

Eurogas

Supply and Markets Development Committee

Consumer protection in the domestic gas market

Position Paper

1. Background

Eurogas was pleased to have had the opportunity of contributing to the work of the ERGEG Customer Focus Group during 2005 on switching processes and in the area of domestic consumer protection. Since the CFG workshop in Helsinki in October, ERGEG has produced reports on consumer protection, price transparency and customer switching, and Eurogas has responded to consultations on ERGEG's best practice propositions in each of these areas.

The lead-up to full market opening in July 2007 is an appropriate time to consider approaches to the provision of these safeguards for domestic customers.

This note provides an overview of Eurogas's position on a number of aspects of customer protection, and complements comments made in our responses to ERGEG's recent consultations.

2. Consumer protection & social policy

2.1 Suppliers in a competitive market are naturally incentivised to provide good quality service for their customers, since failure to do so will lead to adverse publicity and a loss of customers.

2.2 However Eurogas recognises the value of best practice proposals and standards to ensure that customers receive an adequate level of service and that legal, regulatory or other steps can be taken to address poor performance by suppliers which threatens the reputation of the industry and the competitive market.

Care must however be taken to avoid unnecessary regulatory intervention, which could distort competition.

2.3 While suppliers have the primary role in the provision of suitable arrangements, other players - in particular distribution companies - are also often involved. Member States have developed varying industry frameworks and mechanisms for the provision of consumer protection.

2.4 While some consumer protection will apply generally e.g. the provision of information and price comparisons, specific consumer safeguards may be targeted on socially disadvantaged customer groups, who are particularly vulnerable. The way in which such customers are identified varies from country to country.

2.5 Traditionally it has been possible to look to integrated energy companies to assist in meeting certain social policy objectives. In a competitive market, this would introduce distortions.

Competition implies that suppliers should have the commercial freedom to differentiate themselves on service as well as price, and the margins available to supply companies mean that the cost of meeting social obligations should be reflected via distribution tariffs or otherwise socialised among all customers.

2.6 In this paper Eurogas considers the following topics.

- Provision of information
- Price comparisons in advertising
- Websites
- Metering and meter reading
- Billing & payment methods
- Provision of consumption history
- Debt management
- Connection/disconnection
- Dispute settlement

Our comments relate to measures aimed at domestic (household) customers.

3. Provision of information

3.1 Eurogas recognises that customers should have access to clear information about the services they are being offered, the prices and other contractual conditions.

In a competitive market, suppliers will compete for customers on price and services, as well as in other areas. This means they will naturally want to provide the customer with details of their prices and any other promotional offers.

In general, the focus in the domestic market should be that the customer is made aware of all applicable terms and conditions (not just the headline price) in order that the customer's decision can be well informed. However in advertising or promotional material, only the principal terms need to be stated, provided there is reference to the full terms and conditions and where they can be found.

3.2 Customers should be able to understand with whom they are dealing and the nature of their possible commitment. It is therefore important that sales contracts which the domestic customer enters into are as clear as possible and state prominently that the customer is entering into a formal contract. The terms and conditions must be in plain language and the pricing information clearly presented.

3.3 Eurogas believes bills should be presented in a clear manner, in a form which does not confuse the customer. There is a danger of trying to provide the customer with bills which have a level of detail which may be confusing or impractical to provide e.g. two levels of price information, inclusion of average consumption. Eurogas does not believe that separate pricing of gas and network services should be required or that it is necessarily useful to the customer, particularly where tariffs are not constructed in this way.

3.4 Specific requirements in this area are for Member States to determine. ERGEG should confine itself to the general principle of clarity rather than recommending specific approaches which are unsuitable or inappropriate for many Member States.

It should be recognised that the design of contracts and bills in a competitive market will vary, reflecting an individual supplier's brand identity and approach.

This serves to differentiate one supplier from another and may be a source of competitive advantage.

4. Price comparisons in supplier advertising

- 4.1 Suppliers in the domestic market will generally wish to draw attention to their prices and promotional offers, in advertising and through other means.

