



Review of the Regulation of the Non-Domestic Energy Retail Market

Call for Input

4 December 2023



About the Utility Regulator

The Utility Regulator is the economic regulator for electricity, gas and water in Northern Ireland. We are the only multi-sectoral economic regulator in the UK covering both energy and water.

We are an independent non-ministerial government department and our main duty is to promote and protect the short-and long-term interests of consumers.

Our role is to make sure that the energy and water utility industries in Northern Ireland are regulated, and developed within ministerial policy, as set out in our statutory duties.

We are governed by a Board of Directors and are accountable to the Northern Ireland Assembly.

We are based at Queens House in Belfast. The Chief Executive and two Executive Directors lead teams in each of the main functional areas in the organisation: CEO Office; Price Controls, Networks and Energy Futures; and Markets and Consumer Protection.



Our mission

To protect the short- and long-term interests of consumers of electricity, gas and water.



Our vision

To ensure value and sustainability in energy and water.



Our values

- Be a best practice regulator: transparent, consistent, proportionate, accountable and targeted.
- Be professional – listening, explaining and acting with integrity.
- Be a collaborative, co-operative and learning team.
- Be motivated and empowered to make a difference.



Abstract

The UR has commenced its 'Review of the Regulation of the Non-Domestic Energy Retail Market'. The aim of this piece of work is to identify areas where the existing regulations are inadequate and require strengthening or enhancement to provide sufficient protections to non-domestic consumers.

This Call for Input seeks responses from stakeholders to the questions posed within this paper.

Audience

This document is likely to be of interest to a wide range of stakeholders; including non-domestic consumers, advice and protection agencies, business representative organisations, energy suppliers and the wider energy industry.

Consumer impact

This Call for Input is an information gathering exercise and therefore will have minimal consumer impact at this stage of the review.

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1. Introduction and Background

- 1.1 Protecting consumers is at the heart of the Utility Regulator’s (UR) role and we pursue this, where appropriate, through promoting effective competition in the Northern Ireland energy markets. UR operates to ensure consumers are adequately protected in these markets through competition, alongside regulation if that competition is not deemed effective enough to adequately protect consumers.
- 1.2 UR’s current Consumer Protection Programme (CPP)¹ plays a pivotal role in ensuring domestic consumers in Northern Ireland are protected. The CPP is a central element of UR’s Corporate Strategy and is our principal vehicle to deliver positive outcomes for domestic electricity, gas, and water consumers and the current programme includes a suite of bespoke projects aimed at enhancing consumer protection for domestic consumers.
- 1.3 The new CPP for 2024 – 2029 will be consulted on in Winter 2023, with the aim of launching in April 2024. For the first time, the CPP will include themes and projects aimed at enhancing consumer protection for non-domestic consumers. This change reflects UR’s enhanced focus on non-domestic matters as the organisation is reshaped to meet the current and future challenges of the energy market in Northern Ireland.
- 1.4 In May 2023, UR committed to launching a ‘Review of the Regulation of the Non-Domestic Energy Retail Market’. As part of this review UR has undertaken a programme of research to gather information on the non-domestic energy market in Northern Ireland, in order to help identify key concerns and issues within the market. The findings of this research are presented in Section 2.

Strategic Aim

- 1.5 This paper constitutes the formal commencement of our ‘Review of the Regulation of the Non-Domestic Energy Retail Market’. The strategic aim of this work is to:

Identify and remedy gaps in the existing non-domestic regulatory framework to ensure fair engagement and outcomes in the retail energy market for business consumers.

- 1.6 This aim aligns with UR’s Corporate Strategy 2019-2024: ‘Strategic Objective 1 - Promoting markets that deliver effective competition, informed

¹ <https://www.uregni.gov.uk/files/uregni/documents/2021-12/consumer-protection-plan-review.pdf>

choice and fair outcomes’.

Objectives

- 1.7 In order to achieve the Strategic Aim, the ‘Review of the Regulation of the Non-Domestic Energy Retail Market’ has the following objectives:
1. **INFORM** stakeholders of the high-level findings of the recent research related to the non-domestic energy retail market in Northern Ireland;
 2. **GATHER** a broad spectrum of information relating to the current regulation of the non-domestic energy retail market in Northern Ireland;
 3. **IDENTIFY** any areas where the existing regulations are inadequate or need strengthened to provide sufficient protections to non-domestic consumers;
 4. **DEVELOP** a range of options for measures which could be implemented to strengthen the protections for non-domestic consumers (if required). These may range from measures which could be implemented promptly, or alternatively the identification of longer-term projects that may require further investigation (i.e. identifying future CPP projects);
 5. **CONSIDER** the regulatory policy implications of any such measure (such as the requirement for consultations, licence modifications, and / or amendments to Codes of Practice); and
 6. **IMPLEMENT** any required changes and monitor outcomes.

