

**Making markets work for consumers
The regulation of gas and electricity sales
and marketing: proposals for the
amendment of standard licence condition 48**

A consultation document

December 2003

Summary

In August 2003 Ofgem published a consultation document 'Making markets work for consumers. The regulation of gas and electricity sales and marketing: a review of standard licence condition 48 – 87/03'. The document considered the context in which there is sector specific regulation of direct sales and marketing activity and the extent to which there was a case for change. It reviewed the provisions of the licence condition and started a discussion about a range of proposals for change. In addition to the consultation document, Ofgem also invited some consumer organisations and suppliers to take part in two seminars to discuss the issue further. This document reflects the feedback from those seminars and the written responses to the consultation.

In the longer term Ofgem considers that sector specific regulation of energy sales and marketing may become unnecessary. However, it would be inappropriate to step back fully from formal regulation at this time. For the time being, Ofgem has concluded that there is scope to change the licence condition to reflect better the needs of both suppliers and consumers. This document includes, for further consultation, a set of more specific proposals for a revised licence condition. These proposals include:

- a clearer definition of what activity is regulated by the licence condition;
- a set of core requirements applicable to all sales and marketing channels;
- prohibition of certain specific activities;
- improvement of information provided to consumers;
- a consumer right to a 14 day cancellation period; and
- an alternative to existing reporting requirements.

In addition the consultation document seeks further views on the impact of a requirement to verify that consumers wish to proceed with a transfer.

Standard licence condition 48 is due to expire on 31 March 2004. Our preferred option is modification of the licence condition as described above. Alternatively the Authority is able to extend the licence condition for a further two years if, after consultation with suppliers and energywatch, it considers that the development of competition in gas and

electricity supply is such as to require that extension. This document will serve as a consultation to extend the licence condition, in its current format, if proposals for amendment are not agreed.

Views are invited.

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1. Introduction

- 1.1. The marketing of gas and electricity to residential customers is subject to standard licence condition 48 of the licences of gas and electricity suppliers. This paper proposes changes to the licence condition following receipt of a wide range of responses to a consultation document issued in August 2003.
- 1.2. Ofgem continues to aspire to step back from the sector specific regulation of direct sales and looks forward to evidence that industry attempts to address the problem of misselling will allow the development of a full co-regulatory approach within the next two years.
- 1.3. In making these proposals Ofgem has had particular regard to the potential costs that regulation may give rise to, recognising that additional costs may not be in the interests of suppliers or indeed consumers, to whom they are likely ultimately to be passed on in the form of higher prices. However Ofgem has sought to balance additional costs with the benefits they will provide, not only by reducing cancellation and erroneous transfer costs, but also by providing for improved consumer confidence which will lead to an increased propensity to switch.
- 1.4. A Regulatory Impact Assessment is attached at **appendix 1**.

2. Timetable and responses

2.1. The timetable is as follows:

31 January Closing date for responses

Late February Publication of decision document and a statutory consultation document proposing modifications to the gas and electricity supply licences, or publication of a notice to extend the existing licence condition, if required.

April Implement modifications to the gas and electricity supply licences

2.2 Views invited

Comments are invited on the proposals raised in this document. These should be sent to:

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The closing date for responses is 30 January 2004.

Contact

- 2.3 If you wish to discuss this consultation paper, please contact Annette Lovell at the address above.

Confidentiality

- 2.4 All responses will normally be published on the Ofgem website and held electronically in the Ofgem Research and Information Centre unless they are marked confidential. Consultees should try to confine confidential information to the appendices of their responses. Ofgem would prefer to receive non-confidential responses and to receive responses in an electronic form.

3. Background

- 3.1 Since the introduction of competition into the gas and electricity supply markets suppliers have made extensive use of direct selling as a channel to market – on the doorstep, by telephone, through the Internet and in public places such as supermarkets. The resulting levels of switching have led to significant benefits for consumers, in the form of lower prices and differentiated service.
- 3.2 However, this has not been without difficulty and there have been many complaints about the sales tactics of some suppliers. Misselling has attracted widespread criticism and concern for the impact on consumers, and in turn on the market.
- 3.3 Ofgem has recognised that although the number of complaints to energywatch (about misselling, as a proportion of transfers) is proportionately few and reducing, the circumstances which lead to a complaint can be significantly distressing to the consumer involved. Ofgem is committed to creating a regulatory environment in which consumers can have confidence that they will be treated appropriately and in which suppliers will exert control over, and take responsibility for, their sales agents. Indeed Ofgem has already taken action against suppliers who failed to comply with licence obligations.
- 3.4 In August 2003 Ofgem published a consultation document which was an attempt to summarise the information that Ofgem has received from interested parties and to reflect Ofgem's own experience of the licence condition. It was intended to be a starting point for discussion, to prompt a full range of comments on the issue. This subsequent consultation document contains more specific proposals on which views are sought.
- 3.5 Ofgem continues to be of the view that in the longer term sector specific regulation of energy sales and marketing should become unnecessary. Suppliers' brands are key assets and publicity about misselling damages these assets. To the extent that misselling happens as a result of deliberate supplier choice (which in Ofgem's view is rare), or as a result of negligence, this appears to reflect a supplier perception that the value of incremental customers outweighs any potential brand damage. Suppliers continue to invest in their brand, so that the value of these

brands (an increasing number of which are national in character) grows. It therefore appears to Ofgem that suppliers have a strong interest to develop and implement good sales practice. Ofgem intends to continue to regulate this area until we are confident that robust compliance is well integrated into supplier businesses.

- 3.6 The key criterion for deregulation will be the overall consumer impact. Ofgem would pay considerable attention to whether we would expect a significant increase in misselling from deregulation. It seems likely to Ofgem that before full deregulation the regulatory regime may pass through an intervening stage of “co-regulation”, where formal obligations remain in place but the details of what suppliers must or must not do is contained in a subsidiary code. This approach is already used in supply licences, for example in SLC 20 which simply states: “The licensee shall become a party to and thereafter comply with the provisions of the Master Registration Agreement” or standard licence condition 35 which requires licensees to prepare and submit a code of practice on the payment of bills and guidance for dealing with customers in difficulty.
- 3.7 The potential advantage of such a co-regulatory approach would be that it could allow the flexible evolution of the actual obligations, so that they constrain competitive innovation to the least possible extent, and so as to minimise cost. Nevertheless, they would retain access to Ofgem’s investigative powers and powers to impose financial penalties as a backstop.
- 3.8 If Ofgem observes that the provisions of the AES Energy Selling Code of Practice (“the AES Code”) are sufficient to reduce misselling, and keep the level down through a period of market evolution, the Code may be a good candidate for the co-regulatory approach. Ofgem currently expects to review this before reviewing whether SLC 48 should be renewed in April 2006.

