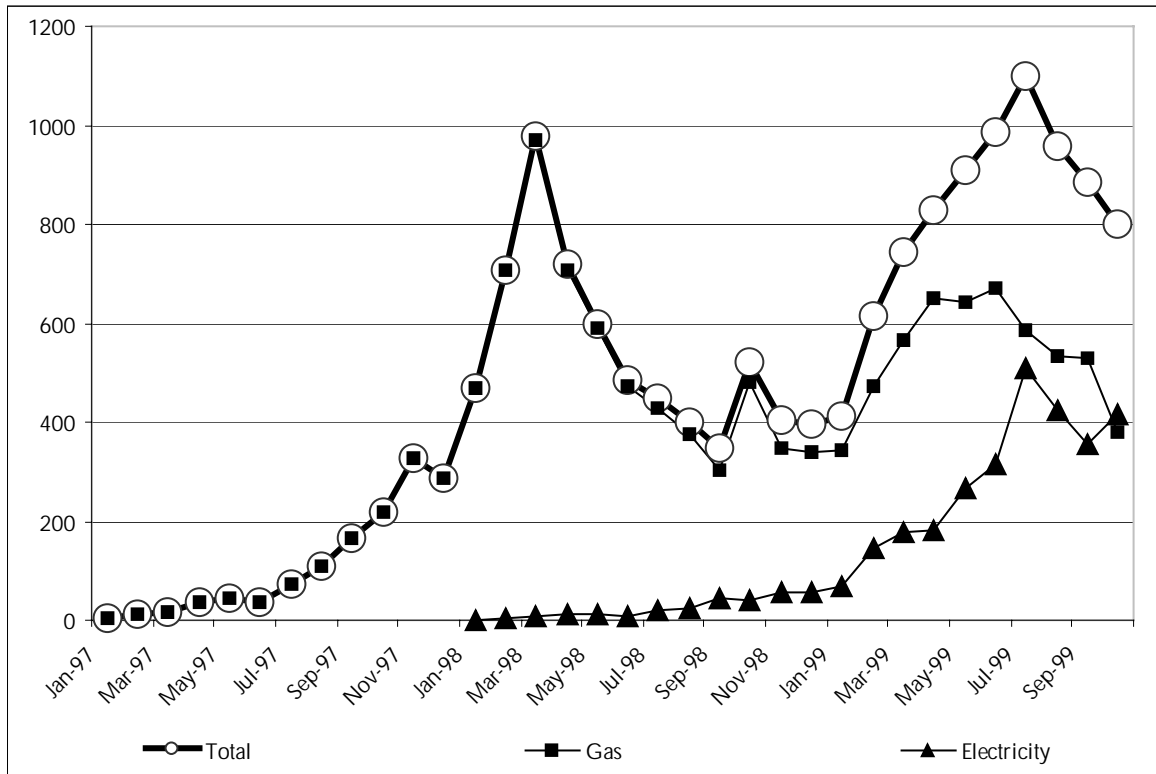
Customer Complaints

2.9 The level of customer complaints about direct selling practices is significant. In the year to December 1999 Ofgem and the GCC received 10,073 complaints about doorstep and other direct sales practices. In general complaint levels seem closely related to overall levels of activity in the market. Figure 1 shows the total number of direct sales complaints received by Ofgem (and its predecessor bodies) and the GCC over the last 3 years broken down between gas and electricity.¹ Peaks in complaints occurred in the spring of 1998 when the final stages of the gas market were opened to competition and a year later when the electricity market was fully opened. As many suppliers offer dual fuel

¹ Caution should be exercised in drawing direct comparisons between gas and electricity data due to different recording practices which may overstate the number of gas complaints.

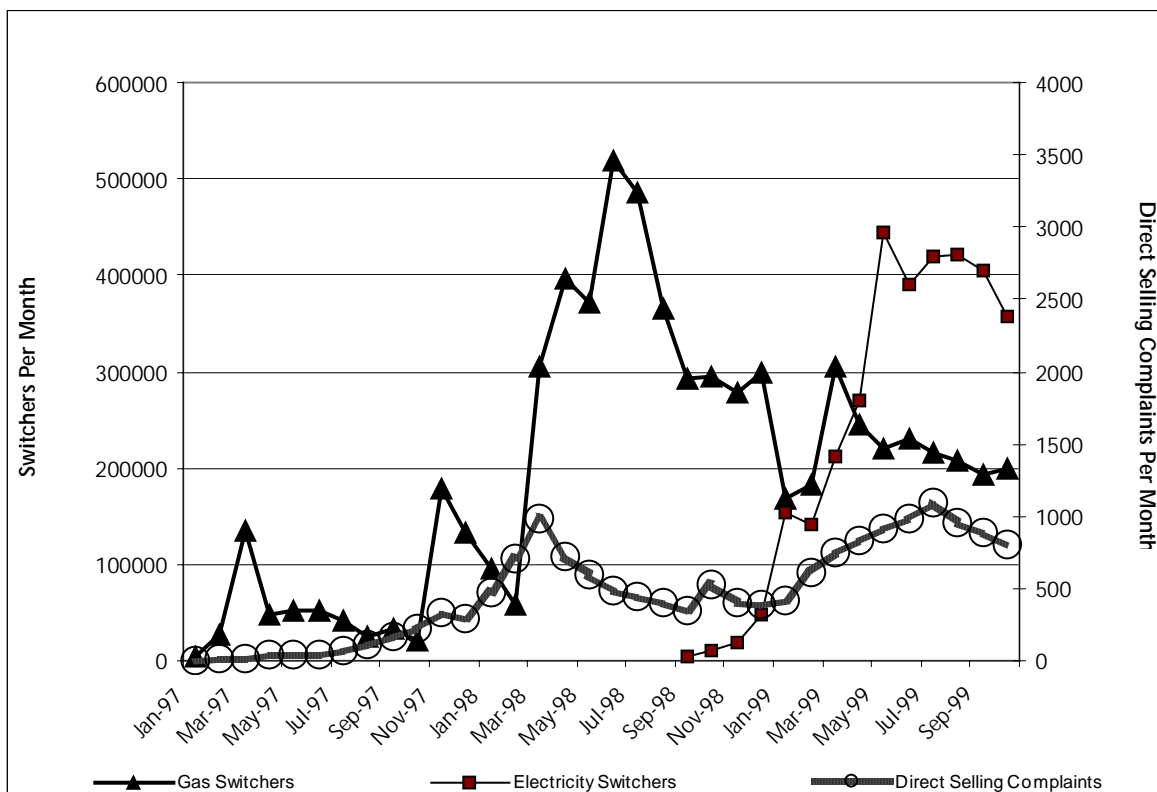
contracts this may also explain the renewed growth in gas related complaints in mid-1999.