Scope

- 1.8 This review will focus on the experience of all non-domestic consumers of both gas and electricity; including all sizes and sectors. However, should evidence indicate that particular consumer groups require more or less consumer protection we may refine this scope as the project progresses.
- 1.9 As the focus of this review is the retail energy market in Northern Ireland, we expect outcomes will be primarily focused on the protections afforded to non-domestic consumers through supply licence conditions and related supplier Codes of Practice. We are aware that non-domestic consumers may have concerns which may not be directly addressed by this work. This could include, but not be limited to, important areas such as energy prices (i.e. the actual p/kWh unit rates / standing charges), and connections to the gas and electricity networks. If required, any issues identified will be passed on the relevant team within UR, and / or flagged as areas for potential future

workstreams for the non-domestic consumer protection team.

- 1.10 Domestic consumers who are serviced by non-domestic contracts (e.g. caravan owners) fall outside the scope of this project. If required, these may be addressed by future workstreams within UR.

Call for Input

- 1.11 This Call for Input (Cfl) marks the first open, external engagement of the ‘Review of the Regulation of the Non-Domestic Energy Retail Market’. The purpose of this Cfl is to gather responses from a wide range of stakeholders on the questions posed within this paper; particularly from non-domestic consumers, advice and protection agencies, business representative organisations, energy suppliers, and the wider energy industry.
- 1.12 The Cfl questions in Section 3 build upon the information and insights we have already gathered through the program of research outlined in Section 2.
- 1.13 The publication of this Cfl will ensure UR achieves Objectives 1 and 2 discussed in this section, and the responses to this Cfl will support the progression of Objectives 3-6 and help shape the future regulatory framework for non-domestic consumers.

Structure of this Paper

- 1.14 Section 1 outlines the Strategic Aim, objectives, and scope of the ‘Review of the Regulation of the Non-Domestic Energy Retail Market’ project, as well as the purpose of this Cfl.
- 1.15 Section 2 provides a summary of the non-domestic energy market research performed throughout 2023. This includes the main findings from the:
- non-domestic Tracker Survey published in May 2023;
 - series of structured interviews performed from September to November 2023; and
 - desk-top research exercise assessing the current regulation of the non-domestic energy market in GB.
- 1.16 Section 3 outlines the areas of focus of this Cfl. These have been derived from the research outlined in Section 2, and each area is supported with additional research from Northern Ireland. Here we also introduce our Cfl questions for our stakeholders (the full list of questions can be found in Annex 2).

1.17 Section 4 provides guidance on how to respond to this Cfl including information on the next steps.

2. Non-domestic Energy Market Research

2.1 In this section we provide a summary of the non-domestic energy market research performed throughout 2023. This includes the main findings from the:

- non-domestic Tracker Survey published in May 2023;
- series of structured interviews performed from September to November 2023; and
- desk-top research exercise assessing the current regulation of the non-domestic energy market in GB.

Non-domestic Consumer Insight Tracker Survey

2.2 UR's second Non-domestic Consumer Insight Tracker Survey was published in May 2023². The survey was carried out between December 2022 and January 2023 and used a representative sample of non-domestic consumers in Northern Ireland³. Some of the key findings are summarised below.

Billing, Contracts, and Financial Issues

- 2.3 This area explored the views and experiences of organisations in relation to affordability, cost of energy in Northern Ireland compared to Ireland and GB, energy contracts and tariff types, and the concerns and difficulties non-domestic consumers have with energy bills.
- 2.4 Over half (53%) of non-domestic consumers were found to be concerned or very concerned over their energy bills, with the hospitality sector the most likely to be concerned. It was found that 29% of electricity, and 25% of gas customers said they struggle to pay bills⁴.
- 2.5 However, most non-domestic consumers said they had made no changes due to energy prices and a high proportion were unaware of how much they spend on both (33% electricity and 41% gas).
- 2.6 Nearly half of non-domestic consumers were unsure of how energy prices in Northern Ireland compared to other areas such as GB and Ireland. This finding may indicate that energy spending is difficult to track for many within the non-domestic sector, due, in part, to the recent unpredictability of the energy markets.

² <https://www.uregni.gov.uk/news-centre/utility-regulator-publishes-non-domestic-tracker-survey>

³ These were weighted accordingly.

⁴ These are new questions to this survey, so we cannot make a comparison to prior surveys.

Understanding of the Energy Market

- 2.7 This area explored the views of non-domestic consumers on their understanding of the energy market in relation to their awareness of minimum standards of customer service, provision of a key contact or account manager, knowledge of their supplier, and awareness of choice in the energy market.
- 2.8 One third (33%) of non-domestic consumers say they are ‘completely aware’ of the minimum standards of customer service energy suppliers have to meet, with a further 37% reporting that they are ‘somewhat aware’. However, 30% confirmed that they are unaware of these standards, although this represents a slight decrease from the 2020 Tracker in which 37% were not aware.
- 2.9 Since the 2020 Tracker Survey, organisations were found to be becoming more knowledgeable about their electricity and gas suppliers. In 2020, 34% of electricity and 48% of gas consumers thought they had some or good knowledge of their supplier. This has increased to 71% of electricity and 72% of gas consumers in the 2023 Tracker.
- 2.10 Only two thirds (65%) of non-domestic consumers said they are both completely aware that they can choose between multiple energy suppliers, and completely aware that they have a choice between different tariff types. This compares to 58% of those in the 2020 Tracker who were completely aware that they can choose between suppliers, and 53% who were completely aware that they can choose between tariff types. Those in the retail sector were the most likely to be aware that they have these choices.

