

Working Groups: Headline report

Minutes of these meetings will be available on the Ofgem website. This note aims to update Steering Group members of the progress so far.

Vulnerable Customers

The Vulnerable Customers and Codes Working Group has now started to discuss the detail of individual obligations. For its second meeting it discussed the debt and disconnection obligations (SLCs 35, 36 and 37A Gas). Generally on the specific obligations there was broad acceptance of the need to retain outcome specific obligations (e.g. fitting PPM's in preference to disconnection, avoiding disconnection with vulnerable customers, together with taking into account the customer's ability to pay) However, there were also arguments for removing obligations covering specific steps in the process (e.g. distinguishing between can't pay and won't pay, and detecting failures by customers to maintain repayment arrangements). There was also the view that certain more detailed matters, e.g. maximum repayment levels and recalibration of PPMs, were best placed in the code of practice or in guidance rather than in the licence to allow flexibility. On the question of whether the restrictions on disconnecting vulnerable customers should be tightened up, as requested by some consumer groups, it was noted that there was a benefit in giving the industry the incentive to go beyond the licence requirements as with the ERA safety net, without such voluntary action then becoming a formal requirement. The question of a ban on disconnection had been considered by Parliament during the Energy Bill and not adopted.

On the general structure of the code regime Ofgem said that it is considering the option of an Ofgem agreed standard code covering the key requirements. Suppliers could incorporate this into their codes, but they would still have the option (or incentive) to include additional features beyond the minimum which would fall outside the licence regime. Ofgem said that it was also making comparisons with other regulators' code regimes, and would be providing a report on this to the working group

Duty to supply

First meeting on 10 November. The group agreed their ToR, but noted that if there were significant developments in self-governance or general consumer law provisions dealing with marketing by the time that the Group is due to report, then the implications for the marketing conditions (SLC 48) should be considered by the group.

The main focus of the discussion was SLCs 32, 43 and 45. The broad view was that in a competitive market; an obligation to offer terms was unnecessary – customers would always be able to find a supplier willing to supply for an economic price; the obligation to publish prices was unnecessary and restricted innovation; the obligation to offer range of payment methods was a significant barrier to entry and protection for customers in respect of security deposits may be dealt with through general consumer regulations (although this has yet to be confirmed).

The group considered that there may be an issue for some vulnerable customer groups were the obligation to offer a range of payment methods to be removed, but that should be dealt with through the Vulnerable Customer Working Group.

Ofgem agreed to prepare an impact assessment template for the options discussed for the next meeting (8 December 2005)

Industry Codes

The group has met twice. The focus of the discussion has been the obligations to sign and comply with Codes – in particular the BSC and MRA. The broad view is that there is a requirement for a licence obligation to become a party to a code where there is the possibility that a market participant could otherwise avoid the disciplines of market operation.

There is a range of views on the obligation to 'comply'. Some group members consider that this creates an unnecessary risk of Ofgem taking direct enforcement action where a supplier fails to comply with any provision of the code or agreement. They argue that 'comply' should be re-specified such that Ofgem would only be able to take enforcement action where the self-governed corrective arrangements specified within the code/agreement have been exhausted. This may require a review of the escalation provisions for dealing with breach within codes and agreements as well as a modification to the licence condition (or alternatively, primary legislation to enable Ofgem's enforcement power to be triggered by at the request of specified code panels). Others would wish to go further and remove Ofgem entirely from the role of enforcing codes and agreements other than for hearing appeals. Provision would need to be made where Ofgem had a suspicion of market failure or direct customer detriment that was not automatically picked up by the self-governance mechanisms and would require investigation.

For the next meeting (19th January), the group will discuss some model solutions.

Metering

First meeting 15 November 2005. The Group agreed their ToR with the proviso that it would consider whether it was appropriate to consider licence conditions dealing with theft of energy if the ENA/ERA project on this topic failed to make clear recommendations. It was agreed that a presentation on the progress this project had made would be given at the next meeting (15 December).

The Group considered the obligation in SLC 17 to read and inspect meters. The rationale for the obligation may be associated with supporting energy settlement, customer billing (in the sense that it provides for a backstop meter reading), safety (part of the requirement for the inspection relates to the condition of the meter) and theft (evidence of tampering). Each of these issues was considered separately, and Ofgem agreed to prepare an analysis based on gas and electricity of the implications of changing or removing the two year limit.

A view was put forward by some suppliers that a wider consideration of the responsibilities for metering services is needed and that the current framework is flawed. According to this view, suppliers should not have responsibilities in relation to meters; – meters should be provided and maintained by distribution businesses. If the broader aim is to secure widespread implementation of new metering technology, then some suppliers argued that it could not be delivered by suppliers. Although this view did not achieve consensus in the meeting, it did colour consideration of the licence obligations.