

Energy sales and marketing

The National Consumer Council's response to Ofgem's consultation *Making markets work for consumers. The regulation of gas and electricity sales and marketing: proposals for the amendment of standard licence condition 48*

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About the National Consumer Council

The National Consumer Council is an independent consumer expert, championing the consumer interest to bring about change for the benefit of all consumers. We do this by working with people and organisations that can make change happen – governments, regulators, businesses and people and organisations who speak on behalf of consumers.

We are independent of government and all other interests.

We conduct rigorous research and policy analysis and draw on the experiences of consumers and other consumer organisations. We publish. We campaign. We help people to come together to advance the consumer cause.

Issues of disadvantage are at the heart of our work, as often the most vulnerable people find it hardest to be heard.

We have linked organisations in England, Scotland and Wales, and a close relationship with colleagues in Northern Ireland. And we work with consumer organisations in Europe and worldwide to influence European and global governments and institutions.

We are a non-departmental body, limited by guarantee, and funded mostly by the Department of Trade and Industry.

Please check our website at www.ncc.org.uk and E-politix site at www.opolitix.com/forum/ncc for our latest news.

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Introduction

The National Consumer Council welcomes the opportunity to comment on Ofgem's specific proposals for amending licence condition 48. Amending the licence condition at this stage provides a chance to give adequate protection to consumers. Given the persistent complaints about erroneous transfers and mis-selling of energy we do not think that simply extending the life of this licence condition in its current form will provide that protection. In our previous submission to Ofgem's stakeholder consultation on the reform of licence condition 48 we made a number of recommendations to improve consumer protection and we are pleased that some of those recommendations have been adopted.

Below, we have set out a few additional recommendations for the licence condition which we believe will help to combat energy mis-selling. These include: requiring new suppliers to post contracts to consumers for them to verify that they wish to enter into that contract; and requiring up-front basic information from sales people at the beginning of their sales pitch - for example, the name of the supplier that they represent and consumer complaints information.

Scope of licence condition

We agree with the proposal to ensure that the licence condition should apply to all sales and marketing channels. We also think that it is important that save and winback activity from incumbent suppliers is explicitly covered.

Vulnerable consumers

We agree that there should not be separate provision for vulnerable consumers. We believe that all sales and marketing activity should be conducted at a high standard for all consumers.

Contract verification

Consumers should not be subject to undue pressure to complete a contract. To tackle this we propose that to confirm a sale the new supplier should be required to post two copies of the contract to the consumer, one for them to sign in their own time in absence of pressure and the other to keep for their own records. This is similar to car insurance contracts, which have to be signed and returned to the insurer. This recommendation should apply to all sales and marketing channels. This would side step the need for third party verification of switching contracts, would allow details to be checked and provide households with the opportunity to agree about whether switching supplier was right for them. This verification process takes place in other industries and is proven to provide checks on contracts, so we believe that it is not only a legitimate expense, but also a necessary one. We do not believe that any delay in switching resulting from this measure would be detrimental to the consumer.

The sales process

- Purpose of approach: the proposed requirement on sales people to be clear that they are selling or marketing a product is welcome. This will allow the consumer to decide if they wish to continue being marketed to.
- Contract clarification: we think that the proposal to prevent a sales person from misleading a consumer into entering into a contract is particularly important for telephone sales.
- Sales and marketing hours: we consider the proposed 9am to 8pm marketing hours for face-to-face and telephone sales to be reasonable.
- Terminating a sales approach: we welcome the proposal to prevent a salesperson from continuing with a sales pitch once a consumer has indicated that they wish the approach to be terminated.

- Age of consent: we welcome proposal that sales people cannot sell or market energy to people under sixteen years of age. Although we consider it acceptable to market to other members of a household, such as the bill payer's partner, we think that it is important that the sales person should only sell a contract to the bill payer.