Communication and Methods of Contact

- 2.11 This area of the survey assessed the methods of communication used by energy suppliers including methods of billing, approach to dealing with correspondence, information and advice on energy matters, and non-domestic consumers’ experience of interacting with suppliers.
- 2.12 Since the last survey non-domestic consumers were found to be more engaged with the correspondence they receive from their energy supplier, with 70% of consumers confirming that they read and understood most or all the correspondence they receive from their energy supplier (55% in the 2020 survey). One quarter of consumers said they only glance at or do not read the correspondence from their supplier (41% in the 2020 survey).
- 2.13 Half (50%) of respondents found interacting with their electricity supplier to be a positive or very positive experience. This positive experience was slightly higher for gas customers (58%).

Satisfaction with Services Provided

- 2.14 There were significant falls in non-domestic consumer satisfaction levels for both electricity and gas suppliers, likely driven in part by price volatility. Only 33% of electricity and 38% of gas customers reported being satisfied, compared to 63% and 62% in the last survey in 2020. However, this had not led to a significant increase in dissatisfaction, but rather a more neutral response.
- 2.15 Trust levels were lower than satisfaction levels with only a quarter of both electricity and gas customers indicating that they trust their supplier to provide clear information and a fair price.

Structured Interviews

- 2.16 From September to November 2023, UR performed a series of structured interviews with a selection of key organisations. The interview questions⁵ were directly informed by the outcomes of the consumer tracker survey, as well as the review of the relevant work performed by Ofgem in GB (as summarised below).
- 2.17 The interviewees were selected to provide a representative view of the range of non-domestic consumers within Northern Ireland. This included business representative organisations, advice and protection agencies, and a selection of other relevant stakeholders.
- 2.18 Below is a list of interview participants:
- Advice NI
 - Belfast Chamber
 - Consumer Council Northern Ireland (CCNI)
 - Federation of Small Businesses (FSB)
 - Institute of Directors (IoD)
 - Invest NI
 - Major Energy Users' Council (MEUC)
 - Manufacturing NI (MNI)
 - Mineral Products Association Northern Ireland (MPANI)
 - Northern Ireland Hotels Federation (NIHF)
 - Northern Ireland Takeaway Association (NITA)
 - Retail NI

⁵ The structured interview questions can be found in Annex 1.

- Ulster Farmers Union (UFU)
 - One additional unnamed interviewee.
- 2.19 These interviews not only served as a method of collecting important information which would directly feed into and help focus this Cfl, but also provided an important opportunity for UR to begin to establish relationships with key stakeholders and industry representatives of non-domestic consumers.
- 2.20 A high-level summary of the key themes resulting from these interviews can be found below.

Engaging with the Non-domestic Energy Market in Northern Ireland

- 2.21 Interviewees were asked to provide their view (or the view of their members) of the current environment faced by non-domestic consumers engaging with the energy market in Northern Ireland today. Irrespective of an organisation's size, or sector, the prevailing view was that current market conditions were incredibly challenging, with energy costs being a key concern for all businesses.
- 2.22 In terms of regulatory protections that UR can or does provide, there was a view from some representatives of large non-domestic consumers that these organisations had sufficient resources and knowledge to manage their own energy matters and contracts.
- 2.23 The interviews identified a wide range of themes; including the operation of Third Party Intermediaries (TPIs), treatment of debt, transparency and information (for example in relation to supplier communications), and energy contract terms.

Third Party Intermediaries / Brokers

- 2.24 Interviews revealed both the positive and negative experiences of TPIs in the energy market in Northern Ireland. Some interviewees described their relationship with TPIs as positive, with one interviewee stating that they "couldn't engage with the energy market without a broker". Repeated in several interviews was the perceived complexity of the energy market in Northern Ireland, and that many businesses have neither the time nor knowledge to engage with the market effectively. TPIs were seen by many as a provider of a paid service that helped bridge that knowledge gap. We found that consumers who did use TPIs often tended to use the same one over a number of years, building up a relationship of trust.
- 2.25 However, the interviews also revealed a significant level of concern around the operation of some TPIs. There was a view from several interviewees that

a lack of regulation allowed for the operation of less reputable brokers. Concerns over transparency of commissions was raised in several interviews, saying that “exorbitant” commissions can effectively be hidden within contracts with the consumer being unaware of actual charges. Some respondents described their businesses as feeling vulnerable and exposed, referring to the operation of TPIs as a “*dark art*” and the “*wild west*”.

- 2.26 Overall, the operation of TPIs was seen to be an accepted and often useful feature of the energy market in Northern Ireland. However, many interviewees called for the introduction of additional regulations and protections regarding the operation of TPIs (in particular the transparency of commissions) and pointed to some of the work that has been performed in GB.