4. Summary of responses

4.1. Responses were received from the following organisations:

energywatch

Citizens Advice Bureaux

NEA

Scottish and Southern Energy plc

BP Energy

British Gas

RWE Innogy

National Consumer Council

Total Gas & Power

ScottishPower

AMT – SYBEX Ltd

Powergen

Atlantic Electric and Gas

EDF Energy

Age Concern

Shell Gas Direct

Faversham CAB

Three confidential responses were received.

General comments and views

- 4.2 The responses reflected a range of views. Most organisations welcomed the review and the opportunity to respond. However one campaigning organisation felt that it had responded to several previous consultations on this issue, each concerned with a progressive tightening of the rules, without there being evidence of improvement.
- 4.3 There was a divergence of views about the value of direct selling to consumers. One supplier said that doorstep selling is seen by the majority of customers as a worthwhile and informative experience, however one representative organisation suggested that neither Ofgem nor energy suppliers had sufficiently appreciated the negative impact of energy misselling, which affected not only the energy market but also the telecoms market. It was suggested that it was vital to the success of competition that Ofgem correctly managed the balance between the benefits to be gained from direct selling and the size of the problem of misselling overall.
- 4.4 One supplier pointed out that 'thin' gross margins in gas and electricity supply meant that Ofgem should take care not to impose additional costs on suppliers without achieving additional confidence in the market.
- 4.5 One respondent suggested that an outright ban on doorstep sales could have a positive impact upon competition by leading to consumers exercising informed choice and the encouragement of more innovative marketing techniques.
- 4.6 Several suppliers pointed out that the AES Code appeared to be delivering a reduction in direct selling complaints and that it should be given a reasonable chance to work before making changes to the licence condition. Another said that continuing of such regulation would detract from the ability of suppliers to differentiate on the basis of service, and that this ran counter to Ofgem's priority to enable markets to work effectively.
- 4.7 It was also suggested that Ofgem should not reach firm conclusions until the outcome of the OFT investigation of the Citizens Advice super-complaint about doorstep selling was known.

- 4.8 One consumer organisation stated that it was not convinced that the AES Code demonstrates an argument for any reduction in the requirements placed on licensees. It felt that many of the problems reported to it relating to problems during and after the transfer process, such as failure to bill, dual billing, liability disputes and debt, arise as a direct result of failures to comply with the marketing and sales licence condition. It also added that failures in the sales and marketing process may not come to light immediately and it is often these cases that take longest to resolve and cause most consumer detriment.

The continuing need for sector specific regulation

- 4.9 The consultation document asked for views on the retention of a requirement to review the licence condition at regular intervals. There was little consensus among respondents. Some suppliers said that any continuation of the licence condition was unjustified, given the range of other consumer protection legislation and steps taken by the industry to introduce a self-regulatory Code. Other suppliers said that it was too early to be confident that self-regulation was more effective than the licence condition and supported its retention, although these suppliers had different views as to whether the licence condition should be amended.
- 4.10 Consumer groups suggested that a strong marketing licence condition was key to rebuilding consumer confidence. One consumer organisation argued that by limiting the licence condition to a further two year period there is an implication that it will soon be unnecessary to have such a licence requirement in place. As a result, licensees are unlikely to invest in policies and practices that ensure long term compliance. Accordingly, the licence condition should be made permanent.
- 4.11 Those suppliers which expressed a view agreed that any licence condition should be subject to a regular consideration of its renewal.

Conformity of drafting

4.12 It was generally accepted that there should be conformity in drafting between the gas and electricity licence conditions.

Scope of the licence condition

Industrial and commercial consumers

4.13 Several respondents, who supply industrial and commercial (I&C) consumers, said that they saw no justification for the extension of the licence condition to I&C consumers. These respondents also expressed their concern that the question had been raised in a consultation document which was primarily targeted at the domestic market. Other suppliers said that they did not believe that the application of the licence condition would be welcomed by the majority of I&C customers, as the additional protection would have 'cost implications'. Several suppliers indicated that there was insufficient evidence of the need for such an extension to the scope of the licence condition and that it would be counter to the 'general thrust of the licence framework'.

4.14 However, several suppliers said that the issue could be dealt with by an encouragement to extend self-regulatory provisions. Indeed some suppliers indicated that this was already their intention.

4.15 One supplier pointed out that many larger I&C customers purchased energy through brokers and suggested that they should not be subject to regulation. Another said that in the I&C market contracts are normally agreed through negotiation or a tender process and that I&C consumers usually enter into these arrangements as fully informed parties aware of their own requirements.

4.16 While no specific I&C representative organisations responded to the consultation directly, they indicated during the course of a regular meeting with Ofgem that additional regulation was inappropriate. Several consumer groups supported the proposal to extend the scope of the licence condition, in particular to smaller businesses which have energy needs or purchasing behaviour which they saw as similar to domestic consumers. energywatch has said that it has witnessed a marked increase in the number of I&C complaints received.

4.17 One respondent pointed out that some small I&C customers had been covered by the licence condition until changes in the definition of 'domestic' customers

resulting from the Utilities Act 2000 had withdrawn this protection. This respondent noted that suppliers had expressed concern about the costs associated with the change and that they would be likely to incur further costs if the coverage of the licence condition was extended.

Vulnerable consumers

- 4.18 The majority of respondents agreed that the licence condition should not attempt to make specific provision for vulnerable consumers. This was for a range of reasons including the difficulty of adequately defining and identifying vulnerable consumers in a licence condition, the impact that it might have on such consumers receiving the benefits of competition and the view that all consumers should benefit from the same level of protection. However one representative organisation said that there should be specific protection for vulnerable customers.
- 4.19 It was noted that the AES Code makes specific reference to vulnerable consumers.
- 4.20 One supplier suggested that to make a specific provision for vulnerable consumers might lead suppliers to cease marketing to those customers, which would have the effect of reducing their opportunity to take advantage of the competitive market.
- 4.21 energywatch said that it was concerned at the number of complaints that it received from vulnerable consumers. energywatch suggested that a licence breach involving vulnerable consumers (as defined, for example, in the energywatch remit under the Utilities act 2000) should result in the imposition of more severe sanctions by Ofgem.

Channels for contact

- 4.22 The consultation document asked for views on the desirability of extending the scope of the licence condition to cover all channels to market including face-to-face, telephone, internet and direct mail.
- 4.23 Most suppliers said that they did not consider that there was sufficient evidence of the need to extend the scope of the licence condition to other channels of

communication. Specifically a distinction was drawn between sales activity which is unsolicited and the circumstances in which a consumer makes an approach to a company, for example through a website. It was argued that these two activities are not comparable and did not warrant a similar approach to consumer protection.

- 4.24 One supplier pointed out that on-line transactions were already covered by existing legislation and that to impose a further regulatory burden would increase costs unnecessarily.

