



The Retail Market Review - Findings and Initial Proposals

Citizens Advice response to Ofgem

June 2011

Introduction

Citizens Advice welcomes the opportunity to respond to the findings and initial proposals of Ofgem's Retail Market Review.

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
- To improve the policies and practices that affect people's lives

The Citizens Advice service is a network of nearly 400 independent advice centres that provide free, impartial advice from more than 3,000 locations in England and Wales, including GPs' surgeries, hospitals, community centres, county courts and magistrates courts, and mobile services both in rural areas and to serve particular dispersed groups.

In 2010/11, the CAB service in England and Wales dealt with over seven million problems from 2.1 million people, including:

- Over 2.2 million enquiries about debt
- Over 2.1 million enquiries about benefits
- Nearly 104,000 enquiries about fuel debts
- Over 40,000 enquiries non-debt fuel problems

In 2009/10, 14 per cent of our clients were from Black, Asian or minority ethnic backgrounds, and 23 per cent identified as disabled or having a long term health condition.¹ Our statistics and case studies are drawn from the diverse communities we serve.

General comments

We support Ofgem's efforts to improve the way in which energy markets work for consumers and we broadly agree with the methods proposed to do this. Citizens Advice would like to see an energy market that is more transparent to consumers, with robust protections that 'super protect' those who may be more vulnerable to bad practice or to a poor outcome. While engagement with the market can (and should) bring benefit to active consumers, it should not unduly penalise 'sticky' consumers. It is crucial to ensure that the proposed changes do not inadvertently disadvantage vulnerable or low income customers.

We want to see suppliers complying not only with the letter but also with the spirit of regulation and standards. We would welcome swift and strong enforcement action by Ofgem to ensure this, as well as naming and shaming of those companies that consistently or seriously fail to deliver for their customers. This should go hand in hand with public recognition of those companies which do provide a good service and which treat their customers - even the less profitable ones - well.

¹ Full year client profile statistics for 2010/11 are not yet available

To make Ofgem's proposals - and the energy market - work better for consumers, there also must be a strategic and sustained approach to independent consumer education, such as that provided by Citizens Advice and Ofgem's jointly run Energy Best Deal project.²

Our response to each of Ofgem's high level, initial proposals is given below. Please note that we have chosen to provide broad responses to each of the proposals outlined rather than answering every individual question separately. We have limited our responses to those areas to which we feel our evidence and experience are most relevant.

Responses to proposals

Proposal 1 - Improve tariff comparability

We are pleased to see that Ofgem is proposing to take radical action to reduce the proliferation of tariffs in the market. However, we do have some concern that limiting suppliers to one evergreen tariff per payment method could mean that the evergreen tariff would become increasingly poor value compared to the fixed term deals available, because suppliers would target their competition towards more active consumers, rather than those on the evergreen tariff, who would be more likely to be sticky. This would mean that less active consumers could become increasingly disadvantaged. We would not wish to see this happen, and Ofgem must be careful to avoid any unintended consequences for vulnerable consumers. However, we do note that with improved price comparability (see below) it should be easy for consumer groups and Ofgem to identify such a trend. We would hope that Ofgem would commit to monitoring this and would look to take further action should this become necessary. Provided that this issue is sufficiently addressed, we are supportive of the proposal to allow only one evergreen tariff per payment method.

Citizens Advice supports the proposal to prohibit adverse unilateral contract variations and automatic rollovers of fixed term contracts. Ofcom has recently consulted on automatically renewable contracts in relation to fixed line telephone and broadband services,³ and we supported the proposal to ban such contracts.⁴ We believe that these contracts can exploit customer inertia and may be used to limit consumer switching.

We provided evidence to Ofgem recently about the detriment that fixed term contracts can cause when consumers are not fully aware of their terms.⁵ We argued that the existing protections for micro-business customers, which focus on transparency and the provision of information about fixed term contracts do not appear to be sufficient and we believe there is a need for a much stronger approach when developing protections for domestic consumers.

A CAB in the East Midlands saw a man who ran a takeaway business and lived above his shop. He wanted to switch his electricity supplier because he was not happy with the amount he was being charged. He was up to date with all his bills. However, when he contacted his

2 See www.citizensadvice.org.uk

3 *Automatically renewable contracts: research into their effects and proposals for a General Condition*, March 2011. Available at www.ofcom.gov.uk

4 Our response can be found at www.citizensadvice.org.uk

5 See our response to Ofgem's consultation *Practices concerning fixed term offers in the domestic energy retail Market*, March 2011. Available at www.citizensadvice.org.uk

supplier he was told that he could not switch as he had a two year contract with them. He had initially signed up for one year but at the end of this period the supplier had automatically extended his contract by two further years. The man said he had not given his supplier permission to do this.