Treatment of Debt

- 2.27 High energy prices were said to have placed a considerable strain on non-domestic consumers in Northern Ireland. In particular, some interviewees said that an increasing number of small businesses were falling into debt, specifically within the hospitality sector. Moreover, the approach of some energy suppliers in the collection of debt was raised as an issue by several of the business representatives that we interviewed.
- 2.28 With regard to the collection of debt, the approach and practices of some suppliers were described as “aggressive” in several interviews, especially around the language and tone used in the correspondence. One interviewee stated they had many examples where there were threats to disconnect following a single missed payment, with a demand for 80% of their outstanding bill to be paid in one week.
- 2.29 The interviewees stated that some suppliers were said to be reluctant to offer payment plans and others only offering what they regarded as “reasonable” repayment terms but only after intervention by a consumer body. One interviewee stated that “dozens” of businesses that they represented had closed over the last year due, in part, to an energy supplier being unwilling to offer a workable payment plan to repay debt.
- 2.30 It was suggested by several interviewees that more targeted regulation in this area would benefit small businesses in particular.

Transparency and Information

- 2.31 Transparency of information and a lack of relevant information was raised as an issue for both large and small businesses for differing reasons. Business representatives told us that small businesses often do not know where to go for information or how to compare tariffs. We were told that small businesses

have limited time available and little knowledge regarding the energy market, with an interviewee suggesting that the current energy market can be an “information black hole” and they felt that “a lot of information that doesn’t actually mean much to small businesses”.

- 2.32 Views were expressed in several interviews over bills not being user friendly. They were described by some as having too much information, overly complex, and confusing. Several interviewees suggested that among non-domestic customers there is generally a limited understanding regarding energy bills and contracts.
- 2.33 The interviews indicated that large non-domestic consumers did not have the same concerns as small non-domestic businesses but do have concerns over the lack of available wholesale market information.

Contract Terms

- 2.34 In the interviews we conducted, concerns over contract terms were mainly raised as an issue for small businesses. Several interviewees suggested that small (and even medium) non-domestic consumers have comparable levels of knowledge and resources as domestic consumers. Therefore, it was felt that they should be afforded similar levels of protection (the example of cooling-off periods for contracts was cited).
- 2.35 Unfair contract terms were also raised as a concern, with one interviewee giving the example of a supplier requiring “excessive” written notice to exit a variable contract.
- 2.36 One business representative highlighted that suppliers often approached small businesses to renew contracts long before the current contract would end (and the resultant window to obtain other quotes). They said that this left the customer facing the difficult decision to either lock in a price early or risk getting a less favourable deal later.
- 2.37 Two interviewees expressed concern over end of contract penalties and a lack of transparency around these.

GB Developments

- 2.38 We undertook a desk-top research exercise in early Summer 2023. The purpose of this was two-fold, to establish what issues (if any) were being experienced by non-domestic consumers in GB, and to highlight what regulatory measures had been proposed or implemented as a result. Several key areas were identified from this research which aligned with the outcomes of our structured interviews. These included; a focus on TPI’s and brokers including the implementation of a TPI Code of Practice (CoP), issuing good

practice expectations around debt, and the strengthening of protections around contract terms through changes to supply licence conditions.

TPI's / Brokers

- 2.39 In early 2013, Ofgem developed a draft CoP for non-domestic TPIs and issued a consultation on proposals for regulating non-domestic TPIs⁶. These included four options; maintain the status quo, a voluntary CoP, a CoP underpinned by licence conditions and full licensing of non-domestic TPIs. Following on from this consultation, Ofgem published an open letter in August 2013 summarising the consultation feedback⁷, and outlining the next steps. The preferred option was for a mandatory code for TPIs, backed by a licence condition for energy suppliers to only work with accredited TPIs. In February 2014, Ofgem published a consultation on Third Party Intermediaries (TPI): Proposals for regulating non-domestic TPIs⁸. However, this particular aspect was not taken forward by Ofgem (there have been related pieces of work since that time which are covered later).
- 2.40 In August 2021, the Department for Business, Energy and Industrial Strategy (BEIS)⁹ published a Call for Evidence (CfE) on TPIs in the retail energy market¹⁰. This CfE covered both domestic and non-domestic consumers with a focus on all types of TPIs¹¹ (including brokers, price comparison / switching websites, and any company that offers support with energy procurement).
- 2.41 The results of this CfE were published in July 2023¹². This publication highlighted a number of areas which overlapped with other regulatory reviews and in some instances regulatory measures had already been implemented such as, the introduction of the Alternative Dispute Resolution (ADR) scheme, and the changes in licence conditions in relation to principal contractual terms (this included third party costs).
- 2.42 In addition, Ofgem concluded their Microbusiness Strategic Review licence modification consultation in June 2021, with a decision to modify the Supply

⁶ https://www.ofgem.gov.uk/sites/default/files/docs/2014/02/tpi_non-dom_condoc_final.pdf

⁷ <https://www.ofgem.gov.uk/publications/non-domestic-third-party-intermediaries-tpis-summary-industry-feedback>

⁸ <https://www.ofgem.gov.uk/publications/third-party-intermediaries-tpi-proposals-regulating-non-domestic-tpis>

⁹ Now known as DESNZ - Department for Energy Security and Net Zero

¹⁰ <https://assets.publishing.service.gov.uk/media/611685d0e90e070547b65ede/retail-energy-tpi.pdf>
This Call for Evidence closed on the 6 December 2021.