Cross selling of energy

- 4.25 A consumer organisation suggested that the licence condition should be extended to cover related sales of energy efficiency equipment and energy maintenance contracts, specifically to ensure that such sales do not interfere with consumer rights to switch supplier. It also pointed out that cross-selling could lead to a loss of price transparency and consumer confusion. Another reported that it was receiving complaints about other products supplied by energy companies, such as service contracts and insurance and expressed the hope that enforcing the licence condition would lead to a reduction in the misselling of other products.
- 4.26 Some suppliers responded to this question with the observation that consumers would be better served by the application of general provisions, rather than energy specific measures.

Win back or save activity

- 4.27 The consultation document asked for views on whether the licence condition should state more explicitly that it covers both win back and save activity. One supplier rejected this by suggesting that any attempt to define such activity would be likely to exclude particular instances of such activity. Others had clearly interpreted the licence condition differently, one supplier argued that the licence condition would benefit from being clearer and that it was possible to 'construe save activity as not a sale', while another said that it would be useful to have the position clarified.

4.28 energywatch said that the licence condition should cover all types of marketing, “regardless of the strategy behind the contact”. energywatch also said that consumers should have the right not to be contacted by suppliers for marketing purposes if they request this.

Consumer information

4.29 There was general support for the view that consumers should be confident and informed participants in the market. However there were different interpretations of how this should be achieved. Consumer organisations were strongly supportive of the minimum requirements for information identified in paragraph 7.12 of the consultation document, and suggested that these should be extended to take account of other things including the availability of different payment methods, a price comparison between the old and new supplier, for each payment method, a telephone contact number for the billing section of a new provider, complaints information and energy efficiency information. It was suggested that this could be accompanied by a checklist for the consumer to sign, and that failure to do so would invalidate the contract. Consumer groups stressed the need for an explicit requirement to present information clearly. energywatch said that the licence condition should explicitly require a copy of the contract, the provision of a quote and a copy of the tariffs and prices.

4.30 energywatch said that a contract should be clearly identified as such, with the word ‘contract’ included in or next to the signature box. Another consumer organisation suggested that cancellation rights should be provided on the front of the agreement, adjacent to the signature with a tear off slip to facilitate cancellation, and to include the address where cancellation must be received.

4.31 Suppliers were generally of the view that it was unnecessary to specify minimum requirements or that the items identified by Ofgem were already provided for in legislation, regulations or the AES Code and that to include them in the licence condition would increase the regulatory burden. However one supplier said that customers should have a record of any calculation of predicted savings, but that this would result in additional costs.

4.32 A company which supplies technical equipment for use by field sales staff suggested that such equipment provided many potential benefits in monitoring

and managing field sales staff, but that increased information requirements could have an impact on those benefits. It was suggested that a requirement to provide details of price quotes could be better delivered after the doorstep contact, in the following day's post.

Cancellation rights

- 4.33 Ofgem asked for views on the introduction of a mandatory 14 day cooling off period. Suppliers did not support this proposal in general. Some argued that there was no evidence that consumers wanted a 14 day period and that there was already provision for cooling off periods in a range of legislation and regulations. One supplier suggested that an effective cancellation period did not result from its length, but was a question of clarity and that all customer correspondence should clearly communicate how a customer can cancel a contract and the length of time during which they may do so.
- 4.34 Consumer organisations took a different view. They suggested that although cancellation rights did not in themselves prevent erroneous transfers there should be a minimum period of 14 days and that this should not be at the expense of other consumer protections. Consumer organisations recognised the impact that this may have on extending the transfer period, but argued that it was justified and would be an acceptable consequence for consumers.

Reasonable steps, outcomes and outputs

- 4.35 Some suppliers took the view that an obligation that was limited by a phrase such as "to take all reasonable steps" was appropriate, that it was not overly prescriptive and allowed suppliers to undertake their own management style. Others supported the principle of focussing on outcomes which would allow them to manage their activities effectively to achieve those outcomes rather than being determined by prescriptive licence conditions, but expressed concern about the identification of the outcomes and the need to ensure that unforeseen, perverse incentives did not result.
- 4.36 There was also a view that the AES Code allowed for a consideration of outputs and outcomes, but that these should be the focus of service differentiation by suppliers in their sales and customer service activity.

- 4.37 It was suggested that 'reasonable steps' can be an effective term if Ofgem is willing to provide guidance in advance, rather than investigating a supplier after the event, which was said to be 'invariably unhelpful'.
- 4.38 One supplier defined the measure of a successful output as an increase in the number of customers who can claim to have had a positive experience following a sale and a reduction in the number of sales complaints to energywatch.
- 4.39 One consumer organisation suggested that "reasonable endeavours" implies that if companies are trying and making an effort not to abuse their position with consumers it will be perfectly acceptable if their practices do indeed completely fail some consumers.

Licensee obligations

Checks in the sales process

- 4.40 The consultation document asked for views on the introduction of a positive confirmation that a consumer wished to switch supplier. Most suppliers responded to this point by welcoming Ofgem's view that it would be unlikely to extend the licence condition in this way, citing delays to the transfer process and additional costs as reasons. It was also pointed out that such verification was not required for the purchase of large value items such as cars and could lead to more uncertainty about when a contract was in place. However, several suppliers had already established their own internal verification procedure, and that these should remain opportunities for service differentiation.
- 4.41 One consumer representative organisation urged Ofgem to give serious consideration to requiring positive confirmation that a consumer wished to transfer, pointing out that it was in suppliers' interests only to transfer willing consumers. It was suggested that Ofgem should consider the arrangements put in place by Oftel to avoid the 'slamming' of carrier pre-selection consumers.
- 4.42 A supplier advocated a suggestion that consumers should be able to register with their supplier a wish to have a transfer automatically blocked, until such time as the consumer requested the removal of that block.

Consumer redress

- 4.43 Suppliers strongly rejected any attempt to introduce mandatory compensation payments, suggesting that they could lead to an increase in fraudulent mis-selling complaints. They suggested that work to be undertaken to review the AES Code in this respect was sufficient.
- 4.44 One consumer organisation said that although complaints may be proportionately few, the stress and difficulty experienced by consumers could be extreme. However it said that the primary concern for consumers was sorting out a problem as quickly as possible and therefore proposed that the licence condition should focus on the time taken for resolution, using the same approach as the Erroneous Transfer Customer Charter. It proposed that compensation of £100 should be paid if a consumer has to wait 28 days for a complaint to be resolved with £30 increments for each additional day that it remains unresolved. Another consumer organisation said that automatic compensation should be paid when licence conditions are broken. Whilst fines provide a strong incentive for companies to follow licence requirements and act as a deterrent to stop future breaches, they do not put money back in the pocket of the consumer. energywatch said that consumers should be automatically compensated once a complaint had been resolved and the outcome had identified the supplier as being at fault.