Figure 1: Direct Selling Complaints in Gas and Electricity



2.10 Figure 2 shows the total number of direct sales complaints received mapped against the total number of gas and electricity switchers. In total over 5 million gas customers and 3.5 million electricity customers have switched. The total number of complaints received by Ofgem and the GCC over the period amounts to 16,985.

Figure 2: Direct Selling Complaints and Switchers



Other Relevant Developments

2.11 As well as the marketing conditions there is existing or proposed consumer legislation outlined below, which will have an impact on the selling of gas and electricity. Also, other consumer protection bodies will have an interest in ensuring that marketing is carried out appropriately.

2.12 The Consumer Protection (Cancellation of Contracts Concluded away from Business Premises) Regulations 1987 (as amended) require customers who sign contracts on the doorstep to be given a written notice of their cancellation rights and for a seven-day cooling off period within which the customer can cancel without penalty. The regulations were strengthened last year to make it a criminal offence not to give a notice of cancellation rights. An EU directive on telephone selling was adopted, which, inter alia, requires the establishment of a database containing the details of those customers who do not wish to be contacted at home. Another directive on long distance selling will provide for

regulations to control the way in which contracts agreed “at a distance” e.g. by telephone, fax, mail or e-mail may be marketed.

2.13 In June 1997 the Association of Energy Suppliers (AES) was established under the auspices of the Electricity Association. The AES launched a Code of Practice for Marketing which defines minimum standards of good practice to be followed by members when marketing energy supply services to domestic customers. The Code was amended in 1998 requiring sales agents to leave pricing information with potential customers even if they did not subsequently enter into a contract. Membership of the AES is voluntary and its effectiveness in terms of dealing with marketing malpractice over the past two years is largely untested.

2.14 Last year, Cheshire Trading Standards successfully prosecuted Northern Electric and Gas plc for a number of offences under the Trade Descriptions Act 1968 for doorstep miss-selling during the year. Customers were told they were signing for information only when in fact they were entering legally binding contracts. The company pleaded guilty and was fined £12,000 plus costs.

Regulatory Action

2.15 Ofgem (and its predecessors) has continued to take action to seek supplier compliance with the marketing conditions and good marketing practice by suppliers. In addition to monitoring performance Ofgem has had an active programme of review meetings with suppliers, identifying lapses in suppliers’ arrangements and highlighting best practice. Ofgem has also conducted formal inquiries into a number of suppliers marketing activities and their compliance with the marketing condition. In the most recent case London Electricity gave undertakings to improve its procedures following customers’ complaints about its marketing practices.

Assessment of Position

Gas Competition

2.16 Overall, Ofgem believes that competition in the gas supply market is developing well. 96% of customers are aware of their ability to choose an alternative gas supplier, 25% of customers have switched gas supplier, the level

of customer switching is continuing at about 32,000 per week, the number of rival suppliers to BGT is well in excess of that required for competition and most customers are able to obtain competitive offers, with discounts of up to 20% compared to BGT's tariffs available.

Electricity Competition

2.17 The electricity market has been opened fully since May last year. Around 14 % of customers (3.7 million) have now switched electricity supplier, and the numbers of customers switching is running at about 90,000 per week. Non-PES suppliers account for well over half of the numbers of customers who have switched and the level of price discounts offered, while not being as high as in gas, appear sufficiently attractive to persuade customers to change supplier.

2.18 In each PES area however, the local company remains the dominant supplier in the designated electricity market. Also, the number of independent suppliers in this market remains relatively small in comparison to those in the domestic gas market. While the vast majority of customers are aware that they can shop around, both factors above indicate that competition has yet to become established in electricity.

Doorstep Selling

2.19 Doorstep selling appears to be the most effective and widespread method of communicating with customers. It is the biggest source of information on both electricity and gas competition, especially among those who have switched supplier. According to recent research from MORI, the vast majority (four in five) say they have not experienced any problems with their contact with energy suppliers. However, a significant minority (14%) have experienced problems with doorstep salespeople, including a proportion who felt that the salesmen tried to trick them into signing a contract or did not tell them the truth.

