



Joanne Taylor
OFGEM
9 Millbank
London
SW1P 3GE

1st October 2004

Dear Joanne

Deemed contract objections

Thank you for your letter of 3rd September seeking views on this complex issue.

We strongly supported the changes in the gas licence and MRA to allow objections as agreed by contract. Adopting the same principle would suggest that objections are not allowed in deemed contracts, as there has been no agreement. However, whilst this is in the individual customer's interest, the adverse consequences would be felt by the majority of customers and therefore careful analysis is necessary.

We consider five scenarios:

Diligent customer moves into a premise

- ◆ The customer, if they have not already agreed an express contract, will start on a deemed contract and either contact their supplier to agree terms or change to a preferred supplier. If the customer changes supplier, the loss registration message should come through before 28 days have elapsed after a first bill. If there is an early bill, the customer will pay it.
- ◆ *In both cases, the supplier will not be able to object. There is therefore no advantage to the majority of customers if suppliers are unable to object on deemed contracts.*

'Poor payer' or 'busy customer' moves into a premise

- ◆ In this scenario, it is more likely that the customer doesn't change of supplier until after a bill and, also, doesn't pay the bill promptly. Objection reduces suppliers' credit management costs and bad debt risk. Without the ability to object it is not clear what market solution will evolve, but two possibilities – deenergisation or isolation of premises and a premium in contract rates will affect all customers.



- ◆ *There could be significant disadvantage to the majority of customers if suppliers cannot object on deemed contracts, whilst the legitimate advantage to those who are affected would be a loss of ability to negotiate deferred payment.*

Fraudulent customer – changes name

- ◆ The scenario is rare, but a source of some frustration that a customer “can get away with it.” Suppliers, and hence customers, lose from the additional credit management and bad debt costs and greater credit vetting requirements.

Customer terminates contract due to supplier non-performance

- ◆ An example would be poor billing leading to a disputed debt, where the customer pays the undisputed amount. As the market matures, performance measures, and the consequences of not meeting them will be better defined. Allowing suppliers to object on deemed contracts in this situation shouldn’t be necessary, nor would it provide a general benefit to customers, other than some simplicity in contracts.

Contract ends and customer request objection

- ◆ Clearly suppliers shouldn’t be able to object against customer wishes if the contract has expired naturally – the supplier should have foreseen the situation in preparing the contract terms.
- ◆ However, some suppliers do have contracts of this type and there could be a customer benefit in allowing Customer Requested Objections. Conversely, CROs make acquisition harder and if the customer is busy there is a risk that rather than use the CRO as an opportunity to negotiate a better deal, the customer ends up on deemed contract rates.
- ◆ *CROs should not be allowed on deemed contracts.*

In summary,

There are significant benefits in allowing objections for debt on deemed on contracts when a customer moves into a premise:

- ◆ *less pressure to deenergise or isolate premises*
- ◆ *higher debt collection costs, borne by the majority of customers*
- ◆ *ability to tackle fraudulent customers*



There is little risk of inconvenience to a diligent customer.

We conclude that the benefits support Option 2 “objections in defined circumstances.”

What should the defined circumstances be?

- ◆ As discussed above the regulation should aim to capture scenarios 2 and 3, but not scenarios 1, 4 or 5.
- ◆ This may be achieved by amending the “standard” debt-objection rule of “demanded debt over 28 days old” to specify that the trigger is new occupancy, or alternatively the rule could be, say, “unpaid demanded debt in a deemed contract over 42 days old.” The latter formulation would catch some customers who had terminated their contract without paying their debt, but only those who had not promptly sought another supplier, so perhaps is acceptable.

Recommendation

Ofgem should seek amendment to the MRA and the Gas Licence to allow debt-objections on deemed business contracts in defined circumstances. E.ON would be happy to propose such a change to the MRA.

Yours sincerely

Graham Kirby
Retail Regulation Manager