Reporting

- 4.45 Consumer groups suggested that consumers should have access to reliable information about the performance of different suppliers and suggested a range of information should be provided for publication including: the proportion of customers and number of complaints by payment method; the proportion of customers and number of accounts switched by payment method and social group; the proportion and number of account switches where customers made savings on their bills, by payment method and social group; and the amount of compensation and proportion of consumers to whom it is paid.
- 4.46 Some suppliers took the view that there was no case to change the information currently provided to and reported by Ofgem and energywatch. Others suggested that further information, such as supplier performance under the Code

could be published, but that it should be appropriate for consumers to be able to make relevant comparisons between suppliers.

- 4.47 A supplier urged Ofgem to review the current requirement for suppliers to make reports available to the public, suggesting that they were of little interest and seldom if ever requested.

Other issues raised

- 4.48 One consumer representative organisation said that markets could be made to work more effectively if sources of independent confirmation of savings were available. It suggested that Ofgem might invite suppliers to allocate a proportion of their marketing budgets to local advice agencies for this purpose.

5. Consideration of respondents' views

- 5.1. Ofgem has considered the general views expressed about both the value of direct selling to consumers and the negative impact of misselling. It has concluded that direct selling, including doorstep selling, continues to provide significant benefits for consumers and that the majority of consumers would not be best served by a blanket prohibition. For example, Datamonitor reported that in the year to April 2003 50% of switching was attributable to doorstep selling. However, mindful of the potential impact of misconduct by energy suppliers and their agents Ofgem considers that there is a continued need to regulate this aspect of energy supplier behaviour for at least the next two years. Ofgem is also aware of other developments which have an impact on this issue, for example the AES Code and the OFT super-complaint investigation, but has concluded that it would not be appropriate to defer its consideration of this matter, given ongoing consumer detriment.
- 5.2. It is in the interests of all stakeholders to ensure that excessive costs do not result from the regulation of sales and marketing, and Ofgem has borne this in mind in considering responses and evolving proposals. Specifically and in particular, Ofgem has sought to ensure that sales agents themselves will not need to contact a customer more than once so as to complete a sale (for example, by requiring the provision of data that a customer is unlikely to know without searching at home such as detailed consumption information).
- 5.3. However, Ofgem does not consider that improving the quality of contact with consumers need impose such costs. Poor management of sales causes substantial direct costs to suppliers, through cancellations of contracts and erroneous transfers that are expensive to put right. It also has large indirect costs, in the form of damage to a brand that has been built up through heavy marketing spend over a period of years.
- 5.4. The benefits of improved management of sales accrue both to consumers and to suppliers. For consumers, there is an immediate benefit to customers who are not missold to – although it is naturally not possible to identify who is benefiting! To the extent that tight management of sales increases consumers' trust and makes them more likely to engage with the market, consumers benefit

from saving derived from switching. Suppliers will also benefit as increased consumer propensity to switch will improve their sales efficiency.

Sector specific regulation

- 5.5. As noted above, in Ofgem's view the industry Code of Practice should be given an opportunity to prove it is effective before it is incorporated into the licence condition. Ofgem is supportive of industry attempts to self-regulate and will welcome evidence that it has been effective and that regulation can be relaxed.
- 5.6. In recognition of this point Ofgem continues to believe that it is appropriate to continue to review the licence requirements regularly.
- 5.7. Ofgem has taken account of views that licence conditions should not reproduce other legal obligations unnecessarily and will seek wherever possible to avoid doing so. However we do see a case for specifying conditions where this allows the Authority to impose a financial penalty for breach (and so incentivise future compliance), not merely for the breach to be ended. An analysis of the individual elements of the current licence condition and proposed changes is attached at **appendix 2**, and shows how they relate to other legal provisions.

Conformity of drafting

- 5.8. Any revision to the licence conditions will ensure that both electricity and gas obligations will be the same where possible.

Scope

Industrial and commercial consumers

- 5.9. Ofgem notes the view of the majority of respondents that it is unnecessary to extend the scope of the licence condition to industrial and commercial consumers. This recognises that the general framework of EU and UK consumer protection makes the distinction between business and domestic consumers and takes account of the difficulty of drafting a licence condition which would differentiate between large businesses and those smaller businesses which might be considered to need additional protection. Ofgem concludes that it would be

inappropriate at this time to extend the licence condition to cover non-domestic customers.

Vulnerable consumers

- 5.10. With exception of one respondent there was a consensus view that specific provision should not be made for vulnerable consumers. Ofgem remains concerned about how these customers can be effectively protected. However, we concur with the view that including a specific regime in the licence condition is not appropriate, taking into account the difficulty of identifying individual vulnerable consumers and that all consumers should benefit from appropriate sales and marketing. Ofgem expects suppliers to apply 'common sense' in their approach to vulnerable consumers and that this should, where appropriate, be reflected in sales agent training programmes. Ofgem also notes that the AES Code also contains a provision that sales agents must not exploit a person's vulnerability.
- 5.11. Ofgem is aware of its duties with respect to vulnerable consumers. In relation to compliance and the imposition of a financial penalty Ofgem will consider the seriousness of any contravention and the degree of harm to consumers, taking into account the circumstances of the consumers concerned, including any vulnerabilities. (See paragraph 6.20.)

Channels for contact

- 5.12. Although suppliers suggested that a case had not been made for extending the provisions of the marketing licence condition to all channels for sales and marketing, Ofgem is of the view that some parts of condition 48 already apply to all sales and marketing channels. However this is not explicit and appears not to be clear to all stakeholders. This lack of clarity for both suppliers and consumers can be addressed in a revised licence condition and will make for consistency. However we agree that the requirements for each channel will be different.

Cross selling of energy

- 5.13. Respondents did not provide evidence of an increase in complaints resulting from the associated sales of other utilities with energy, or suggest that there was consumer confusion about different approaches. Ofgem recognises that such

difficulties could arise more frequently in the future, but believes it will be more sensible to amend regulation in the light of actual problems (i.e., once their nature is known) rather than to put in place a possibly unwieldy or ineffective regime in advance. Ofgem has noted the comments of one respondent, which reflect recent public comments from the Director General of Telecommunications, that problems with energy misselling have had an impact on competition in other areas.

- 5.14. Several respondents suggested that there was an increase in the cross selling of energy-related products (e.g., energy efficiency measures). Ofgem has noted the suggestion that the licence condition should be extended to related sales of energy efficiency equipment and maintenance contracts. However, such cross-selling has been a feature of the market for some time without major problems arising. Ofgem will shortly be consulting on a trial suspension of the 28 day rule for customers entering into energy services contracts, as a result of the work of the Energy Services Working Group, and this could increase activity in this area. Specific consumer safeguards will be included in the terms of the trial.