¹¹ Third party intermediaries (TPIs) are organisations or individuals that give energy- related advice, aimed at helping you to buy energy and/or manage your energy needs. TPIs include switching sites, energy brokers and any company that offers support with energy procurement.

https://www.ofgem.gov.uk/sites/default/files/docs/2015/03/481_tpi_facsheet_may15_web.pdf

¹²

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1172989/third-party-intermediaries-retail-energy-market-summary-of-responses.pdf

Licence Conditions of all gas and electricity supply licences in March 2022¹³. These came into effect from 1 October 2022 onwards, and included a provision of principal contractual terms to ensure customers receive key information about Third-Party Costs and the implementation of the ADR. This scheme provides a suitable form of redress for issues that non-domestic consumers may have with a TPI. The scheme went live on the 1 December 2022, and is administered by the Energy Ombudsman.

- 2.43 In early 2023, the Retail Energy Code Company (RECCo) held a series of workshops with suppliers and TPIs resulting in the development of a draft CoP for Non-Domestic TPIs. RECCo published their voluntary CoP on the 25 October 2023¹⁴, and this applies to TPIs operating in the non-domestic gas and electricity supply market in GB.
- 2.44 Initially, this CoP is on a voluntary basis; however, plans are in place to introduce a TPI CoP assurance and accreditation framework in 2024/25¹⁵. RECCo submitted a change proposal on 20th July 2023 to change the Retail Energy Code¹⁶ to introduce the TPI CoP assurance and accreditation framework¹⁷.

Treatment of Debt

- 2.45 In December 2022, Ofgem issued an open letter to non-domestic suppliers setting out good practice expectations on issues surrounding debt management and disconnection of non-domestic consumers¹⁸. The letter did not set out any additional obligations on suppliers outside of existing licence conditions but described some of the good practice processes Ofgem expected suppliers to follow, at a minimum, to best support their customers. These good practice expectations included recommendations on:
- Appropriateness of security deposits and their value.
 - Transparency on suppliers' debt collection processes.
 - Suppliers' debt and disconnection paths.
 - Helping business customers in payment difficulty.

¹³ <https://www.ofgem.gov.uk/sites/default/files/2022-03/Decision%20Microbusiness%20Strategic%20Review.pdf>

¹⁴ [Third-Party Intermediaries - REC Portal](#)

¹⁵ [Introducing Third Party Intermediaries assurance and accreditation - Retail Energy Code Company](#)

¹⁶ The Retail Energy Code (or REC) is a set of obligations governing market participants operating in the retail energy market within Great Britain.

¹⁷ REC Change Proposal R0137 to introduce the TPI CoP assurance and accreditation framework.

¹⁸ <https://www.ofgem.gov.uk/publications/open-letter-good-practice-expectations-non-domestic-suppliers-issues-surrounding-debt-management-and-disconnection-customers>

- Expectations on the timeliness of customer refunds.
- Provision of information and signposting to third parties.

2.46 A follow up letter was issued in February 2023, asking how suppliers met those expectations.¹⁹

Transparency and information

2.47 In 2021, Ofgem consulted on their Microbusiness Strategic Review²⁰. This included proposals around improving information and awareness for non-domestic consumers.

In 2022, Ofgem published their decision paper which included workstreams to improve awareness materials and information provision for microbusinesses. This included working alongside Citizens Advice to create both new information and update the existing information. The main focus was on key information about the market as well as consumer rights and supplier obligations; covering topics such as the significance of entering legally binding contracts, and the availability of alternative dispute resolution facilities.

Contract Terms

2.48 In 2022, Ofgem published their decision on the Microbusiness Strategic Review which included the decision to modify the licence conditions of all gas and electricity supply licences²¹. This entailed strengthening of protections through changes to the supply licence conditions from 1 October 2022 onwards. This included a provision of 'principal contractual terms' to ensure that the principal terms are brought to the attention of the consumer both at the pre-contract and post-contract stage.

¹⁹ [Microsoft Word - 20230202 non-domestic disconnections and PPMs - final \(ofgem.gov.uk\)](#)

²⁰ [Microbusiness Strategic Review: Statutory Consultation to modify the SLCs of all gas and electricity supply licences | Ofgem](#)

²¹ <https://www.ofgem.gov.uk/publications/microbusiness-strategic-review-decision-modify-slcs-all-gas-and-electricity-supply-licences>

3. Areas of Focus

3.1 In this section we outline the areas of focus of this Cfl. These have been derived from the research outlined in Section 2, and each area is supported with additional research for the energy market in Northern Ireland. Here we also introduce our Cfl questions and the full list of questions can be found in Annex 2.