2.20 Doorstep sales, by their very nature, are likely to be associated with a degree of customer concern. In mature markets this is handled effectively with existing customer protection legislation. As a general approach Ofgem considers it appropriate to remove sectoral specific regulation from customer protection

where practicable. The present circumstances of the electricity and gas markets are, however, unusual. The scale of activity - which has been given fresh impetus by the opening of the electricity market in 1999 - and the fact that the introduction of competition in both markets has taken place relatively recently, in areas where customers are used to monopoly service, suggest a special approach is required. As customers become used to competition and the market matures then it would be desirable to revert to sole reliance on general customer protection legislation.

2.21 In the present circumstances, however, Ofgem is concerned that many customers appear to remain vulnerable to misleading sales techniques. Accordingly, Ofgem consider it appropriate to renew the application of the conditions for a further two years.

3. Developing the existing conditions

3.1 Assuming that the present conditions continue to apply it is timely to consider whether all elements of the present conditions remain relevant and whether further enhancements to the conditions are appropriate to harmonise arrangements for electricity and gas and to provide further protection for customers.

3.2 For the reasons set out in the previous chapter, Ofgem considers that telesales, doorstep selling and other forms of direct sales will continue to have a place in the electricity and gas markets. However the present licence provisions, together with the other elements of the general customer protection legislation in respect of direct sales, provide necessary safeguards for customers. Given the experience of customer issues and the policies and practices of suppliers, a number of changes may, however, be appropriate. These are discussed in this section.

Management

3.3 The present arrangements deal with the selection and training of sales staff. Training must be such that any relevant advice given by the salesman is not misleading. No specific reference is made to the on-going management of the salesforce, although the audit requirements include provisions dealing with remedying general weaknesses. In practice Ofgem has agreed that the spirit of the condition needs to be interpreted widely. We have agreed with suppliers arrangements for monitoring salesforce performance and carrying out disciplinary procedures when agents have been found to be misleading customers.

3.4 Whilst it is unlikely to be possible to eradicate all examples of poor selling practices from any industry, our experience and that of suppliers strongly suggests that effective management of the sales force is critical to the successful implementation of good quality sales. It is for consideration whether the existing

conditions should be strengthened to include management issues. This might be achieved by adding a new paragraph to the conditions along the following lines:

“Management

- (13) *The licensee shall take all reasonable steps –*
- (a) *to establish management arrangements that facilitate the licensee in meeting its obligations under paragraphs (3) to (9) of this condition; and*
 - (b) *to ensure that any agents and sub-contractors of the licensee take equivalent steps to those set out in sub-paragraph (a) of this paragraph.”*

Telephone Sales

3.7 The present conditions deal with telesales on a similar basis to doorstep sales. However, the present conditions covering the notification of contract terms in electricity supply licences includes a provision set out in Condition 44(2) of the second tier supply licence requiring a licensee who has entered into a designated supply contract (except when it has already done so) *“to provide the customer within 2 working days of the date of the contract with a copy of its full terms and conditions”*. The effect of this condition is to require a supplier which has entered into a contract during a telesale to provide the customer with a written copy of the terms of the contract. Clearly this is standard good practice for a contract of this nature notwithstanding the licence condition. However, no licence condition making this a specific requirement is set out in gas supply licences. It is for consideration whether such a requirement should be introduced into the Standard Conditions of gas supply licences.

Shopping Centres etc

3.8 The marketing conditions require suppliers entering into contracts with domestic or Designated Customers in a doorstep or telesale to either write to or telephone customers to establish that the customer:

- Understands that he or she has entered into a contract;
- Is content to have entered into that contract; and
- Is content with the way in which the sale was made.

The requirement for such an audit of customers is limited to circumstances where a contract has been entered into in the course of either a visit to the customer premises or during a telephone conversation. As noted previously, a number of suppliers make use of sales stands at shopping centres and other public places to persuade customers to change supply. Such sales discussions can give rise to many of the same problems that occur with doorstep sales. It would therefore seem desirable to amend the audit requirements to include such public sales activities.

Internet Sales

3.9 Some suppliers have started to make use of the internet to attract new customers and to carry out contract administration. This is welcome and is likely to provide important new opportunities for customers. Generally the nature of sales over the internet can provide a good opportunity for customers to consider carefully the terms on offer and have their questions answered before entering into any agreement with a supplier. As in all other cases it is important that the information provided by suppliers is accurate and that the customer understands the nature of the agreement being entered into. The licensee will also wish to be assured that informed consent has been given by the customer. Ofgem wishes to encourage the development of new methods of marketing to customers. At present internet sales have not given rise to significant concerns specific to the electricity and gas market. It is for consideration whether the present conditions should be altered in any way to take account of internet sales. One option might be to include internet sales in the category of sales where an audit is required.

Extending and Revising the Conditions

3.10 The decision on whether or not to extend the conditions is one for the Director following consideration of responses to this consultation. Subject to the views expressed on this proposal, it is Ofgem's present intention that the condition should be extended for 2 years (the maximum allowed under the condition), that is until 31 March 2002. It would be open to the Director to extend the Condition further at that stage.

3.11 The proposals for consultation on the development of the licence conditions would require the consent of gas and electricity suppliers before the licence conditions could be changed. The precise means by which consent would need to be granted varies between the gas and electricity markets but in essence the majority of suppliers by number and volume supplied would need to give consent.

4. Summary of conclusions and next steps

4.1 Ofgem considers it appropriate to extend the operation of the marketing licence conditions in both the gas and electricity markets for a period of two years ending 31 March 2002. Views are invited on this proposal. Subject to the views expressed it will be for the Director General of Electricity and the Director General of Gas Supply respectively to issue notices extending the operation of the relevant electricity and gas licences.