A man who went to a London CAB had reached the end of his fixed term contract and decided not to renew as he was offered a better deal by another supplier. However, when the new supplier tried to switch the account, the old supplier informed it that the man's contract had been renewed. The man disputed this but was told that it had been done automatically as he had not responded to the renewal letter. The man then made a complaint, which was acknowledged by the supplier, which told him it would be dealt with within 28 days. However he then received a letter from a firm of solicitors acting on behalf of the supplier, threatening disconnection for non-payment. When the CAB adviser phoned the solicitors to clarify the situation, she was passed around several departments of both the DCA and the supplier, only to eventually be told that the letter was 'standard' and could be ignored.

If suppliers were limited to one standard evergreen tariff per payment method and were obliged to move all their other tariffs to fixed term, we would anticipate an increase in the use of automatic rollovers in the domestic market were this to be permitted. Without additional protections, the problems we currently see would be likely to become increasingly widespread. We believe that it would be in consumers' interests to oblige suppliers to make renewal processes for their fixed term contracts opt-in rather than opt-out, and we suggest that Ofgem considers extending such protection to micro-business consumers as well. We would expect suppliers to contact customers whose fixed term deals were soon to expire to remind them of this and give them the opportunity to renew the contract for a further term if desired. Needless to say, such contact must clearly remind consumers of the key terms of the contract, including any exit charges, and it must also note what will happen if the customer does not opt back in to the fixed term deal (i.e. that the customer will default to an evergreen tariff and what the comparable cost per kilowatt hour of that would be).

We support Ofgem's intention to improve tariff comparability and we would welcome a simple and easily comparable measure of the cost of a tariff, based on a price per kWh. This would make it easier for consumers to compare tariffs, but it should be accompanied by the provision of regular, adequate and clear information about consumption on customer bills in both pounds and kWh, so that consumers can understand how a price per kWh translates into the actual cost to them.

We accept that it may be necessary to retain a separate standardised charge to cover some costs, such as the costs of transport and distribution. This charge could be translated into pence per kilowatt hour or it could be expressed as a daily, weekly and/or monthly charge. This requires further consideration.

It is essential that any standardised charge is clear, consistent and fair. We strongly believe that however expressed, the standardised charge should include only those costs over which the supplier has no control, such as those imposed by network operators. We would be disappointed to see other costs, such as those for maintaining suppliers' call centres or maintaining and reading meters, were included within this charge. These costs are not fixed and suppliers are able to exert some control over them, therefore they should be included within the per kilowatt hour price on which suppliers would compete. Similarly any discounts or offers should also be included when calculating the comparable kilowatt hour price.

We have concerns about the inclusion of environmental levies in the standardised charge as applying these at a flat rate per household is a significantly regressive policy which sees the poorest households paying the most, as a proportion of their income.

Proposal 3 - Strengthen probe remedies - domestic

Citizens Advice supports Ofgem's proposal to strengthen its probe remedies and enforce them, swiftly and strictly, where necessary. When Ofgem proposed its remedies in 2009, Citizens Advice expressed concern that although they were a step in the right direction, they were not strong enough. We advised that they should go further, and the problems that Ofgem now recognises suggest that we were right to be worried. We strongly urge Ofgem to take a robust approach now to ensure a better energy market for consumers.

We agree that the format and content of bills and statements should be prescribed more closely by Ofgem and would support the inclusion of a standard key terms or summary box containing the essential information in Plain English. As we argued in our response to Ofgem's probe in 2009:⁶

“Faced with similar issues relating to the presentation of complex information and the need for customers to be able to easily locate and understand regular statements as a pre-requisite for them to engage more actively in the market, the financial services industry introduced the ‘Summary Box’. We consider that this might provide a useful template for the energy industry to consider since the provision of clear bills is something that would stand to benefit every customer and we would contend that clarity of billing is not a key battleground for suppliers on which they seek to compete vigorously.” (page 7)

As stated above, information about consumption should be included on bills in both pounds and kWh. Currently SLC 31A requires suppliers to provide information on every bill OR statement of account. We believe that simple information on bills would be of more use to customers as they would then have access to more up-to-date information should they look to switch supplier at any time of the year other than the quarter following their annual statement. Furthermore we believe consumption information should be available to customers who have been with the supplier for less than 12 months, where necessary using information from a previous supplier or estimated data, provided this is made clear.