In the interests of transparency in the domestic market, it is essential that any advertised prices/savings are presented fairly and in a way that assists the customer to make comparisons, while recognising that other factors e.g. customer service may also be a differentiator.

- 4.2 Generally accepted principles, agreed by suppliers, are needed to define the way prices to domestic customers are presented and price claims made, and it is useful for industry players to agree a standard methodology for this, which can be generally accepted and adopted by suppliers, so as to help ensure fairness in advertised comparisons; work by Eurostat may be a possible starting point for determining a suitable voluntary basis for this.

- 4.3 Any standard methodology will necessarily be a simplification of how suppliers' tariff offerings compare in a competitive market.

Given the wider range of customer circumstances in the SME sector, this approach is not suitable outside the domestic market.

5. Websites

- 5.1 Customers will often value having information specific to their circumstances, and websites may emerge to provide such a service, presenting the prices offered by different suppliers. Websites may be set up by consumer bodies or by other organisations, and may include the use of 'tariff calculators' which allow the customer to input his own consumption details.

- 5.2 Any website which claims to offer an independent source of price comparisons has a special responsibility in the competitive market. Such sites must be kept up-to-date and should present price comparisons in a factual and impartial manner.

- 5.3 It must be recognised that sites of this kind are often financially supported by commission payments made by suppliers who gain business as a result of these sites. This fact must not be allowed to undermine the accuracy or impartiality of the comparisons made by the site, and the customer should be made aware if the site will receive commission if the customer switches to a particular supplier.

- 5.4 In general Eurogas does not believe it is good practice for the regulator to be identified directly with a particular website or to assume responsibility for the content of websites. Thus we do not believe that the regulator should promote a particular website.

However, some form of accreditation is desirable, to provide the customer with reassurance as to the accuracy and impartiality of the comparisons made by these websites.

6. Metering and meter reading

- 6.1 In considering their metering and billing policies, suppliers have to take into account national custom and practice (and any specific regulations in this area), the acceptability of estimated accounts, the practicality and cost of different meter reading and billing frequencies and the implications for cash flow. This is true as much for non-liberalised as for competitive markets. It must also be remembered that in a competitive market, meter readings form an essential part of the balancing and allocation system.
- 6.2 From a customer protection and regulatory viewpoint, infrequent or estimated bills (or meters wrongly read by the customer) may result in considerable customer distress or hardship, as well as potential damage to the supplier. On the other hand, to require over-frequent readings incurs unnecessary cost which is reflected in higher bills for all customers.
- 6.3 It is essential that meter reading, billing and allocation practices do not expose either the customer to the risk of unexpectedly high bills which the customer is unable to pay, or the supplier to costs which cannot be recovered from the customer or shipper. The regulatory/industry framework should contain provisions relating to meter reading service standards for domestic (and other) customers.
- 6.4 It is not always possible that a meter can actually be read, particularly if the meter is inside the property and the customer is not at home. As a result, most metering and meter reading practices have to allow for the fact that an estimated meter reading may have to be used, instead of an actual reading. In addition, the customer may have the opportunity to provide his own meter reading where the official meter reader has been unable to obtain a reading, with the customer reading – if acceptable – replacing any estimated reading.
- 6.5 Estimated readings should be as close to actual reads as possible, and where an estimated reading is replaced by an actual read, it is important that this is also taken into account in balancing and allocation arrangements, to ensure the supplier is not disadvantaged.

7. Billing and payment methods

- 7.1 Historically, the gas industry across Europe has adopted different meter reading policies, and these are, in turn, linked to different billing practices and payment methods. These range from routinely reading meters annually, and collecting payment on a monthly basis, to reading (or attempting to read) meters on a quarterly basis and issuing bills each quarter.
- 7.2 Even in the same country, the incumbent gas company can offer a variety of payment methods, to suit different customer groups.
 - some customers prefer the certainty of regular and equal payments each month or every 2 months, collected via direct debit;
 - others are more concerned about their ability to pay any amount outstanding at the end of the year, when the meter is finally read, and consequently choose a quarterly bill;
 - others prefer to avoid bills completely by paying as they go, with a budget or prepayment meter, even if the tariff is higher to reflect the higher cost of metering.