4.2 Assuming that the duration of the marketing licence conditions is extended as proposed, Ofgem is seeking views on a number of enhancements to the present conditions. Specifically Ofgem would welcome views on whether changes should be made to require licensees to:

- (a) set up appropriate procedures for the management of sales staff
- (b) ensure that customers understand that he or she has entered into a contract
- (c) provide gas customers who enter into contracts over the telephone with a written copy of the terms and conditions of their contract
- (d) extend the conditions to cover sales made in public places such as shopping centres and motorway service stations.
- (e) extend the requirement to audit the sale to cover internet sales

Any such changes would need to be subject to the consent procedures by Licensees. Ofgem will consult further on its proposals but an indication of the changes being discussed is included at Appendix 4 and 5.

Appendix 1

Text of Standard Condition 14A of the Gas Suppliers' Licence - Marketing of Gas to Domestic Customers

Application²

(1) This condition applies to the marketing activities of the licensee in respect of the supply or the proposed supply of gas conveyed through pipes to the premises of domestic customers other than premises supplied or proposed to be supplied under an agreement of the kind described in standard condition 35.

(2) This condition shall cease to have effect on a date called the termination date which shall be 31st March 2000 provided that—

(a) if the Director, after consultation with gas suppliers licensed under section 7A (1) (a) of the Act whose licences include this condition and the Gas Consumers' Council, gives notice for the purposes of this condition generally—

(i) by publishing the notice in such manner as the Director considers appropriate for the purpose of bringing it to the attention of persons likely to be affected by it, and

(ii) by sending a copy of the notice to every such gas supplier, to the Secretary of State and to the Gas Consumers' Council,

that she considers that the development of competition is such as to require the continuation of any part of this condition until such date not later than two years from the termination date as may be specified in the notice (the new termination date), then such part of this condition as may be specified in the

² This condition inserted under section 23 of the Gas Act 1986 on 27 January 1998.

notice, shall continue to apply as if for the termination date there were substituted the new termination date; and

- (b) notice under sub-paragraph (a) may be given on more than one occasion.

Employment and training of representatives and customer contact

(3) The licensee shall–

- (a) set up appropriate procedures for selection of staff employed or engaged in roles the principal duties of which involve oral communication with customers for the purposes of the marketing activities of the licensee;

- (b) take all reasonable steps to ensure that each and every such person is trained so as to have a sufficient understanding of–

- (i) the arrangements for competition in domestic gas supply in Great Britain; and

- (ii) the prices charged by, and the other terms of supply of, the licensee, in particular methods of payment, duration of contracts and termination fees;

that any relevant advice given by them to domestic customers is not misleading;

- (c) take all reasonable steps to ensure that–

- (i) a customer may readily identify the licensee whenever a representative of the licensee contacts the customer; and

- (ii) any unsolicited contact made on behalf of the licensee with an customer takes place at a reasonable time; and

- (d) take all reasonable steps to ensure that any sub-contractors of the licensee set up equivalent procedures and take equivalent steps to those set out in subparagraphs (a), (b) and (c).

Audit of Customer Contact

(4) Where a contract has been signed by a domestic customer, or otherwise entered into, in the course of a visit by a representative of the licensee to the premises of, or of a telephone conversation between a representative of the licensee and, a domestic customer, the licensee shall, through a person other than a representative engaged in activities leading to the making of contracts between the licensee and any customer, and not less than 24 hours nor more than 14 days after the making of the contract –

- (a) use its reasonable endeavours to contact the customer by telephone or by letter seeking his confirmation–
 - (i) that he understands that he has entered into a gas supply contract;
 - (ii) that he is content to have entered into that contract; and
 - (iii) that he is content with the way in which the sale was conducted;
- (b) if in the course of such telephone contact, or within a reasonable period of the despatch of such a letter, the customer indicates that he is not content to have entered into the contract and wishes to terminate it, take all reasonable steps to ensure that the contract is terminated and, where reasonably practicable, that any proposed supplier transfer in relation to the contract is not put into effect; and
- (c) if the response of the customer, alone or when considered with the responses of other customers, suggests weaknesses in the methods, systems or personnel employed or engaged by the licensee or its sub-contractors for the purpose of

its marketing activities, ensure that all reasonable steps to remedy the matter are taken.

Maintaining customer contact

(5) Where gas is not to be supplied before the expiry of 60 days from the date on which the contract was signed by the customer, or otherwise entered into, the licensee shall take reasonable steps during the period from that date until commencement of supply, to keep the customer informed that he has entered into a gas supply contract with the licensee.

Complaints and Compensation

(6) The procedures to be established by the licensee for dealing with complaints by domestic customers shall provide in appropriate cases for the payment of compensation to customers adversely affected by failure by the licensee to perform its obligations under this condition.

Reporting on performance

(7) The licensee shall keep a record of its compliance with its obligations under this condition including–

- (a) the contacting of customers in pursuance of paragraph (4)(a) and the response of customers to such contact;
- (b) the termination of contracts in pursuance of paragraph (4)(b); and
- (c) compensation paid under procedures established in pursuance of paragraph (6).

(8) Except as the Director may for the purposes of this condition generally determine, as soon as reasonably practicable after the end of each period of three months ending on 31 March, 30 June, 30 September and 31 December in every year after 1997, the licensee

shall submit to the Director and to the Gas Consumers' Council a report dealing with the matters mentioned in paragraph (7) in that period and shall–

- (a) publish the report so submitted in such manner as will in the reasonable opinion of the licensee secure adequate publicity for it, and
- (b) send a copy of it free of charge to any person requesting one,

except that, in performing its obligations under sub-paragraphs (a) and (b), the licensee shall exclude from the report such information as appears to it to be necessary or expedient to ensure that, save where they consent, individual customers referred to therein cannot readily be identified.

