



Making a positive difference
for energy consumers

Domestic energy suppliers and
other interested parties

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Using alternative branding to communicate with indebted customers

Energy companies are required to treat indebted energy customers appropriately. Customers must not be misled, pressured or scared into making payments they cannot afford.

We have recently reviewed companies' use of alternative branding to communicate with indebted customers, that is where correspondence is branded (for example on a letter head) with a name that is different from the name of the energy supplier, implying that it comes from a different organisation. We found that while this practice was once widespread, with a number of suppliers using this approach until relatively recently, only one supplier continues to use an alternative brand. Another supplier still uses a subsidiary of its parent company to collect debt.

Debt approaches across all sectors involve trying to draw consumers' attention to the money owed, and this communication is typically escalated as time goes by. We do not dispute suppliers' right to seek timely payment by consumers, which is in consumers' interests too. However it is imperative that all communication relating to debt passes three tests:

- Is it obvious who the communication is from?
- Is it clear whether or not a new stage has been reached in the debt collection process, and the implications of this, and is this communicated in a way that does not promote fear?
- Does the communication comply with our rules on Ability to Pay?

As we explain below, we have seen a wide range of practices by suppliers, a substantial number of which do not fully pass the three tests set out above. In particular, some branding or detailed wording implies that the case has been passed to a separate debt collection agency when it has not, and that a new stage of the debt collection process has been reached, with more serious implications. Not all communications reflected Ability to Pay obligations. Most of these unacceptable practices have now changed, but we want to make very clear our view that they must not recur.

Any activity that attempts to mislead customers is not consistent with attempts to rebuild trust in the industry. Some of this is about compliance, and we plan to include our findings

on Ability to Pay within a wider review which could result in enforcement action, but it is not just about companies acting within the law and our rules. They must also meet or exceed the standards expected of them by their own customers and the public more generally.

The remainder of this letter provides further detail of our findings and sets out our expectations of energy companies' debt collection communications and our next steps.

Ofgem regulation and consumer protection law

Energy suppliers are responsible for debt collection activities whether undertaken in-house or via third parties.

Our rules require suppliers to make proactive contact with customers to identify where they are in payment difficulty. They must make efforts to understand each individual consumer's Ability to Pay and to agree repayment arrangements they can afford.

Once suppliers have agreed repayment arrangements they must ensure that consumers understand the agreement and continue to monitor the appropriateness of the agreement after it has been set up.

Separately, the Consumer Protection from Unfair Trading Regulations require that companies do not mislead consumers and our Standards of Conduct¹ require suppliers to act transparently.

Domestic energy suppliers' use of alternative branding for debt collection

In July 2014 we asked all domestic energy suppliers whether they

- ever communicate with indebted customers using any branding other than that used to bill their customers.
- ever use an agency or other party that is connected to their supply business, eg a business with the same parent company, to communicate with their indebted customers.

We found that the six largest suppliers have all, at some point, used some form of alternative branding to communicate with their indebted customers. Two smaller suppliers have also used alternative branding. Of these:

- **EDF** stopped using alternative branding in 2009.
- **SSE** only used alternative branding during a three week trial in 2010
- **Utilita** stopped using alternative branding in 2013.
- **British Gas** suspended use of the vast majority of its alternatively branded letters in September 2011. However it continued to use a small number until July 2014.
- **Scottish Power** suspended use of alternative branding in July 2014
- **EON** suspended use of alternative branding earlier in July 2014.
- **npower** continues to use its internal debt management team branded as Collections Direct to communicate with some indebted customers. However, it is taking action to make the connection between Collections Direct and npower much clearer.
- **Utility Warehouse** continues to use Utility Debt Collectors Ltd to collect debt. Utility Debt Collectors Ltd is a subsidiary of its parent company Telecom Plus.

¹ Standard Licence Condition 25C of the electricity and gas supply licences.

Suppliers that have used alternative branding provided us with copies of the letters they had sent to consumers. These showed that suppliers' use of alternative branding has varied. Some suppliers have used the approach in their live accounts debt paths as a final attempt to try to make contact with indebted customers. Other suppliers have used alternative branding when chasing unpaid final account balances but have not used it with current customers.

The style and tone of the alternatively branded letters used by suppliers also varied. We had particular concerns about the transparency of examples that strongly suggested that the brand was an external debt collection agency, for example by:

- not clearly stating that the brand was linked to the supplier.
- only making the link between the supplier and the brand in a footnote that consumers could not reasonably be expected to see.
- stating that the debt had been passed to them by the supplier.

Other examples were much clearer. These explained that the brand was the name for the debt collections team within the supplier and that the debt could be passed onto an external organisation for collection if action was not taken to prevent this.

While some letters included messages aimed at consumers who were in financial difficulty we are very concerned that others did not tell consumers that a suitable payment arrangement could be agreed if they were struggling to pay. We were particularly concerned by examples that stated 'you must pay in full now' and asked consumers to 'clear your debt within seven days from the date of this letter'.

Our expectations

At a time when consumer trust in the energy industry is low, we expect companies to be looking at all their practices to ensure they treat their customers fairly. To rebuild trust, companies must not only act within the law, they must also meet or exceed the standards expected of them by their own customers and the public more generally.

We have considered arguments that use of alternative branding at a late stage in the debt collections pathway may be effective in prompting consumer contact and that it may be preferable to using fee charging external debt collection agencies. However, for supplier communications to be transparent it is essential that consumers are able to identify the energy supplier contacting them. Companies must not mislead customers or use tactics that are designed to prompt action by instilling fear or creating anxiety.

Every contact with every customer in debt must comply with our Ability to Pay principles. Communications should be used as an opportunity to gather more information about customers' situations and clearly explain that options exist for consumers in financial difficulty. Energy companies must not demand full and immediate payment. Where debt has moved to a new stage in the debt collection process or has been passed to an external agency, consumers must not be led to believe that options to agree a repayment arrangement have passed. Failure to comply with our Ability to Pay principles is significant and may result in enforcement action.

Next steps

We will commence a planned wider review of domestic suppliers' communications with indebted customers this autumn. The aim of this work is to ensure that consumers who are struggling to pay are made aware of repayment options available. We will consider the tone and transparency of suppliers' communications as well as the Ability to Pay messaging they use as part of this review. If we find suppliers' communications to be sub-standard we will consider enforcement action where necessary. We aim to publish the findings of our review early next year.

In addition to this review, we are working with the advice sector to develop an energy debt advice guide. We hope to obtain industry agreement to send the guide to consumers who find themselves in debt to their energy company in the New Year.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Philip Cullum', with a long, sweeping horizontal stroke extending to the right.

Philip Cullum
Partner, Consumer and Demand side Insight