Win back or save activity

- 5.15. There were divergent views about the extent to which win back and particularly save activity should be covered by the licence condition. Ofgem remains of the view that both aspects of behaviour are already covered, but will ensure that tighter drafting makes this clearer.

Consumer information

- 5.16. Ofgem has carefully considered the views expressed, which stressed the importance of providing information to consumers which enables them to be confident participants within the market. It has also noted suppliers' reluctance to increase the information which is mandatory to provide, due to their concern about the likely cost and the ability of consumers to assimilate complex information. Ofgem has concluded that there is room to improve the quality of written information provided to consumers and that to do so could have a

significant impact on the ability of consumers to make decisions about switching which will be in their interests.

- 5.17. Ofgem considers that to prescribe a comprehensive range of information to allow consumers to compare prices between different suppliers might result in such detail that it would be of limited use to most consumers and would therefore add little value. However Ofgem is aware that suppliers do sell to consumers by making very specific claims to them, usually about price. Ofgem will therefore propose that whatever claims a sales agent makes to secure a sale, that they should be in a written form which is provided to the consumer. This may be as simple as a claim that the consumers' current supplier is more expensive, may promise a specific saving or may be a detailed comparison. Ofgem would then expect suppliers to be able to support the claims made by their agents.
- 5.18. Ofgem continues to believe that suppliers should also be required to provide a copy of the contract, details of cancellation rights (see paragraph 5.20) and contact details for energywatch – these are already provided for in other licence conditions. Ofgem notes that there is already other legislation which requires pre and post contractual information. Because of this, Ofgem does not consider that to produce additional information, alongside such information already required, will result in significant increased costs. Furthermore, Ofgem would expect a supplier to be able to confirm the details of any claims in writing. However, Ofgem would welcome any final comments on this.
- 5.19. Ofgem has recognised supplier concerns about the costs associated with the provision of information to consumers, but believes that better information will also provide benefits in the form of reduced cancellations and erroneous transfers. Ofgem believes that this can be achieved at a reasonable cost, for example without the need for further contact with the consumer.

Cancellation rights

- 5.20. Ofgem has noted the comments about cancellation periods and agrees that cancellation rights will be more effective if they are clearly understood by consumers. Ofgem has considered the confusing impact of different cancellation periods and believes that this confusion can be addressed by the

application of a single, standard period of fourteen days, starting from the time at which the consumers receives a copy of their contract or receives a separate written notification of their rights.

Reasonable steps, outcomes and outputs

5.21. Ofgem's proposal to move away from those provisions which attempt to prescribe how suppliers' activities will be managed was largely supported by respondents, although they drew different conclusions. Ofgem considers that there is a significant advantage to be gained from clear obligations which relate to how individual consumers are treated. This approach would provide certainty for both consumers and suppliers and allow for more effective monitoring and evaluation of compliance and more effective compliance in practice. These would provide greater clarity for consumers and would allow suppliers to meet these obligations in the way most appropriate to their own organisation.

Licensee obligations

Checks in the sales process

5.22. Ofgem has given careful consideration to the suggestion that it introduce a positive confirmation that a consumer wishes to change supplier, before a transfer can take place. It has taken account of the wide range of views expressed in response to this point, but has not yet received sufficient information to enable it to come to a firm conclusion. Ofgem is attracted to the benefits of such an approach in avoiding erroneous transfers and has noted that some suppliers are already implementing such a policy. However, Ofgem remains concerned that this could result in consumer detriment if large numbers of consumers are denied the right to transfer, for example if they cannot be contacted. Ofgem therefore invites respondents to provide further submissions on this point including the cost associated with implementing a positive check in the sales process and the impact on overall transfer figures.

Consumer redress

5.23. Ofgem has taken account of the need to balance widely divergent views on the appropriateness of mandatory compensation. However Ofgem recognises the difficulty in prescribing levels of compensation to circumstances which may

have very different impacts on consumers. Ofgem has noted suppliers comments about the provision of compensation under the AES Code and the commitment to review compensation payments for other circumstances. This review will be considered before Ofgem proposes further regulation. Therefore Ofgem proposes to leave unchanged the wording of paragraph 6 of the licence condition.

Reporting

- 5.24. Ofgem has noted the request by one consumer group for more detailed information about company performance to be provided to consumers. However Ofgem is not convinced that further information would be of real benefit to consumers, rather that there is scope for better presentation of existing information and welcomes attempts by energywatch to do this.

Other issues

- 5.25. Ofgem notes the suggestion that suppliers should be invited to allocate a proportion of their marketing budgets to local advice agencies for the purpose of providing independent confirmation of savings. Ofgem has some concerns that this would be appropriate for inclusion in a revised licence condition, but would welcome views.

6. Proposals for consultation

Condition 48 (12) of the gas suppliers licence and the electricity supply licence

- 6.1. Condition 48 (12) in each of the supply licences provides for the Authority to decide that the marketing licence condition should continue in force, where it “considers that the development of competitionis such as to require the continuation of any part of this condition”.
- 6.2. Condition 48 (12) sets out the process that the Authority may follow, if it wishes to extend the period of time in which the condition applies. The Authority is required to consult with suppliers and energywatch and if it concludes that the condition should be extended for a further period, must issue a public notice.
- 6.3. For the purposes of condition 48 (12) this document should be regarded as a formal consultation on a proposal to extend the licence condition, either in its current form or in an alternative form, which may result as the outcome of this process of review and consultation.

Condition 48

- 6.4. Ofgem proposes that standard licence condition 48 is amended as outlined in the following paragraphs. A summary of the condition with regard to the different marketing channels is shown as **appendix 3**.
- 6.5. The condition will define the activity it is intended to regulate, this will include all sales and marketing activity by licensees and their agents and as such will explicitly include ‘winback’ and ‘save’ activity.
- 6.6. It is not proposed to extend the scope of the licence condition to industrial and commercial consumers, or to make specific provision for vulnerable consumers.
- 6.7. The condition will contain a set of core requirements and prohibitions which will apply to all sales and marketing activity by licensees, regardless of the channel. It will also include requirements and prohibitions which apply to specific channels, for example doorstep or telephone sales.

Doorstep and other face-to-face channels

6.8. For sales and marketing contact which is face-to-face, it will be prohibited to:

- mislead consumers as to the reasons of a supplier's approach, that is it must be clear to consumers that the contact is for sales and marketing;
- mislead consumers as to the fact that they are entering into a contract; that is it must be clear to consumers that they have entered into a contract (if they do so);
- forge a customer's signature or other consent format;
- sell or market to anyone under the age of sixteen;
- continue an approach after a consumer has indicated that they wish it to be terminated; and
- carry out marketing or sales activity outside the hours of 9:00am to 8:00pm.