(9) Reports in pursuance of paragraph (8) shall be presented, in so far as is reasonably practicable, in a standard format designated by the Director for the purposes of this condition generally.

Restriction on certain dealings

(10) Except as the Director may approve–

- (a) for the purpose of protecting the interests of any domestic customer who, prior to the date on which this condition came into effect, may have made a payment in advance with a view to arranging a supply of gas, or
- (b) where any payment in advance is wholly or mainly for services other than arranging the supply of energy,

the licensee shall not enter into any commercial relations connected with the supply of gas to any domestic customer with any person who has sought, after the coming into effect of this condition payment in advance (other than one governed by standard conditions 3(6) to 3(12)) from any such customer with a view to arranging a supply of gas and shall

not enter into any contract for the supply of gas to any such customer made through the agency (either for the licensee or for any customer) of such a person.

Interpretation

(11) In this condition, except where the context otherwise requires–

“customer” includes potential customer;

“marketing activities” means any activity of the licensee directed at or incidental to the identification of and communication with customers supplied or to be supplied with gas by the licensee and includes entering into contracts with customers;

“proposed supplier transfer” has the meaning given to that term in standard condition

7(8);

“representative”, in relation to the licensee, means any person directly or indirectly authorised to represent the licensee in its dealings with customers.

Appendix 2

Text of Condition 51 of the second tier electricity suppliers' licence and Condition 42 of the Public Electricity Supply Licence - Marketing of electricity to Designated Customers

1. This Condition applies to the marketing activities of the Licensee in respect of the supply or the proposed supply of electricity to the Designated Premises.
2. This Condition shall cease to have effect on a date (the "termination date") which shall be 31 March 2002, provided that:

(a) if the Director, after consultation with the Licensee, all other Electricity Suppliers, the electricity consumers' committees and such other persons or bodies as in the opinion of the Director are representative of those likely to be affected, gives notice for the purposes of this Condition generally:

- (i) by publishing the notice in such a manner as the Director considers appropriate for the purpose of bringing it to the attention of persons likely to be affected by it; and
- (ii) by sending a copy of the notice to all Electricity Suppliers and electricity consumers' committees,

that he considers that the development of competition in electricity supply is such as to require the continuation of any part of this Condition until such date - not later than two years from the termination date - as may be specified in the notice (the "new termination date"), then such part of this Condition as may be specified in the notice shall continue to apply as if for the termination date there were substituted the new termination date; and

(b) notice under sub-paragraph (a) may be given on more than one occasion.

3. The Licensee shall:

- (a) set up appropriate procedures for the selection of staff employed or engaged in roles the principal duties of which involve oral communication with Designated Customers for the purposes of the marketing activities of the Licensee;
- (b) take all reasonable steps to ensure that each such person is trained so as to have a sufficient understanding of:
 - (i) the arrangements for competition in electricity supply in England & Wales; and
 - (ii) the Principal Terms of Designated Supply Contracts made available by the Licensee;

such that any relevant advice given by him to Designated Customers is not misleading;

- (c) take all reasonable steps to ensure that:
 - (i) a Designated Customer may readily identify the Licensee whenever he is contacted by a representative of the Licensee; and
 - (ii) any unsolicited contact made on behalf of the Licensee with any Designated Customer takes place at a reasonable time; and
- (d) take all reasonable steps to ensure that any agents or sub-contractors of the Licensee set up equivalent procedures and take equivalent steps to those set out at sub-paragraphs (a), (b) and (c).

4. Where a contract has been entered into by a Designated Customer in the course either of a visit to his premises by a representative of the Licensee or of a telephone

conversation between him and a representative of the Licensee, the Licensee shall, through a representative who is not engaged in activities leading to the making of contracts between the Licensee and customers, and not less than 24 hours nor more than 14 days after the date of the contract:

- (a) use its reasonable endeavours to contact the customer by telephone or by letter seeking his confirmation that:
 - (i) he understands that he has entered into an electricity supply contract;
 - (ii) he is content to have entered into that contract; and
 - (iii) he is content with the way in which the marketing activities of the Licensee were conducted;
- (b) if in the course of such telephone contact, or within a reasonable period of the despatch of such a letter, the customer indicates that he is not content to have entered into the contract and wishes to terminate it, take all reasonable steps to ensure that the contract is terminated and, where reasonably practicable, that the Licensee does not commence a supply to the customer; and
- (c) if the response of the customer, alone or when considered with the responses of other customers, suggests weaknesses in the methods, systems or personnel employed or engaged by the Licensee or its agents or sub-contractors for the purpose of its marketing activities, ensure that all reasonable steps to remedy the matter are taken.

5. Where, by virtue of any Designated Supply Contract, electricity is not to be supplied to premises before the expiry of 60 days after the date of the contract, the Licensee shall take reasonable steps during the period after that date and prior to the commencement of supply to keep the customer informed that he has entered into an electricity supply contract with the Licensee.