Consumer Information

- Written price information: we welcome the proposal for written confirmation of any price comparisons and cost saving claims that the sales agent makes in a sales pitch. We recommend that consumers should be given a quote representing an industry standard medium user's consumption for both the selling and incumbent supplier, broken down by payment method. It is vital that the sales agent should make it clear to the consumer that the quotation is not an actual representation of what their bill would amount to.
- Identity of sales person: we welcome the proposed requirement that each sales person conducting sales and marketing activity should be required to identify himself or herself by providing the consumer with this information in a written form (for example, with a business card). We recommend that they do this at the beginning of a face-to-face sales pitch, rather than when the contract is being completed. Sales people using the telephone should be required to identify themselves orally and in addition to the written identification given if a contract is agreed and sent. This is especially important for consumers who do not complete a contract, but who may need to make a complaint. This is not likely to take much time or incur extra costs for the supplier.
- Name of the supplier: We welcome the proposal to require sales people to identify the name of the supplier that they represent. However, we recommend

that this should happen at the beginning of the sales process so that the consumer is always clear about which supplier they are dealing with. This is important for all consumers, particularly those who do not complete a contract, but who may need to make a complaint.

- **Complaints contacts:** We welcome proposals to require sales people to provide the consumer with information on where to complain to the supplier and to energywatch. We recommend that they should provide this information at the beginning of a sales pitch. However, it is important that telephone sales people provide this information orally as a matter of course in addition to sending it out with a contract. This is important for consumers who do not complete a contract, but who may need to make a complaint. This is not likely to take much time or incur extra costs for the supplier.
- **Cancellation period:** We welcome the proposal for the introduction of a 14-day cancellation period and the requirement on sales people to provide information about it. We believe that this is particularly important for consumer confidence. We recommend that cancellation information should be supplied on the contract next to the customers' signature box.
- **Tariff packages and payment methods:** We were disappointed to see that providing information on the range of tariffs and payment methods has not been included in the proposals for the licence condition. We maintain that this is an essential information requirement for consumers and should be provided as part of the sales process. This information is an important tool in tackling fuel poverty and disconnections and consumers should be made routinely aware of it.
- **Bills:** When a contract is completed the sales person should tell the consumer when to expect their first

bill from their new supplier and should provide contact details (preferably a telephone number) of the new suppliers billing department. This information can help prevent consumers falling into debt and provides them with a point of contact should the new supplier make a mistake and forget to send out a bill.

- **Switching rights:** some pre-payment and indebted consumers may be blocked from switching supplier and so they might be prevented from benefiting from cheaper fuel bills. New rules mean that consumers with fuel debts below £100 can now switch supplier, but they may not be aware of this. We recommend that consumers are routinely provided with information about their rights to switch supplier as a part of the sales process.
- **Energy efficiency information:** we would like the licence condition to highlight the opportunity that cross selling presents for introducing consumers to energy efficiency schemes which could assist in tackling fuel poverty and help suppliers meet their energy efficiency targets.
- **Compensation:** we were very disappointed to see that there are no proposals for compensation for consumers who have suffered because of bad sales and marketing practices. We recommend that suppliers who make erroneous transfers and cause consumers unnecessary problems should be required to compensate them if the problem is not resolved to the customers' satisfaction within 28 days.

Auditing and reporting requirements

We think that the proposal to relieve suppliers of the requirement to report their detailed performance on specific parts of the licence condition in favour of more general requirements and self-audit is completely unacceptable. The monitoring of compliance with this licence condition is essential to identifying which

suppliers are providing consumers with a high quality service and which suppliers are not. It is important that consumers have access to reliable and comparable information about the performance of different suppliers. Therefore we recommend that the licence condition require suppliers to provide the following data on a quarterly basis to Ofgem and energywatch, in addition to publishing it along-side their price comparison information on their website and in written form:

- Proportion of customers and number of complaints about mis-selling by payment method, and social group.
- Proportion of customers and number of account switches by payment method and social group.
- Proportion and number of account switches where consumers saved on their bill, by payment method and social group.
- Amount of money, proportion of customers and number of times compensation had to be paid to consumers to correspond with requirements in the revised licence condition (if applicable).

We would like Ofgem and energywatch to publish this information broken down by supplier so that consumers can see a ranking of suppliers' performance. This would help consumers make informed decisions and encourage suppliers to improve their performance.

Finally, we recommend that Ofgem audit supplier's telephone sales scripts using spot checks to monitor compliance with the licence condition and report on the findings in 18 months time.

Conclusion

We believe that the recommendations that we have outlined in this paper are essential tools in ensuring that consumers are equipped to make informed choices about

their energy supplier, enabling them to benefit from competition.