

24th January 2008

Nigel Nash
Ofgem
9 Millbank
London
SW10 3GE

Dear Nigel

Regulation of marketing to domestic customers.

I am writing in response to your letter dated 3rd December 2007, that seeks agreement to the extension of the Marketing Licence Condition (MLC), until March 2009.

British Gas does not support this extension and would seek that the current obligations are removed in April 2008.

Since the MLC was introduced in 2004, British Gas and the other major Suppliers have made significant investments in implementing a sales agent accreditation scheme as part of the Energysure Code of Practice for Face to Face Marketing. By adopting the principles laid out within the Code, the market place has seen a significant improvement in sales practices; the continued prevention and erosion of instances of unfair marketing activities and a significant reduction in volumes of complaints and contacts to energywatch about Suppliers' sales practices.

The removal of the current licence obligation, will in our view, be in keeping with Ofgem's commitment to Better Regulation, which has driven the removal of unnecessary and outdated licence conditions in preference for a market place that adopts and has in place effective and proven examples of self regulation (e.g. The Billing Code).

Your letter specifically asked:

Do you agree with the proposal to extend the marketing conditions until March 2009?

No. We are opposed to such an extension.

Do you consider that industry self-governance arrangements, including the Energysure Code are sufficiently effective that the marketing conditions can be removed in April 2008?

As we have already stated, we do not believe it is necessary to extend the MLC until March 2009 and also do not believe that its removal will be to the detriment of consumers. Indeed, it is our view, that the continued support by British Gas and the other major Suppliers of the Energysure Code of Practice; a voluntary code which is underpinned by a rigorous and robust governance and auditing process, will continue to provide effective protection for consumers and provide Ofgem with the assurance that it needs as to the industry commitment to a quality sales environment.

It is worth reiterating that the Code of Practice was created in 2003 to instill confidence in the energy market amongst growing concerns about the quality of face to face sales in the UK.

Since that point, complaints to energywatch about direct selling complaints have fallen dramatically from a level of 0.87 (complaints per '000 transfers) in May 2003 to 0.04 in October 2007. Indeed, in October 2007, the total volume of complaints to energywatch about direct selling was just 31 complaints, and the total numbers of general enquiries received by energywatch for the entire industry was just 153. Against a backdrop of the number of customers switching energy suppliers, this is a tiny proportion and is a clear example of the successful contribution that the Energysure Code has made in driving forward improvements and the development of a quality sales process.

Ofgem has been minded to extend the current MLC on two separate occasions to date, as it was "not sufficiently confident that self-regulation by the industry provided a viable alternative to maintaining obligations in the supply licence". It remains our view, that further extending the obligations for a third time is completely unnecessary. Not only has the implementation of the Code lead to a significant reduction of customer dissatisfaction (as measured by energywatch contact volumes), but the Code is supported by a comprehensive audit process, which is overseen by an independent firm of Auditors; it has in place an independent Code Panel which is chaired by Lord Dubs as well as being overseen by its own Governing Board and Code Manager. In addition, we now have an Energy Supply Ombudsman who is empowered to handle cases relating to sales, therefore providing consumers with an effective (and independent) course of redress should they so wish.

Whilst your letter indicates a concern about removing the licence conditions prior to the introduction of the new "Consumer Protection from Unfair Trading Regulations" in April 2008, it is our view that Ofgem's concerns are unfounded if such concerns are around the ongoing commitment of the member companies of the AES. The removing of the MLC will not act as a signal for suppliers to relax its commitment. Indeed, the recent appointment of Deloitte and Touche as auditors to the Code, will ensure a continued scrutiny of performance of the member companies for the next three years at least which will take the Code beyond the time of implementation of the new regulations.

Likewise, Ofgem also cites the changes in consumer representation (resulting from the Consumers, Estate Agents and Redress (CEAR) Act 2007) and also the powers afforded to Ofgem in relation to complaint handling standards as a reason for extending the obligations for a further year. We would argue that the whole ethos behind the changes in consumer representation is to move away from sector specific consumer representation, to one where the Supplier takes greater responsibility for their own customers, and, in the event that resolution cannot be achieved, the consumer has access to redress in the form of an independent

Ombudsman.

Based upon the current volumes of contacts currently received by energywatch relating to sales activities, we would suggest that suppliers have fully embraced that responsibility for introducing effective complaints and escalation process for their customers. In addition, the Energy Supply Ombudsman has already implemented the necessary changes to its governance structure in order to accept sales related complaints. In October 2007, the ESO handled just 4 sales complaints from its member companies.

On the basis of what is set out above, British Gas does not support the extension of the MLC and would seek that the current obligations are removed in April 2008.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Philip Arend', with a stylized flourish at the end.

Philip Arend
Senior Regulatory Manager