6. The complaint handling procedures to be established by the Licensee in accordance with Condition 34 shall provide in appropriate cases for the payment of compensation to Designated Customers adversely affected by failure by the Licensee to perform its obligations under this Condition.
7. The Licensee shall keep a record of its compliance with its obligations under this Condition including-
 - (a) the contacting of customers in pursuance of sub-paragraph 4(a) and the response of customers to such contact;
 - (b) the termination of contracts in pursuance of sub-paragraph 4(b); and
 - (c) compensation paid in pursuance of paragraph 6.
8. Except as the Director may for the purposes of this Condition determine, as soon as reasonably practicable after the end of each period of three months ending on 31 March, 30 June, 30 September and 31 December in every year, the Licensee shall submit to the Director and to all Relevant Electricity Consumers' Committees a report dealing with the matters specified in paragraph 7 in that period and shall:
 - (a) publish the report so submitted in such manner as will in the opinion of the Licensee secure adequate publicity for it; and
 - (b) send a copy of it free of charge to any person requesting one,except that, in performing its obligations under sub-paragraphs (a) and (b), the Licensee shall exclude from the report such information as appears to it to be necessary or expedient to ensure that, save where they consent, individual customers referred to therein cannot readily be identified.
9. Reports in pursuance of paragraph 8 shall be presented by the Licensee, in so far as is reasonably practicable, in a standard format submitted to and approved by the Director for the purposes of this Condition.

10. Except as the Director may approve:

- (a) for the purpose of protecting the interests of any Designated Customer who, prior to the date on which this Condition came into force, may have made a payment in advance with a view to arranging a supply of electricity; or
- (b) where any payment in advance is wholly or mainly for services other than arranging the supply of energy,

the Licensee shall not enter into any commercial relations connected with the supply of electricity to Designated Premises with any person who has sought, after the coming into force of this Condition, payment in advance (other than a security deposit) from any Designated Customer with a view to arranging a supply of electricity, and the Licensee shall not enter into a contract for the supply of electricity to any such customer made through the agency (either for the Licensee or for any customer) of such a person.

11. In this Condition:

“marketing activities”

means any activities of the Licensee directed at or incidental to the identification of and communication with Designated Customers supplied or to be supplied with electricity by the Licensee, and includes entering into contracts with such customers.

“representative”

in relation to the Licensee, means any person directly or indirectly authorised to represent the Licensee in its dealings with customers.

Appendix 3

Methodology for Mori survey

A total of 2,315 interviews was conducted with domestic electricity and gas consumers. Interviews were conducted with the person wholly or jointly responsible for paying the household's electricity and gas bills and who would make the decision to change supplier, either on their own or in consultation with another household member. The proportion of electricity 'switchers' was boosted to allow for their separate analysis.

To ensure that the results are representative of the GB population, the data have been weighted to the known profile of households by age, social class and working status of head of household, as well as by the Mosaic life code of Enumeration Districts (EDs), and the percentage of electricity and gas switchers understood to be in these areas at the time of fieldwork - that is, 11% for electricity and 25% for gas. Data entry and analysis were carried out by Independent Data Analysis.

All interviews were conducted face-to-face, in-home, between 6th September and 13th October 1999. Fieldwork was carried out by MORI/Field & Tab. Interviewers were provided with a list of addresses within each sampling point (ED). They were instructed to leave at least three doors between each call. Half the interviews conducted by each interviewer were carried out in the evenings or at the weekend.

Appendix 4

Proposed changes to Condition 14A: Marketing of gas to domestic customers

Application³

(1) This condition applies to the marketing activities of the licensee in respect of the supply or the proposed supply of gas conveyed through pipes to the premises of domestic customers other than premises supplied or proposed to be supplied under an agreement of the kind described in standard condition 35.

(2) This condition shall cease to have effect on a date called the termination date which shall be 31st March 2002 provided that–

(a) if the Director, after consultation with gas suppliers licensed under section 7A (1) (a) of the Act whose licences include this condition and the Gas Consumers' Council, gives notice for the purposes of this condition generally–

(i) by publishing the notice in such manner as the Director considers appropriate for the purpose of bringing it to the attention of persons likely to be affected by it, and

(ii) by sending a copy of the notice to every such gas supplier, to the Secretary of State and to the Gas Consumers' Council,

that she considers that the development of competition is such as to require the continuation of any part of this condition until such date not later than two years from the termination date as may be specified in the notice (the new termination date), then such part of this condition as may be specified in the notice, shall continue to apply as if for the termination date there were substituted the new termination date; and

(b) notice under sub-paragraph (a) may be given on more than one occasion.

Employment and training of representatives and customer contact

(3) The licensee shall–

(a) set up appropriate procedures for selection of staff employed or engaged in roles the principal duties of which involve oral communication with customers for the purposes of the marketing activities of the licensee;

³ This condition inserted under section 23 of the Gas Act 1986 on 27 January 1998.

- (b) take all reasonable steps to ensure that each and every such person is trained so as to have a sufficient understanding of–
 - (i) the arrangements for competition in domestic gas supply in Great Britain; and
 - (ii) the prices charged by, and the other terms of supply of, the licensee, in particular methods of payment, duration of contracts and termination fees;

that any relevant advice given by them to domestic customers is not misleading;

- (c) take all reasonable steps to ensure that–
 - (i) a customer may readily identify the licensee whenever a representative of the licensee contacts the customer;
 - (ii) it is likely that each customer will readily understand that he or she has entered into a contract; and
 - (iii) any unsolicited contact made on behalf of the licensee with any customer takes place at a reasonable time; and
- (d) take all reasonable steps to ensure that any agents and sub-contractors of the licensee set up equivalent procedures and take equivalent steps to those set out in sub-paragraphs (a), (b) and (c).