Approach

3.2 Throughout 2023, we have undertaken a program of research in order to enhance our understanding of the non-domestic energy market in Northern Ireland. The purpose of this work was to help identify any areas where the existing regulations are inadequate or need strengthened to provide appropriate protections to non-domestic consumers. Understandably, the key concern of late for all consumers in Northern Ireland is energy prices. However, in terms of regulatory protections, our research has led us to four areas we feel requires further exploration in this Cfl. These areas are:

- Operation of TPIs;
- Treatment of debt;
- Transparency and information; and
- Contract terms.

3.3 Our tracker survey published in May 2023 showed that small and medium sized non-domestics (such as hospitality) were those customers that had the greatest concerns over their energy bills. Our interviews also revealed that there was a view amongst some large non-domestic consumers that they had sufficient resources and knowledge to manage their own affairs and contracts (at least in terms of retail market regulatory protections).

Questions

Q1. Do you agree with the four areas of focus identified in this paper? Please provide any additional information to support your view, including any additional areas that you consider should be of focus.

Q2. Do certain groups of customers require specific additional levels of protection (e.g. small and medium sized businesses) beyond what is currently provided? Please provide your rationale.

Q3. Is the current level of competition in gas and electricity retail markets sufficient to produce positive outcomes for non-domestic consumers? i.e. around matters such variety of contract offers, tender responses, supplier service, etc. Please provide any additional information to support your view.

TPIs / Brokers

3.4 In July 2018, UR published a consultation paper on TPIs in the Retail Energy Market in Northern Ireland. This paper consulted on three options regarding the treatment of TPIs²²:

- Option 1 – Further Information Gathering and Monitoring with the TPIs (performed by UR)
- Option 2 – Voluntary Industry CoP for TPIs
- Option 3 – Mandated UR regulation via Energy Suppliers

3.5 A position paper²³ was published in December 2018. The position was that UR had no statutory ability to regulate TPIs; nor revenue raising powers to resource some of the work highlighted. Therefore, Option 2 and 3 were disregarded as being suitable for implementation at that time. We therefore proceeded with Option 1 and stated that we would review this position at a future date.

Questions

Q4. Do non-domestic consumers require regulatory protection when engaging with TPIs in the energy market in Northern Ireland? Please provide any information to support your answer.

Q5. If you answered yes to Q4, what additional protections do you feel would benefit non-domestic consumers in Northern Ireland? Please provide examples to support your answer where necessary.

²² <https://www.uregni.gov.uk/news-centre/third-party-intermediaries-retail-energy-market-consultation>.

²³ <https://www.uregni.gov.uk/files/uregni/media-files/Third%20Party%20Intermediaries%20in%20the%20Retail%20Energy%20Market%20Position%20Paper%20May%202018.pdf>

Treatment of Debt

- 3.6 In Northern Ireland, non-domestic consumers have limited protections in place regarding debt, and no work similar to GB regarding best practice has been performed.
- 3.7 However, for domestic consumers the CoP Minimum Standards on Payment of Bills outlines the minimum requirements to fulfil the supplier licence obligations and includes a number of standards, for example, how suppliers identify customers in difficulty, processes for payment arrangements, ability to pay, and monitoring of debt and disconnections²⁴.

Questions

Q6. What are your views / experiences of the treatment of non-domestic consumers in debt by suppliers in the retail energy market in Northern Ireland? Please provide examples where possible.

Q7. Are there specific supplier behaviours and / or debt collection processes that require enhanced regulation to better protect non-domestic consumers? If so, please specify, with examples.

Q8. Should certain non-domestic consumers (such as small and microbusinesses) be provided a similar level of protection as domestic consumers regarding treatment of debt? (e.g. as is provided in CoP on the Payment of Bills).

Transparency and Information

- 3.8 In October 2017, UR published a consultation paper on Measures to Enhance the Operation of the Small Business Energy Market. The objective of this paper was to highlight areas where potential improvements could be made to enhance the small business energy market including increased tariff transparency and a duty on all suppliers to offer terms to small industrial and commercial customers.
- 3.9 UR's resulting decision paper was published in September 2018. The outcome of this decision paper placed an obligation on the supplier to inform customers if their terms and conditions change. This includes a requirement for a 21-day notification if there is a price change and advance notification of when their fixed term contract period comes to an end²⁵.
- 3.10 However, in that piece of work UR opted not to implement licence conditions

²⁴ <https://www.uregni.gov.uk/publications/annex-1b-code-practice-minimum-standards-payment-bills>

²⁵ Licence modifications were made under Condition 27, paragraph 18 - 20 of the Electricity Licence and Condition 2.18.19 of the Gas Licence.

which mandated suppliers to publish their small business tariffs. This was on the basis that suppliers voluntarily committed to provide their pricing information to CCNI, or another third party. This was to be reviewed periodically to establish if the transparency required is being achieved. UR stated that if this transparency was not achieved on a voluntary basis, we would consult on a licence modification to ensure tariff transparency for small businesses.