- 7.3 In a competitive market, suppliers may adopt a range of different billing options, to suit their different customer groups. Meter reading and billing may, therefore, be a source of differentiation, product innovation and competitive advantage, and this should be supported by the regulatory framework.

8. Provision of consumption history

- 8.1 In some member states historical consumption data is provided (or at least available on request) to domestic customers. The rationale is that if the customer is able to see his consumption patterns, he can, if he wishes, modify his consumption in order to save energy. Some countries, but not all, who currently provide such data report that its availability is appreciated by consumers.

However it must be remembered that in many if not most cases, historical consumption information will consist of a mixture of actual and estimated readings, with the latter subject to some level of uncertainty.

Further work would be useful to enable a better view to be taken on the value that customers attach to such information. Provision of information is rarely cost-free and it is important to balance the costs and benefits as far as possible before changes are made.

- 8.2 Depending on the design of the customer switching system, provision of this information in a competitive market may involve significant cost, potentially requiring up-to-date consumption history passed to the new supplier, which has to be maintained while the customer is with that supplier and able to be passed on to the next supplier. Some switching systems have been designed such that this data is routinely provided by the distribution system operator.

Other countries' systems do not include this feature, and including additional dataflows at the time of transfer would significantly complicate the switching process. The practical problems could be significant and the systems costs high, which would have to be reflected in prices to customers.

In addition, there may be data protection concerns arising from the sharing of this customer data, although in practice, these can often be resolved by the new supplier getting the customer's agreement.

- 8.3 The proposition is conceptually easier and with no data protection implications if the customer is only to receive consumption data relating to his contract with the current supplier. With the consent of the customer and if required by national law, the distribution company may already provide consumption history to the new supplier as part of the switching process.
- 8.4 It should be remembered that even where the customer has not (recently) switched supplier, or there is no need to show consumption with a previous supplier, the provision of consumption records would, in many cases, be costly as existing billing systems would need to be modified. For this reason, provision of consumption history should only be undertaken after careful analysis, balancing the value of the information to customers against the costs of its provision.

9. Debt management

- 9.1 In a liberalised market, management of debt is in general part of the commercial freedom of the individual supplier, who manages debt levels as part of his overall commercial policy.

In so doing, the supplier is faced by the policy issue of distinguishing those who cannot pay their gas bills (which is essentially a wider social problem) from the commercial issue of those who do not pay their bills because they see other areas of expenditure having higher priority or because they believe that they will not face disconnection, at least in the immediate future.

- 9.2 Companies and Member States have differed widely in their debt management policies approaches even before market liberalisation.

- In most cases the supplier will enter into payment arrangements with the customer, so that the full amount of the debt can be recovered over a period of months, at an agreed repayment rate.
- In some cases a prepayment or budget meter can be offered at an early stage so that the customer can 'pay as they go' and does not build up high amounts of debt. After debt has occurred, prepayment meters can also be used which have the facility to recover existing debt.

These debt management policy options assume that the customer would pay the bill if he could, since at this point in the debt cycle it is not possible to categorise customers into those who could pay but choose not to and those who are genuinely unable to pay.

- 9.3 Eventually, despite all these measures (which include formal warnings), a minority of customers show by their actions that they have no intention of paying, even though they are able to. It is for this group of customers that disconnection is reserved. Since gas is generally consumed before payment is made, the supplier (or the industry more widely) has to have the threat of disconnection, to encourage payment and to ensure that the costs of non-payment by a few are minimised for the sake of the majority of responsible customers.

10. Connection / disconnection

- 10.1 It is important to ensure that in areas where there is already a suitable gas network readily available, customers are able to be connected by the network within a reasonable time. In a competitive market, activation should only happen once the customer has agreed to the terms and conditions offered by his chosen supplier.

- 10.2 Once customers are connected, gas suppliers naturally wish to maintain supply wherever possible, in their own commercial interest. While supply contracts may be terminated for a number of contractual reasons, physical disconnection of domestic customers who do not pay their bills is seen as a last resort, when all other routes have been tried and have failed.