Audit of Customer Contact

- (4) Where a contract has been signed by a domestic customer, or otherwise entered into, in the course of -
 - (a) a visit by a representative of the licensee to the premises of a domestic customer, or
 - (b) a conversation in a place to which the public have access between a representative of the licensee and a domestic customer; or
 - (c) electronic communication between the licensee or his representative and a domestic customer; or
 - (d) a telephone conversation between a representative of the licensee and, a domestic customer

then paragraph (5) shall apply.

- (5) Where this paragraph applies, the licensee shall, through a person other than a representative engaged in activities leading to the making of contracts between the licensee and any customer, and not less than 24 hours nor more than 14 days after the making of the contract–
- (a) use its reasonable endeavours to contact the customer by telephone or by letter seeking his confirmation–
 - (i) that he understands that he has entered into a gas supply contract;
 - (ii) that he is content to have entered into that contract; and
 - (iii) that he is content with the way in which the sale was conducted;
 - (b) if in the course of such telephone contact, or within a reasonable period of the despatch of such a letter, the customer indicates that he is not content to have entered into the contract and wishes to terminate it, take all reasonable steps to ensure that the contract is terminated and, where reasonably practicable, that any proposed supplier transfer in relation to the contract is not put into effect; and
 - (c) if the response of the customer, alone or when considered with the responses of other customers, suggests weaknesses in the methods, systems or personnel employed or engaged by the licensee or its sub-contractors for the purpose of its marketing activities, ensure that all reasonable steps to remedy the matter are taken.

Maintaining customer contact

(6) Where gas is not to be supplied before the expiry of 60 days from the date on which the contract was signed by the customer, or otherwise entered into, the licensee shall take reasonable steps during the period from that date until commencement of supply, to keep the customer informed that he has entered into a gas supply contract with the licensee.

Complaints and Compensation

(7) The procedures to be established by the licensee for dealing with complaints by domestic customers shall provide in appropriate cases for the payment of compensation to customers adversely affected by failure by the licensee to perform its obligations under this condition.

Reporting on performance

(8) The licensee shall keep a record of its compliance with its obligations under this condition including–

- (a) the contacting of customers in pursuance of paragraph (4)(a) and the response of customers to such contact;
- (b) the termination of contracts in pursuance of paragraph (4)(b); and
- (c) compensation paid under procedures established in pursuance of paragraph (7).

(9) Except as the Director may for the purposes of this condition generally determine, as soon as reasonably practicable after the end of each period of three months ending on 31 March, 30 June, 30 September and 31 December in every year after 1997, the licensee shall submit to the Director and to the Gas Consumers' Council a report dealing with the matters mentioned in paragraph (8) in that period and shall–

- (a) publish the report so submitted in such manner as will in the reasonable opinion of the licensee secure adequate publicity for it, and
- (b) send a copy of it free of charge to any person requesting one,

except that, in performing its obligations under sub-paragraphs (a) and (b), the licensee shall exclude from the report such information as appears to it to be necessary or expedient to ensure that, save where they consent, individual customers referred to therein cannot readily be identified.

(10) Reports in pursuance of paragraph (9) shall be presented, in so far as is reasonably practicable, in a standard format designated by the Director for the purposes of this condition generally.

Restriction on certain dealings

(11) Except as the Director may approve–

- (a) for the purpose of protecting the interests of any domestic customer who, prior to the date on which this condition came into effect, may have made a payment in advance with a view to arranging a supply of gas, or
- (b) where any payment in advance is wholly or mainly for services other than arranging the supply of energy,

the licensee shall not enter into any commercial relations connected with the supply of gas to any domestic customer with any person who has sought, after the coming into effect of this condition payment in advance (other than one governed by standard conditions 3(6) to 3(12) from any such customer with a view to arranging a supply of gas and shall not enter into any contract for the supply of gas to any such customer made through the agency (either for the licensee or for any customer) of such a person.

Management

(12) The licensee shall take all reasonable steps –

- (a) to establish management arrangements that facilitate the licensee in meeting its obligations under paragraphs (3) to (9) of this condition; and
- (b) to ensure that any agents and sub-contractors of the licensee take equivalent steps to those set out in sub-paragraph (a) of this paragraph.

Interpretation

(13) In this condition, except where the context otherwise requires–

“customer” includes potential customer;

“marketing activities” means any activity of the licensee directed at or incidental to the identification of and communication with customers supplied or to be supplied with gas by the licensee and includes entering into contracts with customers;

“proposed supplier transfer” has the meaning given to that term in standard condition 7(8);

“representative”, in relation to the licensee, means any person directly or indirectly authorised to represent the licensee in its dealings with customers.

Appendix 5

Proposed changes to Condition 51 of the second tier electricity suppliers' licence and Condition 42 of the Public Electricity Supply Licence - Marketing of electricity to Designated Customers

1. This Condition applies to the marketing activities of the Licensee in respect of the supply or the proposed supply of electricity to the Designated Premises.
2. This Condition shall cease to have effect on a date (the "termination date") which shall be 31 March 2002, provided that:
 - (a) if the Director, after consultation with the Licensee, all other Electricity Suppliers, the electricity consumers' committees and such other persons or bodies as in the opinion of the Director are representative of those likely to be affected, gives notice for the purposes of this Condition -
 - (i) by publishing the notice in such a manner as the Director considers appropriate for the purpose of bringing it to the attention of persons likely to be affected by it; and
 - (ii) by sending a copy of the notice to all Electricity Suppliers, to the Secretary of State and to electricity consumers' committees,

that he considers that the development of competition in electricity supply is such as to require the continuation of any part of this Condition until such date - not later than two years from the termination date - as may be specified in the notice (the "new termination date"), then such part of this Condition as may be specified in the notice shall continue to apply as if for the termination date there were substituted the new termination date; and
 - (b) notice under sub-paragraph (a) may be given on more than one occasion.

