

Age Concern's response to Making markets work for consumers. The regulation of gas and electricity sales and marketing

1. Introduction

- 1.1 Age Concern England (the National Council on Ageing) brings together Age Concern organisations working at a local level and 100 national bodies, including charities, professional bodies and representational groups with an interest in older people and ageing issues. Through our national information line, which receives 225,000 telephone and postal enquiries a year, and the information services offered by local Age Concern organisations, we are in day to day contact with older people and their concerns.
- 1.2 We particularly appreciated being asked to attend a recent meeting with Ofgem specifically to discuss the proposals in this consultation. We have had many complaints from older people or the children of older people about problems they have experienced with the marketing activities of energy companies. In addition, local Age Concern organisations have also complained to us. They advise that it takes their staff considerable time to sort out the problems that their clients bring to them when they have been transferred to another supplier either without their knowledge or where they did not understand they had agreed to switch.
- 1.3 Whilst we welcome the more stringent code of practice implemented by energy companies earlier this year it is not currently proven that this has had a significant effect on poor marketing practices. Energywatch statistics for 2002/03 showed that complaints on direct selling were nearly double those of the previous year at 12,960. Given that only a very small proportion of those who have been affected by poor

marketing will actually complain to Energywatch, we agree with Ofgem that the marketing condition should be retained. **(7.3)**

- 1.4 In addition we must add that although Ofgem surveys consistently claim that doorstep selling is vital in terms of reaching those who are in particular need to switch to cheaper providers and which is welcomed by consumers, their findings are in direct contradiction of other surveys on doorstep selling. We were therefore pleased that the document at least acknowledges this in paragraph 5.4, by reporting the findings of the surveys conducted by the Trading Standards Institute and energywatch and the Office of Fair Trading investigation on doorstep selling following the super complaint lodged by Citizens Advice. All of these found the majority of consumers did not appreciate doorstep salespeople which we think is more reflective of the real situation.
- 1.5 Age Concern considers neither Ofgem nor the energy suppliers have sufficiently appreciated the negative effect energy mis-selling has had on the energy industry as a whole and competition in general. We draw Ofgem's attention to a recent survey conducted by Oftel with regard to the use of telecoms by ethnic minorities. This found:- 'there was a strong association of telecoms with other utilities and a multitude of personal or related 'bad experiences' with gas and electricity – mostly inadvertent switching resulting from unscrupulous door-to-door sales techniques. As a result there was a reluctance to switch telecoms supplier'.¹
- 1.6 We are sympathetic to the view that perhaps the current marketing licence condition is too prescriptive with regard to inputs and gives insufficient guidance on outputs which we agree should be the most important features in the licence conditions. **(6.8)**
- 1.7 We are unclear what is meant by paragraph **7.9** of the document. It seems to imply that because energy companies may also be selling other products that it may be confusing for consumers to have controls only on their sale of energy, and these should therefore be withdrawn. We disagree. We are now getting complaints of aggressive and misleading selling by energy companies with regard to other products they provide such as service contracts and insurance. We would hope that by enforcing proper sales techniques for energy selling, an energy company will be less likely to mis-sell other products.

2.0 Scope

- 2.1 We are particularly concerned when it seems apparent that some older people who are more vulnerable than others, for example those living on

¹ Telecoms usage related to ethnicity. Oftel. March 2003.

their own, those with short term memory loss and those in the initial stages of alzheimers disease, have been taken advantage of by unscrupulous salespeople.

- 2.2 However, while we are sympathetic to the suggestion that the licence should give greater consideration to vulnerable customers since many of them will be older people, Age Concern considers that energy companies should ensure that the behaviour of all their marketing employees is of a professional level for all customers. This should automatically ensure that, in cases where it is evident the customer is vulnerable, they are subject to a specific sales pitch that takes account of this vulnerability. It is unacceptable that, as has clearly happened in the past, the salesperson takes advantage of their vulnerability.
- 2.3 We think that it would be difficult to monitor any condition that was specific to a vulnerable consumer, particularly since they are the least likely to make a complaint. We therefore do not believe there should be a specific provision in the licence for vulnerable people. **(7.6)** However, we think it would be appropriate if the licence did include specific prohibitions and requirements as outlined in paragraph **7.20** and **7.21** of the document. In particular Age Concern recommends there is a reference in the licence that sales people should have particular regard when dealing with vulnerable consumers and that all sales people should be required to carry identification. This should include a photograph and the name of the salesperson, the contact details of their employer and be in sufficiently large print for older people (12 point minimum and preferably 14 point) to be able to read. **(7.23)**