6.9. In addition to information already prescribed by licence conditions and consumer protection legislation or regulations, the following must be provided to the consumer in writing at the time of the contact:

- Written confirmation of any claims (including price or savings claims and comparisons) that are relied upon during the course of any approach made face-to-face;
- disclosure of the name of the supplier¹ with whom the consumer is being asked to contract (the licensee will be identified in the written contract);
- the identity of the individual sales agent who is making the approach (this might be in the form of a business card or clearly printed on the documentation provided to the consumer);
- details of how to make a complaint to the supplier and contact details for energywatch; and

¹ This could be a trading brand, rather than the actual name of the licensee.

- details of the cancellation period and how to cancel.

6.10. The condition will provide for a standard period of fourteen days, during which a consumer may cancel a contract. This period will begin either from the date of the contract or the date that the consumer receives written details of the cancellation period (if this information is received later than the date of the contract).

Telesales channels including all out-bound and in-bound calls

6.11. For sales and marketing contact which is by telephone, it will be prohibited to:

- mislead consumers as to the reasons of a supplier's approach, that is it must be clear to consumers that the contact is for sales and marketing;
- mislead consumers as to the fact that they are entering into a contract; that is it must be clear to consumers that they have entered into a contract (if they do so);
- falsely record that a consumer has consented to enter into a contract;
- sell or market to anyone under the age of sixteen;
- continue an approach after a consumer has indicated that they wish it to be terminated.
- marketing or sales activity must not be conducted outside the hours of 9:00am to 8:00pm.

6.12. In addition to information already prescribed by licence conditions and consumer protection legislation or regulations, the following must be provided to the consumer in writing not more than five days after a contract has been agreed:

- confirmation of any claims (including price or savings claims or comparisons) that are relied upon during the course of a telephone call with a consumer, where this results in a new contract²;
- the clear disclosure of the name of the supplier with whom the consumer is being asked to contract (the licensee will be identified in the written contract);
- the identity of the individual sales agent who is making the approach (this should be confirmed subsequently in the documentation provided to the consumer);
- details of how to make a complaint to the supplier and contact details for energywatch. Although this can be provided in any written information subsequently sent to a consumer, it should be provided orally on request;
- details of the cancellation period and how to cancel.

6.13. The condition will provide for a standard period of fourteen days, during which a consumer may cancel a contract. This period will begin either from the date of the contract or the date that the consumer receives written details of the cancellation period (if this information is received later than the date of the contract).

Internet, on-line or electronic sales channels

6.14. For sales and marketing contact through this channel, it will be prohibited to:

- mislead consumers as to the nature of the contact (that is it must be clear to consumers that the contact is for sales and marketing);
- mislead consumers as to the fact that they are entering into a contract; that is it must be clear to consumers that they have entered into a contract (if they do so); and
- falsely record that a consumer has consented to enter into a contract.

² This is a narrower requirement than in the case of face-to-face contact since it only applies where a sale is made.

6.15. In addition to information already prescribed by licence conditions and consumer protection legislation or regulations, the following must be provided in writing (e.g., in electronic form sent by e-mail or as a printable download), at the time the contact is made:

- confirmation of any claims (including price or savings claims and comparisons) that are relied upon, where this results in a new contract;
- the clear disclosure of the name of the supplier with whom the consumer is being asked to contract (the licensee will be identified in the contract);
- details of how to make a complaint to the supplier and contact details for energywatch;
- details of the cancellation period and how to cancel; and
- a clear statement that a contract will not be entered into with a person under 16 years old.

6.16. The condition will provide for a standard period of fourteen days, during which a consumer may cancel a contract. This period will begin either from the date of the contract or the date that the consumer receives details of the cancellation period either by e mail or in writing (if this information is received later than the date of the contract).

Direct mail channels

6.17. For sales and marketing contact through direct mail, it will be prohibited to:

- mislead consumers as to the reasons of a supplier's approach (that is it must be clear to consumers that the contact is for sales and marketing); and
- mislead consumers as to the fact that they are entering into a contract (that is it must be clear to consumers that they have entered into a contract, if they do so).

6.18. In addition to information already provided to consumers, the following will be required:

- the clear disclosure of the name of the supplier with whom the consumer is being asked to contract (the licensee will be identified in the written contract);
- details of how to make a complaint to the supplier and contact details for energywatch;
- details of the cancellation period and how to cancel; and
- a clear statement that a contract will not be entered into with a person under 16 years old.

6.19. The condition will provide for a standard period of fourteen days, during which a consumer may cancel a contract. This period will begin either from the date of the contract or the date that the consumer receives written details of the cancellation period (if this information is received later than the date of the contract).

Reporting and audit

6.20. Suppliers will be relieved of the requirement to report their detailed performance on specific parts of the licence condition. Ofgem proposes to replace this with a more general requirement to ensure that companies are complying with their obligations and that they are auditing their own compliance performance. Licence holders will be required, at least annually, to provide board level confirmation that they have audited and can confirm all due diligence has been exercised to ensure compliance with the condition. It is also proposed that the licence condition requires the confirmation to reflect the particular steps the supplier has taken to protect vulnerable consumers.

Contract verification

6.21. The condition may impose a requirement for suppliers to obtain separate verification that a consumer wishes to enter into a contract. This is subject to further information about the impact being provided by suppliers. If not, then the existing audit arrangements contained in paragraph 3 and 4 of the licence condition will stay in force.

Obligations removed from the licence condition

- 6.22. Licensees will no longer have specific obligations with regard to the training and recruitment of their sales agents.

Obligations retained in the licence condition

- 6.23. Paragraph 5, whereby if electricity or gas is not to be supplied to premises before the expiry of 60 days of the date of the supply contract, the licensee shall take all reasonable steps to keep the customer informed, will be retained.
- 6.24. Paragraph 10, relating to advance payments, will be retained.

Appendix 1 Regulatory impact assessment

Introduction

- 1.1 This appendix is Ofgem's regulatory impact assessment of the proposed changes to standard licence condition 48 of the gas and electricity supply licences. It follows a period of review, consultation and discussion.

Objective

- 1.2 The purpose of the consultation is to present for further discussion proposals to amend standard licence condition 48.

Overview of key issues

- 1.3 The introduction of competition into the gas and electricity supply markets has delivered real benefits to consumers. This has largely been due to the impact of direct selling. However concern has been expressed about the way in which this activity has been conducted by suppliers.
- 1.4 Sales and marketing is regulated in the gas and electricity licences by standard licence condition 48. This has been the subject of enforcement action by Ofgem against some suppliers, but it has been suggested that it provides an inadequate level of protection for consumers and that it is overly interventionist. The licence condition expires in April 2004 but can be extended on review.

