

Citizens Advice's response to Ofgem's consultation on 'addressing unfair price differentials'

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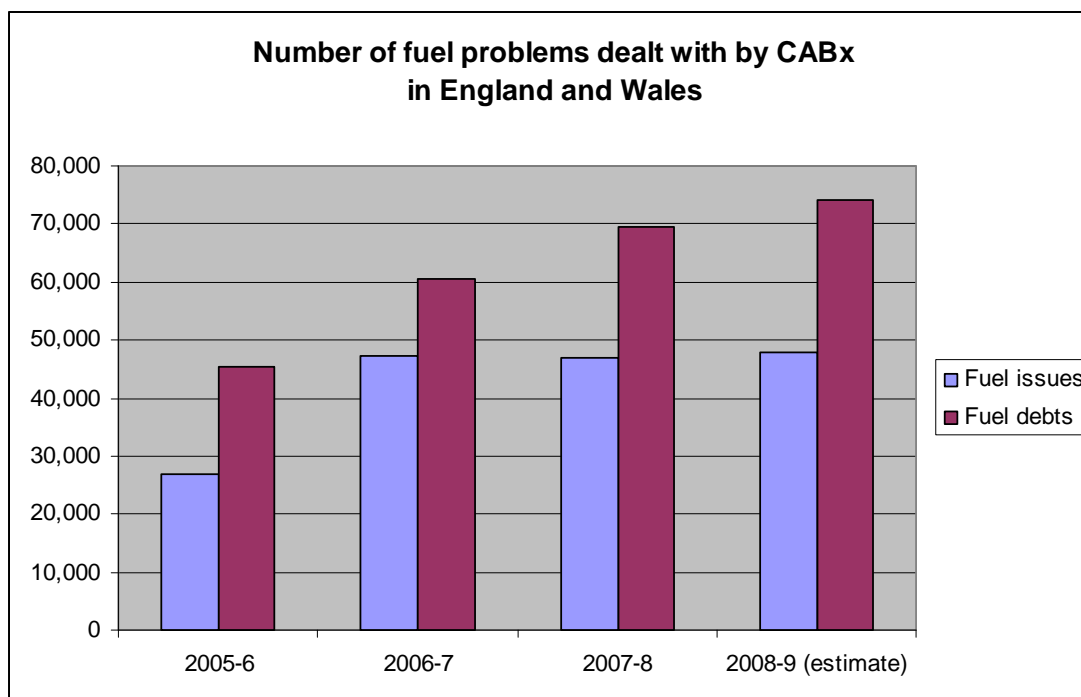
INTRODUCTION

1. The Citizens Advice Bureaux (CAB) network is the largest independent network of free advice centres in Europe, providing advice from over 3,200 outlets throughout Wales, England and Northern Ireland. We provide advice from a range of outlets, including GPs' surgeries, hospitals, community centres, county courts and magistrates courts, and mobile services both in rural areas and to serve particular dispersed groups.
2. The Citizens Advice service provides free, independent, confidential and impartial advice to everyone on their rights and responsibilities. It values diversity, promotes equality and challenges discrimination. The service aims:
 - To provide the advice people need for the problems they face; and
 - To improve the policies and practices that affect people's lives.

Citizens Advice statistics about fuel and fuel debt problems

3. In 2007-2008 the CAB service in England and Wales dealt with 5.5 million problems in total, including 1.7 million on debt. Of these, 69,500 were concerned with fuel debt, which represents a 15% increase on the previous year, and an increase of over 50 per cent since 2005-6. During Q1-Q3 2008-9 bureaux dealt with 55,500 fuel debt problems. Based on these figures we estimate that bureaux will help clients with approximately 74,000 fuel debt problems in 2008-9, which would represent a 6.8% increase on 2007-8 figures.
4. In addition, in 2007-8 the service dealt with 47,000 problems about a range of other (non-debt) fuel matters, a 74 percent increase on 2005/06. Billing and metering issues were responsible for 38 percent of these enquiries, with complaints and redress accounting for 16.5 percent of enquiries, 14 percent due to methods of payment and 9 percent prompted by issues arising from switching supplier. Data from Q1-Q3 2008-9 reveals that bureaux dealt with almost 36,000 (non-debt) fuel problems. We therefore estimate that bureaux will deal with almost 48,000 problems about fuel issues in 2008-9, equivalent to increase of 2% on 2007-8 figures.
5. The increases in fuel and fuel debt problems over the last four years are summarised in the chart below, including estimated figures for 2008-9 based on Q1-3 2008-9 data.