3.0 Information

- 3.1 Age Concern is particularly concerned that any licence condition does not reduce the legal cancellation rights of consumers. However, we concede that adhering to legal ‘cooling off periods’ is complex because of the variation in legal consumer rights depending on the way the contract was made. For example there is a seven day cooling off period if the contract is made as a result of an unsolicited home visit but can be fourteen days or more if the contract is made through ‘distance selling arrangements’.
- 3.2 Age Concern has always thought the legal protection given to consumers as a result of the different selling methods is difficult to enforce, primarily because consumers do not know their legal rights. We have argued to Government that there should be greater consistency regarding the right to cancel. There is a great need to improve on this situation so that consumers can pursue their complaints more effectively. We are certain that the ability to give consumers information that is relatively simple to understand would be helpful. At the moment, this is not possible with regard to consumer rights relating

to sales in the home because of the differences in cooling off periods. It would be easier to inform consumers of their rights if cooling off periods were the same. We do not think a long cancellation period will be unduly onerous on industry since, in our experience, consumers who want to change their mind, particularly if there has been an incidence of high pressure selling, will want to cancel within one or two days of the sale.

- 3.3 In addition, we consider that codes of practice should always give more than legal consumer rights. Hence whilst 14 days is more generous in terms of legal rights relating to solicited or unsolicited home sales, it probably ensures that consumer rights under the Consumer Protection (Distance Selling) Regulations 2000 would be adhered to. Age Concern is hoping that the Office of Fair Trading report following their investigation into doorstep selling will recommend a consistent cooling off period for all such sales. We therefore support Ofgem's proposal to introduce a standard 14 day cancellation period. **(7.15)**
- 3.4 With regard to the information that should be provided to customers, Age Concern considers that they should be provided with a copy of the contract they have signed which should have the cancellation rights clearly outlined in large bold print alongside the signature area. **(7.12)**

4.0 Transfer verification

- 4.1 We note with interest the question raised in the document with regard to positive verification of transfer. **(7.28)** Ofgem may be interested to know that with regard to the telecoms Carrier Pre Selection service (CPS), consumers are required to sign and return a contract to the CPS provider they are changing to, and sign and return a separate confirmation slip directly to BT (the losing supplier) to confirm the changes. If the confirmation slip is not returned, the CPS service will not be set up.
- 4.2 Age Concern recommends that Ofgem gives serious consideration to requiring positive confirmation that a consumer wishes to transfer or, alternatively that both the gaining and losing supplier sends a letter to the customer confirming the change of supplier. This should radically reduce the numbers of erroneous transfers that occur. Whilst we accept that there is a cost to this, apart from savings to be made with regard to dealing with complaints, we would also point out that it is not in the interest of the gaining supplier to get a reluctant customer. In such cases they are almost bound to lose them again in the shortest time period. With regard to paragraph 3.3 above, it is interesting to note that there is an automatic 14 day cooling off period from the time the consumer sends the confirmation slip to BT.

5.0 Redress

- 5.1 Most consumers accept that sometimes things go wrong and are content on such occasions to contact the company and have the problem resolved. We consider that the majority of complaints arise due to the company mishandling the problem at the initial consumer contact stage. However, Age Concern considers that mis-selling is more serious than just something going wrong. The latter usually arises due to a mistake whereas with mis-selling there is intent to mislead. We therefore think that consumers should be compensated when they have been subjected to mis-selling. (7.33)
- 5.2 Consumers almost always would prefer to have a problem resolved than receive a compensation payment. We therefore do not think industry's concerns that automatic compensation payments would encourage vast numbers of false or vexatious complaints are justified. As the document says, consumers affected by mis-selling are often extremely inconvenienced and suffer significant distress and we think they should be compensated for this. In line with the compensation payments under the Guaranteed Standards for electricity distributors we recommend that the payment should be £50. However, consideration should be given to higher levels of compensation if the mis-selling involves something particularly serious such as forging signatures .

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