

30 April 2012

Andrew Wallace
Ofgem

By email: andrew.wallace@ofgem.gov.uk

Dear Andrew,

Consumer Focus response to Ofgem tackling gas theft: the way forward

Question 1: Do you agree with our final policy proposals and the related drafting of our licence condition on:

a) The Objective for tackling theft of gas?

Consumer Focus agrees with the position set out by the regulator.

b) Requirements to detect, prevent and investigate theft of gas?

Consumer Focus agrees with the position set out by the regulator.

We are disappointed that the regulator has chosen to remove the requirement to 'fully' investigate theft. We understand that the regulator considers it to be implicit that Licensees will be required to do so. It is important the Code of Practice is explicit on the detail of the need to fully investigate incidences of gas theft, and avoid 'light touch' investigations.

c) The Theft Arrangement?

Consumer Focus agrees with the position set out by the regulator.

d) Standards for theft of gas investigations?

Consumer Focus is happy to work with Ofgem and the industry to develop the Gas Theft Code of Practice. As set out in our response to the consultation in October 2011, it will be imperative to ensure that there are robust mechanisms in place to scrutinise and monitor the Code.

We welcome the further clarification provided by Ofgem on the requirement for any information given to the consumer around the detection of theft to be in plain and intelligible language. We also support the clarification that Licensees should confirm that any offence of gas theft was, on the balance of probabilities, undertaken by the consumer directly or that they were culpably negligent.

Consumer Focus is disappointed that Ofgem has chosen not to implement our recommendation that a requirement is placed on gas suppliers to offer customers a wide range of options for the repayment of debt/charges accrued as a result of theft. It is our view that this approach would have been consistent with SLC 27.8 which requires suppliers to take account of a customers' ability to pay when agreeing a repayment rate.

Agreeing an affordable repayment rate can help to ensure that suppliers are able to recoup their costs as the consumer can afford to meet the regular repayment amount. Setting repayment rates and agreeing that charges can be paid back at an affordable rate for consumers is also crucial. Offering range of payment methods to consumers can offer access to a wider range of tariffs and can also help to avoid self disconnection and the potential harm that can cause. While Consumer Focus does, of course, understand the commercial risk that this group of consumers can pose, suppliers should consider offering a range of payment methods, at least to those consumers for whom the theft was a first offense.

e) Introducing a new relevant objective for the Supply Point Administration

Consumer Focus agrees with the position set out by the regulator.

Consumer Focus supports the regulator's view that it is likely to take time to implement the proposed theft detection measures for the gas market and supports the proposal to implement the new obligations on tackling gas theft in the gas market now. Swift action to implement the SLC is necessary, particularly where the current obligations are limited.

Question 2: Do you agree with our proposals to direct the implementation of the Theft Risk Assessment Service?

Consumer Focus agrees with the position set out by the regulator.

Question 3: Do you agree with our proposed requirements for the Theft Risk Assessment Service and the related drafting of the proposed Direction on:

Consumer Focus broadly agrees with the proposed Theft Risk Assessment Service (TRAS) and associated features.

As set out in our response to the October 2011 consultation, it is imperative that the model that is implemented does not seek to make any excess profit from the activities it undertakes to detect and investigate theft. Charges placed on the consumer must be proportionate to the costs that suppliers face. Furthermore it is vital that there are protections in place to enable consumers to repay debts/charges at an affordable rate, and that vulnerability is considered before leaving consumers off supply.

a) The services provided by the Theft Risk Assessment Service?

Consumer Focus agrees with the position set out by the regulator.

We are in favour of the supporting measure which requires the TRAS to establish and maintain a single, 24-hour theft telephone contact number that members of the public or other third parties could use to report suspected theft. However, there is an existing plethora of telephone numbers that consumers can call in relation to energy supply, as highlighted in our recent report 'making the connection'.

We recommend that if there is to be any promotion of a hotline it is closely linked to the provider(s) of existing first tier consumer advice to avoid confusion. This could be in the form of referral arrangements between the services.

b) The Theft Target?

Consumer Focus agrees with the position set out by the regulator.

c) The governance of the Theft Risk Assessment Service?

Consumer Focus understands that the regulator intends to require suppliers to implement the TRAS through a Direction under the gas supply licence. Consumer Focus supports this proposal and agreed with Ofgem's suggestion that suppliers should take the principles set out in the Direction and implement the TRAS by using appropriate industry governance mechanisms, for example under the Supply Point Administration Agreement (SPAA).

d) The appointment and operation arrangements of the Theft Risk Assessment Service?

Consumer Focus agrees with the position set out by the regulator.

e) The reporting requirements for the Theft Risk Assessment Service?

It is essential that there are regular, independent audits to support the performance assurance framework for the TRAS. Consumer Focus supports the view that the performance of suppliers should be assessed and, where appropriate, published.

Question 4: Do you agree that we should require the Theft Risk Assessment Service to be implemented by 31 December 2013?

Consumer Focus supports Ofgem's proposed requirement for the TRAS to be implemented by 31 December 2013.

Yours faithfully,

Dhara Vyas

Policy Manager – Energy