

# Ofgem's probe gives energy customers more muscle

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Last year Ofgem completed a major investigation into Britain's retail energy market. Ofgem has now put in place a package of reforms which will make it easier for consumers to shop around, negotiate and choose the best energy deal.

► How were customers being treated unfairly and what has Ofgem done about it?

Before	After
Unjustified price differences, e.g. between in area and out of area electricity tariffs and between payment types	Licence conditions prohibiting unjustified price differences
Customers switching to higher-priced deals after visits by doorstep salespeople	Tougher rules governing door-step sales
Customers struggle to compare tariffs	Requirements for suppliers to include key information on bills and produce annual statements
Micro-business customers find it hard to engage in the market	Rules to improve customer access to contract terms and conditions and limit roll-over of contracts
Poor transparency of profits for different parts of the big six energy companies businesses	Requirements for publishing segmental financial information on different parts of their business
Pre-payment meter customers in debt to their supplier by more £100 may not be able to switch	Rule change meaning customers could still switch if they owe their supplier up to £200

## ► Unjustified price differences

Energy consumers pay different prices depending on their payment method (cash / cheque, direct debit, or pre-payment meter). In addition, as the competitive market had developed electricity suppliers have charged customers more in areas where they were the former monopoly (in area) than in areas where they were competing hard for business (out of area).

Ofgem recognises that suppliers should be able to charge customers higher or lower prices depending on the costs they

incur for providing a tariff. However, the probe revealed that in certain cases, the premiums paid by customers for some tariffs were more than could be justified on cost differences. Examples included premiums for those who pay by cash or cheque, compared with direct debit and those paid by customers of an electricity supplier in area. Around four million customers not connected to the gas networks have also been losing out because they could not access the cheapest deals (which are typically for dual fuel).

### Solutions

Suppliers voluntarily reduced differences between prices while Ofgem's probe was ongoing. By December 2008 they had removed £300 million of unjustified differentials from pre-payment meter and off-gas-grid tariffs. Ofgem has locked in these benefits by introducing two new licence

conditions from September 1 2009 which stop suppliers charging more for one payment type than another, unless the changes can be justified by cost. The conditions also prohibit other forms of undue discrimination.

## ► Sales and marketing

A survey for Ofgem's probe last year showed more than one in two people switching did so in response to contact with a salesperson. However, many who switch on the doorstep

inadvertently move to more expensive tariffs perhaps because they are misled or unable to accurately compare tariffs.

### Solutions

Ofgem has introduced tougher rules on doorstep sales ensuring that suppliers provide customers with written estimates before any sales are concluded. This will enable customers to compare the offer with their current deal. And

a new requirement that any information used in marketing activities is clear, accurate and easy to understand is also being applied to cover telesales.

## ► New rules around debt-blocking

Currently, if pre-payment meter (PPM) customers owe their supplier up to £100 they can still switch, with this debt transferring to their new supplier. Around 20 per cent of electricity and gas customers owe between £100 and £200 so

the current threshold could be preventing some customers from accessing cheaper deals. Many indebted customers may be able to manage their debts better if they could switch to a cheaper tariff, or received advice on energy efficiency.

### Solutions

A new licence condition has been introduced meaning that PPM customers who owe up to £200 will now be able to switch. As vulnerable customers are disproportionately represented among those in debt, this could open up the opportunity for them to get a cheaper energy deal.

Other protection measures for indebted customers have also been introduced. When a supplier objects to a customer

switching on grounds of debt they will now have to provide them with debt and energy efficiency advice. If a supplier raises its prices, customers will be given 30 working days in which they can avoid any retrospective application of this price rise by clearing their debts and switching supplier. And suppliers have been banned from debt blocking where the debt is a result of their errors.

## ► Better information printed on bills

Many customers are confused by their bills or struggle to compare tariffs. Ofgem found that they would find it easier to engage in the market if they were armed with clearer information on their current tariff and energy usage.

It will help customers to make good switching decisions if they are using price comparison services, or if they are approached by a door-step sales person.

### Solutions

Suppliers will be required to make improvements to bills and to send customers an annual statement.

Each bill will need to display:

- the tariff name;
- the customer's consumption for the past 12 months in kilowatt hours (except where a customer has been with the supplier for less than 12 months); and

- the projected cost in pounds per year if the customer remains on the same tariff, if the tariff is unchanged, and if the customer uses the same amount of energy.

The annual statement will also contain this information plus the principal terms and conditions of the tariff. It will also point out any premiums or discounts that apply to the tariff, or may be available to the customer if they switch to another tariff or payment method with the same supplier. The statement will contain a reminder that the customer can switch along with advice on how to do so.