3.11 There are further relevant protections that currently exist in the supply licences and CoPs, for example:

- The CoP on Non-Domestic Bills and Statements²⁶ outlines the overarching principles and minimum requirements placed upon gas and electricity suppliers for the content and format of business bills and statements. Compliance with this CoP on bills and statements is mandatory under the supply licence as follows:²⁷
 - Both the gas and electricity licences state that the supplier must inform the consumer before entering or completing a contract and inform them at least once annually of the communication types available for statements (including electronically).
 - The supplier will send a bill or statement at least once a quarter for those credit customers who have requested to receive their bills / statements electronically or to any customer who has requested to receive their billing quarterly.
- The Marketing CoP for Business Customers is designed to protect small business energy consumers from inappropriate and misleading marketing techniques, ensuring that each business customer is able to make an informed and reasoned decision on switching their energy supplier. This CoP covers a number of areas in relation to marketing, such as the use of third parties, doorstep selling, face-to-face contact with a potential customer, e.g. via information stand, contacting a potential customer via the telephone²⁸ or when a customer contacts the supplier via telephone²⁹, and website marketing, and sales. The CoP also includes marketing materials such as printed marketing literature, electronic communication, and postal correspondence.

²⁶ Published July 2017.

²⁷ Condition 2.19.2 – Gas Licence and Condition 38, Paragraph 2 – Electricity Licence.

²⁸ Outbound telephone marketing and sales.

²⁹ Inbound telephone marketing and sales.

Questions

Q9. To what extent do you believe the communications from suppliers to non-domestic consumers are clear and transparent (e.g. billing, renewal agreements, etc)? Please provide examples where possible.

Q10. Do you believe that there is sufficient market information available for non-domestic consumers to make informed choices around their energy needs? Please provide details and your reasons.

Contract Terms

3.12 UR's decision paper on Measures to Enhance the Operation of the Small Business Energy Market was published in September 2018. The following licence modifications were made regarding small businesses:

- Rollover Contracts - contracts are not allowed to include any terms or conditions which could prevent the small business customer from terminating the contract after the initial fixed term period³⁰.
- Exit fees - these must be set at a reasonable level but did not include that UR was to approve these in advance. However, suppliers must be able to demonstrate that the level of their exit fees are proportionate and justifiable should an issue arise³¹.

3.13 Further existing protections in the supply licence are as follows:

- Both gas and electricity supply licences include the right for a small business customer³² to terminate their contract if the supplier proposes to make changes to their terms and conditions and the customer does not want to accept the changes³³. If a supplier is proposing changes to the terms and conditions, a notice must be sent to the customer, 21 days in advance of the change³⁴, that sets the information out in a clear, transparent, easy to read, and understandable language. Where the change is in relation to pricing / tariffs the customer's existing tariff and proposed tariff should be clearly set out in the notice.

³⁰ Licence modifications were made under Condition 27, Paragraph 20 of the Electricity Licence and Condition 2.18.18 of the Gas Licence.

³¹ Licence modifications were made under Condition 27, Paragraph 20(a) of the Electricity Licence and Condition 2.18.20 of the Gas Licence.

³² Defined as a non-domestic customer with electricity usage under 50MWh per annum and under 73.2MWh per annum for gas.

³³ Condition 2.18.18 – 2.18.20 – Gas Licence and Condition 27, Paragraph 18 - 20 – Electricity Licence.

- If a customer is in a fixed term contract the contract cannot have a clause which prevents the small business customer from ending the contract at any time after the fixed term period ends. In addition, the supplier cannot apply a consecutive fixed term period unless the customer has the right to end the contract (the customer can do this without a notice period or payment of a termination fee)³⁵. The supplier must also notify the customer of the end date of the fixed term period³⁶, and outline the tariff, unit rate, and details of all charges included in the new tariff that will apply.

Questions

Q11. Are you aware of any onerous or unfair contract terms which impact a non-domestic consumers ability to engage with the retail energy market in Northern Ireland fairly, or are there any contract terms and conditions that you have concerns about? Please provide evidence for your views and details of any specific examples.

Overall View

Questions

Q12. In terms of protecting the short-term and long-term interests of non-domestic consumers, is there anything else not covered by questions 1-11 that UR should consider?

³⁵ Condition 2.18.20 – Gas Licence and Condition 27, Paragraph 20 – Electricity Licence.

³⁶ At least 21 days, but no more than 42 days before that expiry date.

4. Responding to this Call for Input

- 4.1 In this section we provide information on how to respond to the Cfl as well as next steps.