Options

- 1.5 Ofgem has considered a number of options for addressing the issue of misselling and these can be categorised into three broad approaches. The current licence condition cannot be renewed without a formal proposal to extend, which must be published for consultation. The first option would be to allow the licence condition to lapse and rely on non-sector specific consumer protection legislation and industry self-regulation. This option is available only if the Authority were to decide that the development of competition was such that the licence condition was no longer required.

- 1.6 The second option would be to take no action to change the existing arrangements and maintain the status quo. The licence condition would continue to have effect, Ofgem would maintain its present approach to enforcement and any proposal to extend the licence condition beyond April 2004 would be the subject of consultation.
- 1.7 The third option would be to impose modified obligations upon suppliers by making changes to the wording of the licence condition, in accordance with the proposals contained in this consultation document.

Risks and unintended consequences

- 1.8 There are risks associated with each of the options identified. These can be categorised as follows:
- risk of consumer detriment, eg inconvenience and distress;
 - risk of unnecessary costs being borne by suppliers; and
 - the risk that competition will be adversely affected by the impact on either suppliers or consumers.

Competition

- 1.9 The review of SLC 48 recognises that the way in which sales and marketing are regulated and undertaken will have a direct impact upon competition, by influencing both supplier and consumer behaviour. If consumer confidence in the market is undermined for example through a poor experience or as a result of negative media coverage, then it is possible that consumers will be reluctant to participate in the competitive market and may elect to stay with their existing supplier. Equally if regulation is too onerous then suppliers may feel constrained from actively marketing gas and electricity, which would have a significant impact on levels of switching. Such regulation could also have the effect of raising a barrier to entry to the market.

Costs and benefits

- 1.10 Ofgem is aware that it is in the interests of all stakeholders to ensure that excessive costs do not result from the regulation of sales and marketing.

1.11 In considering the costs and benefits of the proposal to amend and extend the term of standard licence condition 48 Ofgem has identified different types of costs and benefits which could be attributable to consumers, suppliers and other organisations including Ofgem and energywatch.

1.12 Consumers

Costs:

- the potential for additional compliance costs incurred by suppliers to be reflected in increased price; and
- the introduction of barriers to entry would reduce the positive impacts of competition.

Benefits:

- the avoidance of the inconvenience (and sometimes distress) caused by inappropriate sales activity;
- the avoidance of the cost to consumers of resolving erroneous transfers;
- individual consumers who switch supplier are usually motivated by a lower price. In June Ofgem reported that³ customers of both gas and electricity incumbents switching to a dual fuel deal, could save up to £101 per year depending on region and payment type. If the improved regulation of direct selling increases the propensity to switch then those benefits will be experienced by more consumers. Ofgem research in 2002 suggested that 4% of consumers had chosen not to switch supplier as a result of reports of misselling in the energy market. This is the equivalent of more than 1 million households, and the potential detriment arising from misselling is therefore significant; and
- a competitive supply market in which there is unconstrained switching behaviour leads to a downward pressure on all prices. If the improved regulation of direct selling increases the propensity to switch then the

³ Domestic Gas and Electricity Supply Competition, Recent developments, June 2003 49/03
Making markets work for consumers: The regulation of gas and electricity sales and marketing: proposals for the amendment of standard licence condition 48
Office of Gas and Electricity Markets 33 December 2003

additional benefits will be gained by all consumers, regardless of whether they switch.

1.13 Suppliers

Costs:

- it is not expected that the proposed changes to the licence condition would increase the costs associated with maintaining direct sale channels, for example in the recruitment and training of staff. Although such costs would continue to be incurred, for example through the AES Code, the relaxation of formal regulation in this respect could allow suppliers to reduce costs, for example by taking an innovative approach to managing sales agent behaviour;
- there will be additional costs associated with the proposed requirement to provide written evidence of price or other claims relied upon during a sale. However these are not expected to be significantly higher as suppliers are already required to provide information to consumers under other legislation or licence conditions. The requirement to provide copies of contracts and other information is not an additional requirement imposed by this proposal;
- there may be additional costs associated with the compliance audit processes necessary for board-level sign off that a supplier has exercised due diligence in complying with the licence. However, if management focus on compliance with the existing licence condition is adequate, it is expected that suppliers are already incurring these costs and they are not expected to rise significantly. These costs would not apply if the licence condition were allowed to lapse;
- Ofgem is seeking further information from suppliers on the costs of implementing contract verification systems and the potential impact on the number of customers who subsequently do not proceed with a transfer. However these will need to be offset against costs already incurred in fulfilling a licence requirement to use reasonable endeavours to contact consumers after a contract has been agreed, but would not apply if the licence condition was allowed to lapse.

Benefits:

- the costs of handling consumer complaints and erroneous transfers (estimated by one supplier to be up to £200 each) will be reduced as a result of the proposed improvements. Suppliers would also see a reduction in unnecessary acquisition costs. Ofgem's research suggested that 36% of cancellations were due to the fact that consumers did not want to change their supplier, not because they had changed their mind. Data provided by suppliers suggests 0.81% of all customer transfers to a new supplier in the domestic gas and electricity markets from September 02 – August 03 were made incorrectly as a result of misselling. This represents 57,243 customers and certainly understates the extent of misselling as it will not include those cases where misselling has been identified in advance of the customer's proposed switch to a new supplier and the transfer has been prevented.
- suppliers will benefit from improved consumer confidence and their increased willingness to engage in the market, which may also offer longer term opportunities for the cross selling of other domestic or utility services.

Other organisations:

- the proposed changes will not require additional compliance resources to be employed by Ofgem;
- a reduction in complaints would provide a direct benefit to energywatch and other consumer organisations.

1.14 Environment

It is not expected these proposals will have an environmental impact.

1.15 Security of supply

It is not expected that these proposals will have an impact on security of supply.

Distributional effects

1.16 Social impacts including on priority groups

Direct sales have opened access to the market and ensured that the substantial benefits of competition are experienced by a wide range of consumers, including those on lower incomes. However, it also seems likely that some vulnerable consumers may be more susceptible to misselling.

Conclusion

- 1.17 Ofgem continue to believe that misselling has not yet been fully addressed by the industry, although it is encouraged by industry initiatives to do so.
- 1.18 Ofgem has considered the responses from its initial consultation document and concluded that it is appropriate to propose an amendment to the existing licence condition. In making this proposal Ofgem has balanced the potential costs and benefits from these proposals and concluded that they will have a positive impact upon competition, benefiting both suppliers and consumers.
- 1.19 Ofgem is seeking views on the proposals contained in chapter 6 of the consultation document.

