



Commission for Energy Regulation

An Coimisiún um Rialáil Fuinnimh

**Electricity & Natural Gas Supplier Handbook
Proposed Decision Paper**

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Commission for Energy Regulation

An Coimisiún um Rialáil Fuinnimh

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CER – Information Page

Abstract:

The CER consulted on revised guidelines for supplier's Codes of Practice, Customer Charter and Terms and Conditions of Supply for Household Customers. These guidelines are combined into one handbook and take into account changes in the markets and new requirements under the 3rd package of energy legislation issued by the European Commission. This paper sets out the CER's responses and proposed decision to the comments received through its consultation process.

Target Audience:

All interested parties including energy customers, suppliers and consumer representative organisations.

Related Documents:

- CER Decision Paper- Customer Protection in the Liberalised Electricity Market – July 2004
<http://www.cer.ie/en/electricity-retail-market-decision-documents.aspx?article=0c8e807d-5143-4174-94b1-e3bba838ac3e>
- CER Decision Paper- Marketing Code of Conduct Guidelines for Electricity Suppliers – July 2004
<http://www.cer.ie/en/electricity-retail-market-decision-documents.aspx?article=ecdcc75e-f0bd-4759-8675-c7c9825a2d76>
- CER Decision Paper- Consumer Protection in the Gas Market – Suppliers Codes of Practice - September 2005
<http://www.cer.ie/en/gas-retail-market-decision-documents.aspx?article=837a83b9-5495-4fe1-8fa6-624d07f4d840>
- CER Decision Paper- Services for Vulnerable customers in the natural gas and electricity industries – December 2005
<http://www.cer.ie/en/electricity-retail-market-decision-documents.aspx?article=50f6bf16-909b-479d-becb-8f9bcf3e3a58>

- CER Decision Paper- Services for Vulnerable Customers in the Natural Gas and Electricity Industries – December 2005
- <http://www.cer.ie/en/gas-retail-market-decision-documents.aspx?article=4762b957-8c9d-4921-bac9-d01c1046cb85>
- CER Decision Paper- Codes of Practice for Customer Billing – Guidelines for Electricity Suppliers – September 2006
- <http://www.cer.ie/en/electricity-retail-market-decision-documents.aspx?article=26a98c64-cabe-49e6-83c4-d9635b5f569d>
- CER Decision Paper- Codes of Practice for Customer Billing – Guidelines for Gas Suppliers – September 2006
- <http://www.cer.ie/en/gas-retail-market-decision-documents.aspx?article=37be9204-7c35-46cf-9eb9-ba55cb2f1b47>
- CER Decision Paper- Code of Practice on Natural Gas Prepayment Meters – November 2008
- <http://www.cer.ie/en/gas-retail-market-decision-documents.aspx?article=24569d4d-20d6-488a-a398-ed92bc6f2161>
- CER – Decision Paper - Consumer Protection in the Deregulated Electricity Market – April 2011
- <http://www.cer.ie/en/electricity-retail-market-decision-documents.aspx?article=00f04800-fad0-4b20-888a-8affb40e573b>
- CER Decision Paper – Code of Practice on Budget Controllers – November 2010
- <http://www.cer.ie/en/electricity-retail-market-decision-documents.aspx?article=602e81a4-cfbc-48ea-9931-3885fc1cf319>
- CER Decision Paper – Code of Practice on Disconnection – December 2010
- <http://www.cer.ie/en/electricity-retail-market-decision-documents.aspx?article=0f171b43-c935-4d62-832f-0758872b33e8>

Responses to this consultation should be returned by email, post or fax and marked for the attention of Fiona Hannon at the CER by 5pm on 24th January 2012.

The CER intends to publish all submissions received. Respondents who do not wish part of their submission to be published should mark this area clearly and separately or enclose it in an Appendix, stating the rationale for not publishing this part of their comments.

Executive Summary

This paper and the accompanying Handbook for Suppliers of Electricity and Natural Gas set out the CER's proposed decision in relation to guidelines that suppliers will have to follow when drafting their Codes of Practice and Customer Charters. These guidelines include changes required under the 3rd package of European energy legislation, due to the deregulation of the electricity market and as a result of advanced competition in the natural gas and electricity markets.

The key changes proposed to existing requirements are as follows:

- The Handbook now makes a clear distinction between the requirements for suppliers in relation to Household and Non- Household customers.