Chart 1:



Citizens Advice information about fuel debt client profile

6. Bureaux also record information about the profile of their clients. In 2007-8 bureaux helped 39,538 clients with 69,500 fuel debt problems, and information captured about these clients reveals that:
- of the 18,041 clients who provided information about their level of income, 31% had an income of under £400 pcm, with a further 22% having an income of between £400-599 pcm and 24% having an income of between £600-999 pcm;
 - of the 27,464 clients who provided information about their household status, 68% were single (37% were single, 28% were single with dependent children and 3% were single with non-dependent children);
 - of the 36,620 clients who provided information about their age, only 6% were aged 65 or above;
 - 32,934 clients provided information about whether anyone in their household had a disability, with 27% stating they did have a disability.

COMMENTS ON PROPOSALS TO ADDRESS UNFAIR PRICE DIFFERENTIALS

7. Given our interest in issues affecting vulnerable and low income consumers detailed above, we previously welcomed the publication of Ofgem's *Energy Supply Probe – initial findings* report, particularly the fact that it revealed that a significant number of consumers in the energy market are disadvantaged by persistent unfair price differentials and that vulnerable consumers are disproportionately affected.
8. We are pleased to note that Ofgem is vigorously pursuing efforts to address these shortcomings, and has acknowledged that competitive pressures are insufficient to remedy these issues – at least over the short-term – and that regulatory intervention is therefore required. Our thoughts on what form this intervention might take are provided below.

COMMENTS ON OFGEM'S PROPOSALS

General comments

9. This is a complex area. As a consumer organisation which lobbies for improvements in the way our clients, many of whom are disadvantaged or vulnerable in some way, are treated by fuel suppliers, we have first-hand knowledge of how the application of unfair price differentials impacts on people's lives. For this reason, we wholeheartedly support Ofgem taking decisive action to address the issue of unfair price differentials. However, we are less certain about what would represent the best way to achieve the optimal outcome for consumers, particularly vulnerable consumers. While the consultation document mentions some of the advantages and disadvantages of the range of options under consideration, it would have been helpful if rather more detail could have been provided on the relative pros and cons of each measure.
10. Going forward, we consider it essential that Ofgem make strenuous efforts to engage with a wide range of groups representing consumers who have lost out under unfair price differentials and who therefore stand to gain most from measures intended to outlaw these.

Materiality and proportionality

11. We would like to raise our concerns with the proposals detailed in the consultation document relating to how Ofgem would determine whether any breach is material, and could therefore be subject to enforcement action. In particular, we are concerned to read that the price differential "would need to be substantial, extensive and persistent". Citizens Advice believes that this might set the threshold for justified intervention at too high a level. We are unclear, for example, whether a supplier's pricing actions which affected only a small number of customers for a small period of time but caused a significant degree of detriment would validate intervention by Ofgem.

12. We are pleased to note, however, that Ofgem states that it would be more likely to consider an unfair price differential to be material if it disproportionately impacted on vulnerable consumers but, again, we are unsure how this fits with the statement that the price differential “would need to be substantial, extensive and persistent”. We would welcome clarity around this area.

Comments on options for reform

13. To address the problem of unfair price differentials we recognise that Option C holds a number of advantages in terms of transparency and the ease with which Ofgem would be able to monitor compliance. However, our preference would nevertheless be for **Option B – prohibition of undue price discrimination**. The principal reason for this is because Option B would provide sufficient flexibility to enable Ofgem to tackle a number of different issues relating to unfair price differentials, for example price differentials relating to payment type but also by any other consumer characteristics (including in area / out of area differentials).
14. It would also appear that this wider licence condition would enable Ofgem to address the ‘cross subsidy’ between gas and electricity supply without the need to introduce another Licence Condition. This is an area that we would want to see Ofgem take action on, so if this is not the case then we would support introducing Option D to supplement Option B.
15. Developing guidance to supplement the adoption of Option B (prohibition of undue price discrimination) would be essential in order to allay concerns relating to how Ofgem might interpret the Licence Condition and when it might seek to take enforcement action.