Appendix 2

Existing	SIC 48	DISTANCE SELLING REGULATIONS	CANCLATION OF CONTRACTS CONCLUDED AWAY FROM BUSINESS PREMISES	Trade Descriptions Act	AES CoP	Control of Misleading Advertising Regulations 1998	Unfair Terms in Consumer Contracts Regulations 1999	OTHER
Ref	Recruitment of sales agents. Licensee shall set up appropriate procedures. Training of sales agents. Agents should be trained so they have an understanding of UK energy market, licensee's prices and contract details. Take all reasonable steps to ensure that customer may readily identify licensee.	Supplier must make his commercial purpose clear when providing information. (7.3)		Section 14. Offence to knowingly or recklessly make a false or misleading statement as to services. Must be at a reasonable time but in any event between 9am and 8pm. All recruitment, training and sales activity carried out by a third party must comply with code and other legislative obligations.	Covers: experience, behaviour, appearance, security, accreditation, NI number, references. Covers: market knowledge, equal opps., probationary period, monitoring of training, assessment of trainees Must identify themselves, supplier and purpose. ID card.	The regulations prohibit misleading advertising - any person deceived or likely to be deceived and by reason of the advertisement affect their economic behaviour, also specifies how comparative advertisements operate.	A seller or supplier shall ensure that any written term of a contract is not unfair and expressed in plain language.	Consumer Protection Act 1987 Section 20, misleading prices. Business Names Act 1995 Section 4 - requirement to display business name and address on business stationery and documentation.
(2)(a)								
(2)(b)								
(2)(c)(i)								
(2)(c)(ii)	Understand that customer has entered into contract							
(2)(c)(iii)	Contract is made at reasonable time							
(2)(d)	Ensure agents and sub-contractors comply with (2)(a)(b)(c) Not less than 24 hrs and not more than 14 days carry out audit to ensure customer understands contract, is content with this and the way in which sale was conducted							
4 (a) (i)-(ii)		Reg 8 provides that info should be given to prior to contract to in good time afterward. This includes right to cancel information. Where cancellation information given on time, cancellation period 7 working days from day after date of information given within 3 months cancellation period begins when information given.	7 day cancellation period from day after date of making of the contract, Reg. 4.					
(4)(b)	Cancel contract if in course of telephone contact or within a reasonable period of sending letter, customer is not content				No specific guidance but must leave cancellation rights etc			
(4)(c)	If responses of customers suggest weakness in methods, remedy matters				Members must have procedures for capturing sales complaints. Records should be kept to determine root causes and determine poor agent performance.			
6	Pay compensation where customers adversely affected by failure to perform obligations				See specific compensation proposal Part 11.			
(7)(a)(b)(c)	Keep record of compliance with 48. Audits, cancellation and compensation.				Members must maintain records, date, time of contact to assist if complaints arise			
(8)(a)(b)	Publish report about (7)				Members should state in their marketing literature that they have adopted and will comply with the code of practice.			

Proposed													
Ref	S.L.C 48	DISTANCE-SELLING REGULATIONS Reg 7(2) provides that due regard should be given to the principles governing protection of those who are unable to give consent	CANCELLATION OF CONTRACTS CONCLUDED AWAY FROM BUSINESS PREMISES	Trade Descriptions Act	AES CrP	Control of Misleading Advertising Regulations 1998	Unfair Terms in Consumer Contracts Regulations 1999	OTHER					
	Specific provision for vulnerable consumers				Training should provide guidance on the recognition and treatment of vulnerable consumers. Agent must not exploit a person's inexperience, vulnerability, sheltered housing; agent must contact warden.								
		Covers distance selling that does not involve face-to-face contact (some contracts such as auctions are exempt).	Covers contracts concluded away from business premises when the sales person has made an unsolicited visit		Covers face-to-face contact								
	Extend reach of 48 to cover other media channels	Regulations say that before contract is concluded, customer must be given info on prices, payment details, cooling off period, contract duration. Also, once contract is concluded supplier must provide these details in a durable form, available and accessible to consumers. Failure to give cancellation info extends cancellation period by 3 mths.	Contract is not enforceable unless consumer has been given cancellation rights in writing		Sales support material must comply with the British Code of Advertising and must be clear, honest and not give false indications etc. Agent must leave a contract clearly marked as such, tariffs, contact details, explanation of cooling off period, cancellation procedure, agent's name and ID number								
	Minimum requirements introduced for info given to customer	7 working day cancellation period from day after date of contract for a service.	7 day cancellation period from day after date contract is made.		Proven longer attracts £250. Other complaints, members apply individual company compensation policy. Compensation data to be reviewed after six months of operation and an industry-wide approach to application and level of compensation to be agreed.								
	Introduction of mandatory 14 day cancellation period												
	Specific compensation payments												
	Prohibits selling to anyone under the age of sixteen	Reg 7(2) due regard should be given to the principles governing the protection of those who are unable to give consent such as minors.											
Penalty	Undertakings, enforcement order, financial penalty.	Enforcement order under the Enterprise Act	Enforcement order under the Enterprise Act	Enforcement order under the Enterprise Act	Sanctions - not specified what these would be	Enforcement order under the Enterprise Act	Enforcement order under the Enterprise Act	Sale of goods Act 1979 minors must pay a reasonable price for necessities Enforcement order under the Enterprise Act					

Appendix 3

SUMMARY OF SLC 48 PROPOSALS

	Doorstep sales & other face to face sales	Telesales	Internet, on-line and other electronic sales	Direct mailing
Prohibition	Misleading consumers as to reasons of a supplier's approach	Misleading consumers as to reasons of a supplier's approach	Misleading consumers as to reasons of a supplier's approach	Misleading consumers as to reasons of a supplier's approach
	Misleading consumers as to the fact entering into a contract	Misleading consumers as to the fact entering into a contract	Misleading consumers as to the fact entering into a contract	Misleading consumers as to the fact entering into a contract
	Forging signatures	Falsely recording the consumer has entered into a contract	Falsely recording the consumer has entered into a contract	
Information	Selling or marketing to an under 16 year old	Selling or marketing to an under 16 year old		
	Continuing an approach after a consumer has indicated that they wish to be terminated	Continuing an approach after a consumer has indicated that they wish to be terminated		
	Marketing or sales activity outside of 9am to 8pm	Marketing or sales activity outside of 9am to 8pm		
	Confirmation of claims relied upon	Confirmation of claims, where this results in new contract	Confirmation of claims, where this results in a new contract	
	The disclosure name of supplier (licensee will be identified in written contract)	The disclosure name of the supplier (licensee will be identified in written contract)	The disclosure name of supplier (licensee will be identified in the written contract)	The disclosure name of supplier (the licensee will be identified in the written contract)
	Identity of sales agent in business card or documentation	Identity sales agent & confirmed in subsequent documentation		
	How to make a complaint and energywatch details	How to make a complaint and energywatch details	How to make a complaint and energywatch details	How to make a complaint and energywatch details
	Cancellation rights	Cancellation rights	Cancellation rights	Cancellation rights
			Required statement cannot make contract with under 16	Required statement cannot make contract with under 16
				Required statement cannot make contract with under 16