Household customers:

- Customer Charter - The introduction of a €35 minimum charter payment amount.
- Code of Practice on Marketing & Sign Up – The introduction of a requirement to publish all publically available household customer tariffs, to present tariffs in a set format, to follow set steps when signing a customer up and to provide customers with a doorstep checklist using standard text.
- Code of Practice on Customer Billing – The introduction of a requirement to notify customers of changes to publically available tariffs 30 days in advance of the change taking place, to return deposits to customers once they have met the supplier's credit terms for 12 months and to include the process for closure of accounts in the Code of Practice.
- Code of Practice on Disconnection – The inclusion of a requirement to issue notice of disconnection to properties with no registered account holder in advance of disconnection. The requirement for suppliers to only disconnect the fuel against which the customer has built up debt where the customer has taken a dual fuel offering.
- Code of Practice on Complaint Handling – The inclusion of a requirement to have a minimum of one escalation point in the process for customers, to issue a decision on complaints within 2 months and to issue decisions to customers in writing where the customer is not satisfied with the response to their complaint.
- Code of Practice on Vulnerable Customers – The inclusion of a new definition of vulnerable customers.
- Code of Practice on Prepayment Metering & Budget Controllers – The CER has combined the existing requirements for natural gas prepayment meters and budget controllers into one code for all prepayment technologies.

- Terms and Conditions of Supply to Household Customers – A set of requirements for supplier terms and conditions has been included in the guidelines setting out information that must be included and providing guidance on how the terms and conditions will be assessed in advance of CER approval.

Non-household customers:

- The guidelines have now been split and a separate set of guidelines issued in relation to non-household customers. Suppliers can choose to produce one set of codes of practice or have a separate set covering their non-household customers.
- All guidelines have been amended to reflect the applicable requirements for non- household customers only.
- Code of Practice on Billing – The CER has proposed that where proposed revised SPC and AQ's have been issued by BGN for an I&C customer, the supplier will notify the customer of the proposed revisions in sufficient time to allow the customer to query the revised figures with their supplier and BGN.
- The guidelines in the Code of Practice on Disconnection have been amended to exclude LEU, LDM and large customers with individually negotiated contracts from the requirements regarding notification.

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1.0 Introduction

1.1 The Commission for Energy Regulation

The Commission for Energy Regulation (the CER) is the independent body responsible for overseeing the regulation of Ireland's electricity and natural gas sectors. The CER was initially established and granted regulatory powers over the electricity market under the Electricity Regulation Act, 1999. The enactment of the Gas (Interim) (Regulation) Act, 2002 expanded the CER's jurisdiction to include regulation of the natural gas market, while the Energy (Miscellaneous Provisions) Act of 2006 granted the CER powers to regulate electrical contractors with respect to safety, to regulate natural gas undertakings involved in transmission, distribution, storage, supply and shipping of natural gas and to regulate natural gas installers with respect to safety. LPG installers were subsequently included under the regulation of gas installers with the enactment of the Energy (Biofuel Obligation & Miscellaneous Provisions) Act, 2010. The CER's safety functions were further expanded to include petroleum exploration and production with the enactment of the Petroleum (Exploration & Extraction) Safety Act, 2010. The Electricity Regulations Amendment (SEM) Act, 2007 outlined the CER's functions in relation to the Single Electricity Market and the Northern Ireland Authority for Utility Regulation (NIAUR). The CER is working to ensure that consumers benefit from regulation and the introduction of competition in the energy sector.

1.2 Purpose of this paper

The purpose of this paper is to outline and describe the CER's proposed decision with regard to the guidelines that suppliers must use when drafting their codes of practice and interacting with their customers. The CER initially carried out a full public consultation on this topic in 2010, however due to changes in legislation, no decision was issued at that time. A further consultation was issued in 2011 and this paper addresses the responses received in both 2010 and 2011. The CER has considered fully the comments and submissions received during both consultations and has decided to issue a proposed decision in order to allow all interested parties to comment in relation to the revised proposals now issued. .

1.3 Comments Received

The CER received fourteen valid submissions in response to its initial consultation paper (cer/10/012). Submissions were received from the following organisations:

- Airtricity
- Age Action Ireland
- Bord Gáis Energy
- Bord Gáis Networks
- Energia
- ESB Customer Supply
- ESB Independent Energy
- Gaslink
- Irish Council for Social Housing
- Irish Estates (Management) Ltd.
- The Money Advice and Budgeting Service (MABS)
- PrePayPower
- Society of St. Vincent de Paul
- Vayu

Further submissions were received in relation to consultation paper cer/11/168 from the following organisations:

- Airtricity
- Bord Gáis Energy
- Bord Gáis Networks
- ESNB
- Energia
- Flogas Natural Gas
- Gaslink
- The Money Advice and Budgeting Service (MABS)
- PrePayPower
- Society of St. Vincent de Paul

1.4 Background Information

The Commission for Energy Regulation requires gas and electricity suppliers to draw up Codes of Practice in order to protect the rights of customers in the areas of billing, complaints handling, disconnection, marketing, vulnerable customers and prepayment metering. These codes were introduced to ensure that customers could be confident of the quality of service being provided by their supplier. The Codes of Practice were originally launched in March 2007. Following on from this the CER decided that to have the guidelines for the Codes of Practice in one Supplier Handbook would be beneficial and more practical for ease of reference.

