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Dear Paul

Marketing gas and electricity -a consultation document

We welcome the opportunity to comment on the above document. This response represents the views of LE plc (LE), covering the London Electricity, SWEB and Virgin Energy brands.

With competition firmly established in the energy markets, the majority of suppliers continue to promote their services via a variety of methods, with door to door marketing proving to be a preferred option, as it is a proven cost effective method of reaching potential new customers.

Current legislation

The current marketing licence condition, coupled with the accompanying guidelines, provides sufficient detail on how suppliers should manage their marketing activity. As your paper makes clear there is also additional consumer protection legislation that should give the general public sufficient protection when receiving unsolicited visits or telephone calls from service providers such as energy suppliers.

LE feels that Ofgem still has a role to play in ensuring that the industry properly manages its direct marketing activity. We believe that it would be appropriate for Ofgem to exercise its current powers by carrying out a series of compliance audits on individual suppliers. LE would welcome such an initiative.

Other government departments could also play a major role. Non-compliance with statutory legislation should be dealt with accordingly, again with auditing as appropriate, with the associated sanctions placed on those who continue knowingly to fall foul of breaches in consumer protection law. LE supports Ofgem's view that working more closely with the OFT and the DTI will assist in improving the marketing activity of energy suppliers.

Self Regulation

Suppliers are keen to see improvement in the way that energy is marketed to customers, and are keen for Ofgem to gain confidence in the supplier community to self regulate. Many new initiatives will develop over the next year as suppliers seek to work together sharing best practice. LE is already party to such an initiative, and has extended this to include a 'best practice workshop' with energywatch on 21st March 2002

The energywatch/LE workshop demonstrates our commitment to working with consumer groups to share views on how improvements can be made. It is also our intention to work with other consumer representatives over the coming months, and are happy to share the results with Ofgem as appropriate.

Our experience

With continued media and political interest in mis-selling in the energy industry, it is not only the individual supplier that suffers damage to its credibility, but the industry as a whole. LE has already suffered such damage following complaints to the BBC Watchdog programme in September 1999. This resulted in a number of meetings with Ofgem with LE agreeing a number of improvements to our sales practices.

Although LE's performance had improved dramatically during October and November 1999, Ofgem and LE agreed a number of undertakings in December of the same year. The basis of these undertakings was to demonstrate our ability to successfully manage all aspects of our sales activity, from recruitment through to adequate post sales audit.

In December 2000, Ofgem were satisfied that LE had improved sufficiently, and the undertaking agreement was terminated. At that time, LE gave Ofgem a firm commitment to continue to operate under the same guidelines and to continue to seek for improvement on an ongoing basis. This has led to a number of further improvements with procedures as our sales activity expanded throughout 2001.

Although it took drastic intervention by Ofgem to insist on these improvements, we feel that many lessons have been learnt. Whilst the content of the undertakings already represented the basic requirements of the Marketing Licence Condition guidelines, the experience highlights the benefits of formalised process and procedure. LE feels that while many suppliers believe they are compliant, the level of industry complaints and media coverage in this area demonstrates that some are not.

Current issues

Although much of the media and parliamentary criticism is aimed at rogue sales agents, we feel that this is only the tail end of the initial problem. From our own experience, we know that some sales agencies are as much to blame as the individual agents working for them. One way for suppliers to protect themselves from

these agencies is to insist on entering into contractual arrangements only with accredited sales agencies

Whilst this will be a major change in the way suppliers operate, the benefits of encouraging our third party sales agencies to gain such an accreditation could be a major step in demonstrating commitment to improve the current industry practice. LE fully supports such an initiative, but must stress that such accreditation must have sufficient governance powers to deal with continued breaches of the relevant operating procedures. Further investigation into the development of an appropriate body to take this initiative forward is required.

Rogues Register

Our experience shows that many agents will leave an agency at the first indication that concerns have been raised regarding their conduct. Even though this is a common occurrence, LE believes that investigations must continue to ensure all potential complaints are resolved thoroughly to the customer's satisfaction. We often find that such investigations result in uncovering further cases of misconduct.

Although there has been much discussion and work carried out regarding the possibility of establishing a sales agent database or 'Rogues Register' to record details of unscrupulous sales agents, there still seems to be many issues to be resolved before such a register could be introduced.

There are legal issues preventing an immediate introduction of a sales agent register. In order to overcome some of these issues with our own direct sales agencies, LE has made reference to our intention to record such details on a register within our sales agency contracts. We believe that this will overcome the initial Data Protection issues. We are currently investigating all other potential hurdles that currently prevent us from safeguarding other suppliers from employing agents that have been dismissed for serious misconduct.

Supplier's data

The data currently submitted by suppliers in line with obligations of the supply licence is minimal and the actual value of the data in its current form is questionable.

During the period of our agreed undertakings, LE submitted detailed monthly reports to Ofgem to enable monitoring on an ongoing basis. We feel that Ofgem should conduct a review of data that would be of best use to create an accurate picture of individual supplier's marketing activity.

Ofgem could consider whether data should be split between routes to market, whether absolute numbers for numbers of contracts entered into should be provided, and whether numbers of agents currently representing suppliers or even details of the numbers of agents that have received disciplinary action should be provided. We are happy to assist Ofgem with such a review.

Summary

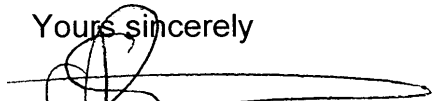
LE agrees with Ofgem that the current Marketing Licence Condition should be extended for a further period. We feel that the extension should be for the minimum period i.e. one or two years. Should two years be the preferred option, we feel that the most appropriate approach should be to extend for one year, with the option of extending for the second following a review early in 2003.

The current obligations included within the Marketing Condition and associated guidelines are sufficient, however, LE feels that Ofgem should police the current obligations effectively in order to identify suppliers that do not adhere to them.

With suppliers keen to move forward to an environment of self regulation, Ofgem can gain confidence that the supplier community will work together on new initiatives including the most recent of sharing best marketing practice. Suppliers will also continue to work with consumer groups, sharing views and working together to improve the overall customer experience of switching energy supplier.

I trust that you find these comments helpful and we look forward to a working with Ofgem in the coming months. Should you wish to discuss any aspect of our response, please contact me on 0207 331 3665.

Yours sincerely



Jason Stevens
Retail Regulation Manager