

DRAFT

1 Hobhouse Court
Suffolk Street
London SW1Y 4HH

T: +44 (0)20 7104 4150
F: +44 (0)20 7104 4180
info@energy-retail.org.uk
www.energy-retail.org.uk

Jude Cummins
Head of Consumer and Social Policy
Ofgem
9 Millbank,
London,
SW1P 3GE



25 November 2009

Dear Jude

Review of protection for vulnerable customers from disconnection

The Energy Retail Association (ERA) welcomes the opportunity to respond to Ofgem's report and consultation on the protection for vulnerable customers from disconnection following its review. The ERA's members will also be providing individual responses.

The ERA welcomes Ofgem's balanced and positive report into the protection offered by Suppliers to vulnerable customers. We are encouraged by Ofgem's findings that it is "satisfied that on the whole Suppliers' policies and procedures to identify vulnerable customers and prevent them from being disconnected are largely satisfactory" and its identification of many aspects of best practice¹. We also welcome Ofgem's recognition of the continued fall in disconnection rates and assessment that the ERA Safety Net "works well and provides welcome additional protection to vulnerable customers"².

As Ofgem notes when welcoming the ERA's work in this area, the Safety Net is evidence of the "clear commitment from Suppliers to protect vulnerable customers from disconnection"³. We have been pleased to work with Ofgem on changes to the Safety Net and are committed to working with stakeholders in the future to ensure that the Safety Net continues to offer genuine protection to vulnerable customers.

Given the positive assessment in the Report, and the finding that enforcement action is neither necessary nor appropriate, we are disappointed that Ofgem has felt it necessary to propose changes to the Suppliers' Licences. We do not feel that Licence changes are necessary or justified by Ofgem's findings. This is further evidenced by Ofgem's statement in its report that "suppliers generally appeared to have taken a significant number of steps to avoid disconnection...[and] also all have systems in place to aid the identification of vulnerable customers"⁴.

¹ Report and Consultation, section 1.26, page 8

² Report and Consultation, Summary, page 1

³ Report and Consultation, Summary, page 2

⁴ Report and Consultation, section 3.21, page 18

Improvements to the ERA Safety Net

We welcome Ofgem's recognition of Suppliers' "strong commitment to the agreed ERA Safety Net definition of a vulnerable customer"⁵. Suppliers view disconnection as being a last resort for customers who will not pay for their energy consumption.

After liaising with Ofgem, the ERA has incorporated post-disconnection processes into the Safety Net. All Suppliers maintain strong links with social services and will notify the appropriate authorities of any concerns they may have about at risk customers. Suppliers will attempt to contact disconnected customers using a variety of methods and have individual processes to follow up customers who remain off supply. Where a disconnected customer is subsequently found to be vulnerable, Suppliers will reconnect the customer as an absolute priority and then liaise with the customer to discuss ways of paying for their debt and ongoing supply.

Suppliers agree that, when considering issues of vulnerability on a case-by-case basis, the presence of children will be taken into consideration. However, as explained to Ofgem, competition law precludes the ERA from facilitating an agreement between Suppliers on a common definition of a child under the Safety Net. Suppliers will work individually with Ofgem on this issue. Where a household with a young resident has been disconnected, and subsequently identified post-disconnection follow-up procedures will be undertaken as a priority.

The Safety Net continues to apply for all vulnerable customers, including those for whom it is not safe or practicable to install a pre-payment meter. We will work with our members to ensure that their approaches to such customers reflect the principles of the Safety Net. We will also work with suppliers to ensure that processes for 3rd party agents installing prepayment meters reflect these principles.

Suppliers do seek to set appropriate and affordable debt repayment rates. Ofgem has highlighted a number of examples of Suppliers' best practice and we will commit to discussing these with members of the ERA Debt Policy Group. Ofgem must recognize that frequently customers in debt are reluctant to contact their Supplier, or to provide accurate information about their financial circumstances. In these situations, Suppliers have limited ability to make informed estimates of appropriate debt repayment rates. Customers should also be encouraged to take responsibility for communication early with their supplier when they are experiencing difficulties.

Audit of the Safety Net

The disconnection of vulnerable customers is audited as part of the ERA's Code of Practice for Accurate Bills (the Billing Code). The audit for 2009 will take place in February/March 2010. The existing clause in the Billing Code is as follows:

6.5 Suppliers will not disconnect a Customer at any time of year that they identify as being in the category of a vulnerable customer according to the industry definition.