3. The Licensee shall:
- (a) set up appropriate procedures for the selection of staff employed or engaged in roles the principal duties of which involve oral communication with Designated Customers for the purposes of the marketing activities of the Licensee;
 - (b) take all reasonable steps to ensure that each such person is trained so as to have a sufficient understanding of:
 - (i) the arrangements for competition in electricity supply in England & Wales; and
 - (ii) the Principal Terms of Designated Supply Contracts made available by the Licensee;

such that any relevant advice given by him to Designated Customers is not misleading;

- (c) take all reasonable steps to ensure that:
 - (i) a Designated Customer may readily identify the Licensee whenever he is contacted by a representative of the Licensee;
 - (ii) it is likely that a Designated Customer will readily understand that he has entered into an electricity supply contract: and
 - (iii) any unsolicited contact made on behalf of the Licensee with any Designated Customer takes place at a reasonable time; and
- (d) take all reasonable steps to ensure that any agents and sub-contractors of the Licensee set up equivalent procedures and take equivalent steps to those set out at sub-paragraphs (a), (b) and (c).

4. Where a contract has been entered into by a Designated Customer in the course of -

(a) a visit to his premises by a representative of the Licensee; or

(b) a conversation in a place to which the public have access between a representative of the Licensee and a Designated Customer: or

(c) electronic communication between the licensee or his representative and a Designated Customer: or

(d) a telephone conversation between a Designated Customer and a representative of the Licensee

then paragraph (5) shall apply;

5. Where this paragraph applies, the Licensee shall, through a representative who is not engaged in activities leading to the making of contracts between the Licensee and customers, and not less than 24 hours nor more than 14 days after the date of the contract:

(a) use its reasonable endeavours to contact the customer by telephone or by letter seeking his confirmation that:

(i) he understands that he has entered into an electricity supply contract;

(ii) he is content to have entered into that contract; and

(iii) he is content with the way in which the marketing activities of the Licensee were conducted;

(b) if in the course of such telephone contact, or within a reasonable period of the despatch of such a letter, the customer indicates that he is not

content to have entered into the contract and wishes to terminate it, take all reasonable steps to ensure that the contract is terminated and, where reasonably practicable, that the Licensee does not commence a supply to the customer; and

- (c) if the response of the customer, alone or when considered with the responses of other customers, suggests weaknesses in the methods, systems or personnel employed or engaged by the Licensee or its agents or sub-contractors for the purpose of its marketing activities, ensure that all reasonable steps to remedy the matter are taken.
6. Where, by virtue of any Designated Supply Contract, electricity is not to be supplied to premises before the expiry of 60 days after the date of the contract, the Licensee shall take reasonable steps during the period after that date and prior to the commencement of supply to keep the customer informed that he has entered into an electricity supply contract with the Licensee.
7. The complaint handling procedures to be established by the Licensee in accordance with Condition 34 shall provide in appropriate cases for the payment of compensation to Designated Customers adversely affected by failure by the Licensee to perform its obligations under this Condition.
8. The Licensee shall keep a record of its compliance with its obligations under this Condition including-
- (a) the contacting of customers in pursuance of sub-paragraph 4(a) and the response of customers to such contact;
 - (e) the termination of contracts in pursuance of sub-paragraph 4(b); and
 - (f) compensation paid in pursuance of paragraph 7.
9. Except as the Director may for the purposes of this Condition determine, as soon as reasonably practicable after the end of each period of three months ending on 31

March, 30 June, 30 September and 31 December in every year, the Licensee shall submit to the Director and to all Relevant Electricity Consumers' Committees a report dealing with the matters specified in paragraph 8 in that period and shall:

(a) publish the report so submitted in such manner as will in the opinion of the Licensee secure adequate publicity for it; and

(b) send a copy of it free of charge to any person requesting one,

except that, in performing its obligations under sub-paragraphs (a) and (b), the Licensee shall exclude from the report such information as appears to it to be necessary or expedient to ensure that, save where they consent, individual customers referred to therein cannot readily be identified.

10. Reports in pursuance of paragraph 9 shall be presented by the Licensee, in so far as is reasonably practicable, in a standard format submitted to and approved by the Director for the purposes of this Condition.

11. Except as the Director may approve:

(a) for the purpose of protecting the interests of any Designated Customer who, prior to the date on which this Condition came into force, may have made a payment in advance with a view to arranging a supply of electricity; or

(b) where any payment in advance is wholly or mainly for services other than arranging the supply of energy,

the Licensee shall not enter into any commercial relations connected with the supply of electricity to Designated Premises with any person who has sought, after the coming into force of this Condition, payment in advance (other than a security deposit) from any Designated Customer with a view to arranging a supply of electricity, and the Licensee shall not enter into a contract for the

supply of electricity to any such customer made through the agency (either for the Licensee or for any customer) of such a person.

12. The licensee shall take all reasonable steps –

- (a) to establish management arrangements that facilitate the licensee in meeting its obligations under paragraphs (3) to (10) of this condition; and
- (b) to ensure that any agents and sub-contractors of the licensee take equivalent steps to those set out in sub-paragraph (a) of this paragraph.

13. In this condition:

“marketing activities”

means any activities of the Licensee directed at or incidental to the identification of and communication with Designated Customers supplied or to be supplied with electricity by the Licensee, and includes entering into contracts with such customers.

“representative”

in relation to the Licensee, means any person directly or indirectly authorised to represent the Licensee in its dealings with customers.