We believe that failure to abide by the spirit as well as the letter of the licence conditions should lead to robust enforcement action. We were appalled by the utter disregard for the spirit of SLC 31.A.4(e) shown by the supplier named in the consultation document. This is the latest in a long line of transgressions by suppliers within the energy sector and it can be of no surprise that consumer trust in energy companies is so low.

We strongly support Ofgem's proposal to incorporate the Standards of Service into the licence conditions. When the standards were originally proposed following the probe, we called for them to be licence backed, so that they would be directly enforceable, but Ofgem chose not to do this at that time. It is a sad indictment of the energy market that suppliers must be told not to sell customers products that they do not understand and that they must act courteously to resolve mistakes. However, experience indicates that it is indeed necessary and we believe it is no longer appropriate

6 Available at www.citizensadvice.org.uk

to give suppliers the benefit of the doubt when they have failed on so many occasions to prove themselves worthy of it.

Proposal 4 - Strengthen probe remedies - non-domestic

Most of our evidence on problems relating to gas and electricity relates to the domestic energy sector as our client base is largely made up of individual consumers. Furthermore the vast majority – around 70 per cent – of our enquiries about fuel relate to debt, and Citizens Advice Bureaux do not usually provide business debt advice. In such cases our advisers would usually refer clients on to an appropriate advice agency such as Business Debt Line.

However we do help people who are self employed, or who run very small business, and sometimes these clients' personal and business affairs may be very difficult to separate. In some cases they work from their home and so their energy supply may be used for both domestic and business purposes. Our evidence suggests that there is very little difference between micro-business consumers such as these, and domestic consumers. The problems faced by both types of customer can be similar, including unexpectedly high bills, difficulty repaying arrears, slamming and denial of cancellation rights.

A CAB in Lancashire reported the case of a man who had received a gas bill for approximately £11,000 for his business premises. This was because the gas supplier had been billing the man for electricity only for the previous four years, although it had supplied both gas and electricity. The man had not realised as he believed that he had been receiving combined bills. The adviser told us that having to pay back £11,000 would have disastrous consequences for the man's business and that he felt incredibly frustrated that he had been put in this position due to the inefficiency of his supplier's billing processes.

A woman who went to a CAB in London had received a bill for over £7,600 for her gas and electricity after having been incorrectly billed by her supplier. The bill covered a two year period, which began five years before. The client's business was already in financial difficulty and she was forced to pay the fuel bill using her credit card.

A CAB in Dorset saw a couple who ran their own business. They received a sales call from a new electricity supplier but declined to switch, but they later received a letter confirming that the switch had taken place. The clients were adamant that they had not agreed to anything and they were very worried that they might have to pay two different electricity companies for their business use.

A man who ran a taxi firm went to a CAB in Buckinghamshire about his electricity contract. He had been called and offered a two year fixed term contract, which he had initially agreed to. However, around twenty minutes after the phonecall the man had second thoughts and rang the supplier to tell them that he wished to cancel. As he ran the firm from his friend's premises, and his friend paid the bills, he did not actually have the authority to make the switch, and he told the supplier this. The supplier told him that it was too late to cancel the switch as he had entered into a verbal contract and there was no cooling off period. When the man's friend contacted the existing supplier he was told that the switch had already gone through.

A CAB in London told us about a woman who had previously run an off-licence, but the business had failed and she was unemployed. She had two dependent children and was claiming Income Support. The woman was in debt to the business energy supplier for debts that had accrued while the business was trading. She had made a token offer of repayment but the supplier had refused this and had passed the debt on to a debt collection agency (DCA). The DCA had added on over £1,000 of administrative charges, leaving the woman with a debt over nearly £5,500.

We would like to see an extension to micro-businesses of existing protections around back billing, which currently only apply to domestic consumers, and the introduction of better protections on debt and disconnection which would require suppliers to take into account ability to pay and to set a reasonable timescale for payment rather than requiring payment in full immediately.

We see no reason to suppose that microbusiness customers are any more capable of actively engaging with the energy market than the average domestic consumer. We would also therefore suggest that Ofgem consider extending any measures to achieve tariff simplification to cover micro businesses.

We would also be pleased to see an extension of the Standards of Conduct into non-domestic supply licence conditions.