- 10.3 Disconnection not only affects the customer who is disconnected, it involves the industry – typically gas suppliers and network operators – in additional cost, which (unless recovered from the customer through a reconnection charge) will be repeated if the customer is subsequently reconnected. Disconnection is

particularly difficult where meters and control equipment are within the customer's premises.

Gas suppliers, therefore, have little or no incentive to disconnect customers, although they reserve the right to suspend or terminate a connection contract or a supply contract where the customer has violated his/her obligations under the contract, provided that the customer has had reasonable time to remedy the breach.

- 10.4 Gas suppliers, as well as regulators and other industry players, recognise that disconnection process has to take into account the fact that while some customers may be poor payers, others are in genuine hardship. For this reason, suppliers' debt management policies are generally tightly defined, with clearly specified stages in the process. The customer is made aware, often through a number of contacts both written and in person, that they run the risk if disconnection, and must have every opportunity to avoid disconnection e.g. through the offer of special payment arrangements.
- 10.5 Physical disconnection is generally carried out by the distribution company. There must be good co-ordination between the supplier (who is seeking to recover a debt), the shipper or network user (who is responsible for the supply point and associated network code obligations) and the distribution company.
- 10.6 Recognising that some households contain elderly people or children, for whom the absence of heat may be life threatening, there are sometimes formal restrictions on disconnecting such vulnerable households for non-payment. There can also be a prohibition of disconnecting during the winter months, or at times of extreme cold when disconnection could also damage the heating installation. Disconnection of vulnerable customers can also be avoided by the intervention of the local authority or social services. Similar safeguards often apply to schools, hospitals and similar essential services.
- 10.7 A particular concern emerges with the introduction of competition, that customers will be tempted to contract with a supplier, build up a debt with that supplier, then switch to another supplier (potentially switching to subsequent suppliers) in order to avoid payment of the debt. We are aware of two approaches which have been developed to deter this behaviour:
 - the introduction of 'debt-blocking', i.e. the right of the old supplier to prevent the customer transferring to a new supplier until the debt is paid. The latter approach was adopted in the UK in 1996, and was recently modified to provide a facility for prepayment customers with small debts to be able to switch to a cheaper supplier.
 - the transfer of the customer in debt to a default supplier and so out of the competitive market until the debt is paid.
- 10.8 The problems of non-payment and debt management are not confined to gas suppliers. While debt management policies must encourage payment from those able to do so, the household which cannot not pay the gas bill will often have other unpaid bills. The gas industry framework and regulatory authorities have to ensure that policies and practices are adopted which make it as easy as possible for poor but responsible households to pay their bills, recognising that for the poorest households, social assistance is the only option.

10.9 Gas suppliers see the responsible use of disconnection as an essential tool for the latter, most often as a threat but able to be used as a last resort for those refusing to pay, after every attempt has been made to try to resolve the billing dispute. There is evidence to suggest that, without the threat of disconnection for non-payment, customers allow debt to escalate.

11. Dispute settlement mechanisms

11.1 Member states have different approaches to the resolution of complaints between energy suppliers and their customers. In some cases a dispute is referred directly for resolution by the regulator or an office linked to the regulator. In others a dispute can be escalated to a board or agency, either specific to the energy or utility market or a more general consumer mediation service. Boards and agencies differ in their formal powers, constitutions and funding. There are also differences in whether their decisions are binding.

11.2 Whatever form may be adopted, Eurogas believes that a properly designed dispute resolution service can offer advantages to both customers and suppliers.

- customers who have tried and failed to obtain a satisfactory answer from their supplier have another route to pursue their complaint;
- faced with a customer who continues to pursue a complaint despite reasonable efforts having been made to close the issue on a fair basis, suppliers have a means by which the case can be referred to a third party for a final decision.

11.3 Key characteristics of a settlement service are, in our view,

- independence (i.e. independent of the regulator, supplier and consumer);
- transparency in information gathering, decision making etc;
- speed i.e. the service must be quicker (and therefore cheaper) than, for example, recourse to the courts;
- accessibility.

11.4 Eurogas welcomes initiatives to establish such dispute resolution schemes where they do not already exist.