This clause will be assessed based on information from Suppliers for the whole of 2009.

In addition, members who are signed up to the Billing Code (British Gas, EDF Energy, E.ON, RWE npower and ScottishPower), have agreed to an additional clause to ensure that if vulnerability is identified following a disconnection, every effort is made to reconnect the customer as a matter of absolute priority. The additional clause is:

6.6 If a customer that has been disconnected is subsequently identified as being vulnerable, the supplier will make reasonable endeavours to reconnect the customer within 24 hours (on working days) where safe to do so

This clause will be assessed based on information from Suppliers from 1 October 2009.

In addition, the ERA is discussing with members and KPMG on how the audit process can be developed to ensure that the Safety Net is robust and identifies any gaps and improvements for suppliers to make. We anticipate that this will feature for the 2010 audit. We are also currently liaising with SSE on how they could be included in future audits of the vulnerable disconnections clauses.

⁵ Report and Consultation, section 2.2, page 9

Next steps

The ERA has recently launched its Energy Made Clear initiative, covering payment methods, switching and help for vulnerable customers. Research conducted by the ERA has found that more customers would contact advice agencies than any other organisation for information about the energy market, paying energy bills and switching energy supplier. For this reason, we have targeted the initiative at advice agencies, as the best way of focusing advice and information on the most vulnerable customers. The Energy Made Clear website (www.energymadeclear.co.uk) and leaflets are written to best inform advice providers in order for them to best advise their clients.

We have hosted a stakeholder briefing, which Ofgem attended, and will be holding a parliamentary briefing in conjunction with the Parliamentary Under-Secretary of State at the Department of Energy & Climate Change, David Kidney MP. As part of the Energy Made Clear initiative, we are publishing a guide to the Safety Net for advice agencies, which will be available on the website and in hard copy.

The ERA Debt Policy Group (meeting quarterly) and Regulatory Managers Group (meeting monthly), regularly monitor and discuss arrangements for assisting vulnerable customers, including the Safety Net. We will continue to include these issues on the Groups' agendas to ensure that best practice is shared and developed within the industry.

We welcome the reduction in the number of vulnerable customer disconnection cases being reported to the Consumer Focus Extra Help Unit. Set against the backdrop of a severe recession and an increase in overall consumer debt levels, this shows the value of the Safety Net in protecting vulnerable customers.

We look forward to working with Ofgem on their wider review of Suppliers' approaches to debt prevention and management. The ERA has been working with Suppliers to ensure that debt collectors (including agencies) working for Suppliers are aware of the Safety Net principles and are trained to assess customers' vulnerability.

Ofgem has identified a range of best practice in Suppliers' approaches to identifying customers in need of assistance. Working through the Debt Policy Group and Regulatory Managers Group, we will ensure that this best practice is discussed and developed within the industry and would welcome Ofgem attending a meeting of the Debt Policy Group to update suppliers on the progress of this work and to further develop a dialogue on these issues.

Suppliers already have arrangements for liaising with third party agencies working for customers. By endorsing the MALG (Money Advice Liaison Group) 'Mental Health Guidelines', ERA Members have agreed to work with such agencies acting on behalf of customers with mental health problems. We have been working closely with Jobcentre Plus on changes to Fuel Direct, and on ensuring that Suppliers are aware of the scheme's requirements. Judith Hartshorne of Jobcentre Plus addressed the September meeting of the Debt Policy Group on this issue.

We welcome Ofgem's positive assessment of the protections offered by suppliers to vulnerable customers and highlighting of suppliers' best practice in this area. Our conclusion is that the proposed Licence additions weaken Ofgem's support for the provisions of the ERA Safety Net and suppliers' current activities. Ofgem has stated that it is "largely satisfied with the protections that suppliers have in place to protect vulnerable customers from being disconnected." And any "areas of weakness and inconsistencies between suppliers" can be resolved via self regulation and working in a more collaborative manner. In addition, in light of the number of actual disconnections in the first six months of 2009 (2,051) and in the spirit of Better Regulation we feel that it may be better for Ofgem to view any change in Licence Conditions as a last resort, one which they may wish to reconsider in the future should the self-regulatory approach fail customers.

We look forward to working with Ofgem and other stakeholders in the future to ensure that the Safety Net continues to provide genuine protection to vulnerable customers.

Kind regards,

Frances Williamson
Head of Policy and External Relations