



Backbilling in the NI Retail Energy Market

Consultation response

February 2019

1. Introduction

- 1.1 The Consumer Council is a non-departmental public body (NDPB) established through the General Consumer Council (NI) Order 1984. Our principal statutory duty is to promote and safeguard the interests of consumers in Northern Ireland.
- 1.2 The Consumer Council has specific statutory duties in relation to energy, postal services, transport, and water and sewerage. These include considering consumer complaints and enquiries, carrying out research, and educating and informing consumers.
- 1.3 We welcome the opportunity to respond to this consultation. The Consumer Council supports the overall approach that the Northern Ireland Authority for Utility Regulation (UR) is proposing, and the progress and engagement it has made and undertaken to date.
- 1.4 This builds on the work of The Consumer Council since we introduced a voluntary backbilling policy in October 2006, the Financial Remedy Framework for Complaints (FRF)¹.

2 Background

- 2.1 The Consumer Council stated in the response to UR's July 2018 Call for Evidence that the introduction of a backbilling policy in Northern Ireland is in the interest of Northern Ireland consumers², and of the electricity and gas industry gas here for the following reasons:

¹ http://www.consumercouncil.org.uk/sites/default/files/2018-07/Consultation_Response_UR_Backbilling_NI_Retail_Market_Call_For_Evidence.pdf

² Interpreted here as domestic and small non-domestic consumers.

- 2.1.1 It provides an incentive to gas suppliers, electricity suppliers and the Distribution Network Operator to improve their billing and metering systems and procedures;
 - 2.1.2 It provides a fairer balance of risk-reward between consumers and energy companies in respect of billing errors;
 - 2.1.3 It is aligned with the consumer principles framework, in particular fairness and redress; and
 - 2.1.4 It helps prevent low income households falling into debt, and microbusinesses and third sector organisations into financial distress.
- 2.2 The Consumer Council believes that the backbilling policy that UR introduces in Northern Ireland must be underpinned by the following principles:
- 2.2.1 Northern Ireland consumers should not be worse off than gas and electricity consumers in GB; and
 - 2.2.2 It must apply to domestic and small non-domestic consumers³.
- 2.3 We note that Ofgem introduced licence modifications to electricity and gas supply licences setting out a 12 month backbilling limit effective from May 2018 for domestic consumers, and November 2018 for microbusinesses. The Consumer Council believes that the backbilling provisions that Ofgem has introduced are the minimum level of protection that Northern Ireland domestic and non-domestic consumers ought to be given.

3 Consultation questions

- 3.1 The Consumer Council welcomes UR's plans to introduce a limit to backbills in Northern Ireland for domestic consumers and microbusinesses. We have answered some of the questions in the consultation paper in the areas of greater potential impact to consumers.

³ Those in the 0-50MWh electricity sector and 0-73,200kWh for natural gas.

Limit

Q3. Do respondents agree that any limit to backbills for gas and electricity should be 13 months for gas and electricity?

- 3.2 The Consumer Council welcomes UR's decision to introduce a limit to backbills for electricity and gas. However, we deem the proposed 13 month limit to be inadequate for consumers and call on the UR to reduce the limit to 12 months instead.
- 3.3 We dispute the assessment that the one month difference is "not material enough." Any additional month that is added to a consumer's backbill can have a significant financial impact depending on the consumption and/or the financial circumstances of the household or small business.
- 3.4 For example, in one of the case studies that illustrated The Consumer Council's response to UR's backbilling Call for Evidence, the backbill amounted to £31k accrued over a two year period. The difference between a 12 and 13 month limit in similar scenarios would be £1,300.
- 3.5 Furthermore, a backbill is effectively debt that households or microbusinesses ought to repay on top of their monthly energy outgoings. In The Consumer Council's opinion this magnifies the importance of reducing the backbill limit to the lowest reasonable level possible, particularly to protect vulnerable consumers or small business that may be experiencing financial distress already.
- 3.6 The second reason why we call on the UR to reduce the limit to 12 months is to ensure Northern Ireland consumers are not at a disadvantage in comparison to consumers in GB. From a Northern Ireland consumer perspective it would be unfair that the backilling limit is not set at the same level as GB.

3.7 UR explains that the decision behind its 13 month limit proposal is the need to align the limit with the wholesale settlement period. The Consumer Council is concerned about the lack of evidence about the financial impact that the misalignment would have on suppliers. For example, are suppliers likely to incur costs to update their systems or processes, or is the impact linked to potential under recoveries of wholesale costs? In any case, in the absence of relevant and robust data we cannot accept this argument.

Microbusinesses

Q4. Do respondents agree that any limit to backbills should be applicable to both domestic consumers and microbusinesses?

3.8 The Consumer Council agrees strongly with the UR proposal to extend any proposed limit to backbills to microbusiness. We appreciate the support on this point by some suppliers that the UR highlighted in its consultation paper and reiterate our support for this proposal. We outlined evidence supporting the proposal in our response to the UR Call for Evidence and we note that UR has summarised it in its consultation document.

Apply when the customer is not at fault

Q5. Do respondents believe that Ofgem’s definition of “customer fault” is applicable to NI energy market? If not, please provide clear rationale why or identify what additional factors / scenarios should be considered.

3.9 The Consumer Council recognises that there are instances where NIE Networks or gas suppliers are unable to obtain meter readings either directly or from their customers, despite their best endeavours. Therefore we would accept the adoption of a “customer fault” scenario in principle.

3.10 We would accept the adoption by the UR of exemptions to the limit on backbills similar to Ofgem’s electricity and gas conditions 21BA.2(a)(c)(d) in

respect of non-retrospective application of the backbilling conditions, obtrusive customer behaviour and other scenarios that the UR consults on.

3.11 With regards to Ofgem's condition 21BA.2(b), The Consumer Council opposes any exception to the applicability of the limit on backbills when a consumer or microbusiness does not or cannot comply with the repayment plan agreed with the supplier, particularly if this is the result of financial difficulties.

3.12 The Consumer Council believes that once suppliers apply a limit on a backbill for a specific customer, any subsequent failure to repay the agreed debt when the consumer or microbusiness is in difficulties should fall outside the scope of the backbilling policy. Instead it should be dealt with in line with the electricity and gas conditions in respect of the Code of Practice on Payment of Bills, at least for domestic consumers or suppliers' credit control policies.

Payment types

Q6. Do respondents agree that any limit to backbills should be applicable to all payment types?

3.13 While we agree that the majority of backbills affect credit meter customers, we do not see any valid reason not to extend the application of the limit to prepayment meter customers, to ensure they are protected in the event that they experience metering issues.

Enforcement

Q10. Do respondents agree that any limit on backbills should be enforced through the creation of a new licence condition?

3.14 The Consumer Council supports the UR proposal to enforce the limit on backbills through a new licence condition. Our experience operating The Consumer Council voluntary Financial Remedy Framework and Ofgem's own evidence in GB show that only a framework enforced in suppliers' licences

can ensure a consistent and appropriate level of consumer protection in this area.

4 Conclusion

4.1 We welcome the approach proposed by the UR, in particular its commitment to introducing a limit to backbills in Northern Ireland and to apply this to microbusinesses. While we are challenging UR to reduce the limit on backbills to 12 months, we commend UR for delivering this project, which will provide much welcomed protection to consumers in this critical area.



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