How to Respond

- 4.2 UR is keen to hear all stakeholder views on the questions posed within this paper and would welcome your views on anything else that you consider relevant to this project. Responses to this Cfl should be forwarded to reach UR on or before 4pm on **29 January 2024** to:

Colin Magee
The Utility Regulator
Queens House
14 Queen Street
Belfast
BT1 6ED
Email: colin.magee@uregni.gov.uk

- 4.3 As a public body and non-ministerial government department, UR is required to comply with the Freedom of Information Act (FOIA). The effect of FOIA may be that certain recorded information contained in consultation responses is required to be put into the public domain. Hence it is now possible that all responses made to consultations will be discoverable under FOIA, even if respondents ask us to treat responses as confidential. It is therefore important that respondents take account of this, in particular, if asking the Authority to treat responses as confidential, should specify why they consider the information in question should be treated as such.
- 4.4 This paper is available in alternative formats such as audio, Braille etc. If an alternative format is required, please contact UR, and we will be happy to assist.

Next Steps

- 4.5 Once all responses to this Cfl have been received we will analyse these and based on that information we will then determine the appropriate next steps. We plan to notify stakeholders of our next steps in early 2024 via our website or direct contact.

5. Annex

Annex 1 – Structured Interview Questionnaire



Questions on NI Non-domestic Retail Energy Market

1. Please describe the current environment faced by non-domestic consumers when engaging with the NI energy market?
2. How do the following supplier processes impact a non-domestic consumer's ability to engage with the NI energy market fairly?
 - o Treatment of debt;
 - o Security deposits;
 - o Availability of products; and
 - o Contract terms (e.g. notification periods, rollover contracts, etc).
3. How do these wider market features impact a non-domestic consumer's ability to engage with the NI energy market fairly?
 - o Operation of the Utility Regulator;
 - o Brokers;
 - o Market information; and
 - o Switching procedures.
4. In terms of protecting the interests of non-domestic consumers, should there be additional considerations for specific consumer type? Such as:
 - o Fuel type;
 - o Business size;
 - o Business sector; and
 - o Other customer types.
5. If applicable, what other factors impede or improve a non-domestic consumers ability to engage with the non-domestic energy market fairly?

Utility Regulator

Queens House, 14 Queen Street, BELFAST BT1 6ED

T: +44 (0) 28 9031 1575 W: www.uregni.gov.uk

Annex 2 – Call for Input Questions

Q1. Do you agree with the four areas of focus identified in this paper? Please provide any additional information to support your view, including any additional areas that you feel should be of focus.

Q2. Do certain groups of customers require specific additional levels of protection (e.g. small and medium sized businesses) beyond what is currently provided? Please provide your rationale.

Q3. Is the current level of competition in gas and electricity retail markets sufficient to produce positive outcomes for non-domestic consumers? i.e. around matters such variety of offers, tender responses, service, etc. Please provide any additional information to support your view.

Q4. Do non-domestic consumers require regulatory protection when engaging with TPIs in the energy market in Northern Ireland? Please provide any information to support your answer.

Q5. If you answered yes to Q4, what additional protections do you feel would benefit consumers in Northern Ireland? Please provide examples to support your answer where necessary.

Q6. What are your views / experiences of the treatment of non-domestic consumers in debt by suppliers in the retail energy market in Northern Ireland? Please provide examples where possible.

Q7. Are there certain supplier behaviours and / or debt collection processes that require enhanced regulation to better protect non-domestic consumers? If so, please specify, with examples.

Q8. Should certain non-domestic consumers (such as small and microbusinesses) be provided a similar level of protection as domestic consumers regarding treatment of debt? (e.g. as is provided in CoP on the Payment of Bills).

Q9. To what extent do you believe the communications from suppliers to non-domestic consumers are clear and transparent (e.g. billing, renewal agreements, etc)? Please provide examples where possible.

Q10. Do you believe that there is sufficient market information available for non-domestic consumers to make informed choices around their energy needs? Please provide details and your reasons.

Q11. Are you aware of any onerous or unfair contract terms which impact a non-domestic consumers ability to engage with the retail energy market in Northern Ireland fairly, or are there any contract terms and conditions that you have concerns about? Please provide evidence for your views and details of any specific examples.

Q12. In terms of protecting the short-term and long-term interests of non-domestic consumers, is there anything else not covered by questions 1-11 that UR should consider?

Annex 3 - Glossary

ADR	Alternative Dispute Resolution Scheme
CBI	Confederation of British Industry
CCNI	The Consumer Council for Northern Ireland
CEF	Construction Employers Federation
Cfi	Call for Input
CoP	Code of Practice
CPP	Consumer Protection Programme
CRU	Commission for Regulation of Utilities
DESNZ	Department for Energy Security and Net Zero
ENI	Enterprise Northern Ireland
GB	Great Britain
FSB	Federation of Small Businesses
IoD	Institute of Directors
MEUC	Major Energy Users' Council
MPANI	Mineral Products Association Northern Ireland
NI	Northern Ireland
NIHF	Northern Ireland Hotels Federation
NIRC	Northern Ireland Retail Consortium
NITA	Northern Ireland Takeaway Association
RECCo	Retail Energy Code
RoI	Republic of Ireland
SLC	Supply Licence Conditions
TPI	Third Party Intermediary
UFU	Ulster Farmers' Union
UR	The Northern Ireland Authority for Utility Regulation or the "Utility Regulator"