## ► Improving protection for micro business customers

The majority of small businesses in Britain are micro-businesses\* and the probe uncovered evidence that they were finding it difficult to participate effectively in the market for various reasons.

### Contracts

The amount of information about contract terms and conditions can vary significantly depending on the supplier and how they market these deals. For example some customers are not provided with full terms and conditions. Business contracts also often include 'notification windows' which start three to six months before the end of a contract.

If a customer hasn't told a supplier that they want to switch within the window, they may be unable to leave their supplier at the end of their contract term.

The probe found that many micro-businesses are not aware of these notification windows. Therefore a significant number have been 'rolled forward' on to new contracts without their knowledge.

### Solutions

Ofgem has increased protection for micro-businesses with new rules meaning that:

- before entering into a contract a customer must be informed of the key terms and conditions;
- within 10 days of a contract being agreed (or if an existing contract is extended) the customer should receive hard copies of the full terms and conditions and a statement of renewal terms (if the contract is of a fixed length);
- customers will be contacted a minimum of 30 calendar days before the end of the notification window with an explanation of the options available including advice on what they should do to stop their contract from being rolled over, if they don't switch or negotiate a new deal the maximum length of time a contract can be rolled over for is 12 months'; and
- at any point from when the contract is agreed until the end of the notice period, customers can give notice that they wish to terminate it at the end of the fixed term period.

### Brokers

Energy contract brokers can help micro-businesses compare energy deals - however many micro-businesses are uncertain

about which suppliers they represent and how much commission they charge.

\* A micro-business is defined as a businesses employing fewer than ten people (or full time equivalent), with an annual turnover of less than 2 million euros, or energy use of less than 200,000 kWh of gas a year or 55,000 kWh of electricity a year.

## Solutions

Ofgem has no direct powers to regulate brokers but has recommended that they take steps to improve their business practices and hence, customer confidence. Ofgem is urging

them to promote existing or new codes of practice to encourage best practice and transparency, particularly on which suppliers they represent and how they are funded.

### ► Poor transparency

The big six suppliers are vertically-integrated companies meaning they are active in more than one part of the market, including supply and generation. Ofgem wants to give customers more confidence that the un-regulated part of the

market is transparent and competitive. But as there is little segmental information currently published by these companies, it is difficult to understand the levels of profitability in the different parts of their businesses.

## Solutions

A licence condition requiring vertically-integrated energy companies to publish revenue, costs and profits from their electricity generation and supply businesses, and their gas supply businesses. This will provide stakeholders, including

customers and potential new entrants, with better visibility on profitability and margins in different parts of the businesses.

### ► Over-arching standards of conduct for suppliers

In addition to these new rules, Ofgem has introduced over-arching standards setting out that suppliers should not sell a customer a product or service that they do not fully understand or that is inappropriate for their needs and circumstances. They should also not offer products that are unnecessarily complex or confusing. These standards will not

be directly enforceable themselves, instead they guide suppliers to comply with the 'spirit' of regulation as well as the letter of the licence conditions. However, when deciding whether to investigate potential licence breaches and when considering consumer detriment Ofgem will have regard to these standards.

### ► When will the changes take place?

From **July 2010** customers will begin to see the improvements in the information printed on their bills, and receive **annual statements**. All customers should have received their first annual statement by December 2010 at the latest.

Changes to **debt blocking rules** will come into effect on **18 January 2010**.

The **remedies for micro-businesses** come into force on **18 January 2010** and will apply to all new contracts entered into on or after this date. The conditions will not apply retrospectively meaning that for customers on existing contracts, the new rules will only begin to take effect when they enter into a new contract or extend their **existing contract** on, or after, this date.

The revised licence condition governing **marketing practices** will come into force on **21 October 2009**. However the new requirement for written estimates during visits from doorstep

salespeople will come into force on **18 January 2010** to give suppliers time to upgrade their systems and train staff.

The licence condition for transparency of accounts will become effective from **21 October 2009**, ensuring that suppliers publish the first set of segmental accounts in mid-2010 for the previous financial year.

The new licence conditions **prohibiting non-cost-reflectivity between payment methods** and other undue price differentials became effective on **1 September 2009**. The licence condition prohibiting undue discrimination will remain in place until July 2012, by which time Ofgem expects that the market will have adapted to the changes emerging from the wider remedies package and that competitive pressure will offer protection in its own right. We would expect to undertake a review of the impact of the entire package of probe remedies before July 2012. The licence condition on cost reflectivity is in place permanently.

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