While compiling the Supplier Handbook the CER took the opportunity to review all the Codes and revise them where necessary. This decision paper responds to the key issues raised during the consultation period.

1.5 Structure of this paper

This paper is structured in the following manner:

- **Section 2.0** addresses the comments received in relation to the CER's proposals regarding the Supplier Handbook. Each proposal is dealt with in the same order as presented in the consultation paper with comments, response and the CER's proposed decision included.
- **Section 3.0** contains an overall summary of the proposed decisions being made in this paper and the CER's conclusions in this area;
- **Section 4.0** outlines the CER's next steps with regard to this topic and the proposed timetable for implementation.



2.0 Responses received

2.1 Introduction

This section deals with specific issues that were raised during the course of the consultation and the CER's response to these comments.

2.2 Customer Charter

In its consultation paper the CER set out the requirements for suppliers of household customers to financially guarantee their Codes of Practice in their Customer Charter. To further strengthen the role of the Customer Charter in ensuring customers receive an appropriate level of service from their supplier, the CER proposed that customers should receive a minimum charter payment of €35 from their supplier if they fail to meet their guarantee.

Proposal 1 – The CER proposed that suppliers apply a minimum charter payment of €35 to each of the guarantees in the Customer Charter

The CER received a number of comments in relation to the requirement to have a minimum guarantee payment of €35. One supplier indicated they were in favour of the minimum payment of €35. One supplier indicated that they believe a financial penalty is unnecessary and introducing a minimum charter payment would lead to improper claims and a deterioration in customer service. Another supplier indicated they believe the charter payment should be aligned with that in Northern Ireland which would lead to a minimum payment of €30. Two consumer representative bodies responded to this proposal, one welcomed the proposal as it gives the charter 'standing and strength in the eyes of the public'; the other indicated they considered the minimum payment of €35 to be insufficient.

The CER has considered the comments received. The role of the customer charter is to ensure an adequate level of service to customers. The CER considers it appropriate for a financial award to be associated with the charter in order to incentivise the supplier to meet its guarantees. While the CER recognises that a supplier may have concerns in relation to the cost associated with their customer charter, the ultimate cost is in the hands of the supplier with respect to the quality of their service provision.

A supplier may choose to apply the minimum payment as credit to the customer's account where appropriate.

CER's Proposed Decision –that suppliers must apply a minimum charter payment of €35 to each of the guarantees in the Customer Charter

2.3 Code of Practice on Marketing

The Code of Practice on Marketing sets out the CER's guidelines on how suppliers should interact with prospective customers when signing them up and issuing information to them. The Code aims to protect customers from mis-selling and other practices which are not in a customer's best interests. With the development of competition in the natural gas and electricity markets, it is imperative that customers are provided with the information they need to inform them appropriately when choosing a new supplier.

2.3.1 CER's Response to Comments

During its initial consultation in 2010, the CER received a number of comments and concerns in relation to references to data protection legislation and the use of customer information. To ensure that there are no conflicting issues in relation to the use of data these were amended in the 2011 consultation.

The 2011 consultation included specific questions in relation to the proposals regarding the Code of Practice on Marketing

a. Tariff Presentation to Household Customers

Proposal 2 – The CER proposed to adopt the tariff presentation guidelines set out in section 3.8 of the handbook consultation.

In addition the CER proposed to require suppliers to publish all of their household customer tariffs on their websites.

The CER received responses from a number of interested parties in relation to the standardisation of tariff presentation and publication. Two consumer representative bodies welcomed the proposal to do this and indicated that they believe it will assist customers in understanding the cost and benefit of switching supplier. All suppliers broadly agreed with the proposal. A number of issues of clarification were sought in relation to the proposal. One supplier wished to clarify that the CER was not intending on restricting the tariff structures that suppliers might choose to offer. Another wished to confirm that publication of tariffs was in relation to publically available tariffs only. One supplier questioned

the breakdown of annual consumption figures and the 50:50 ratio regarding day to night units on the electricity side.

The CER has considered these comments and wishes to confirm that the proposal does not intend to restrict the tariff structures on offer to customers, only to ensure that customers are in a position to compare suppliers' tariffs on a like for like basis. The publication of tariffs applies to publically available tariffs, which is taken to include existing customers but excludes affinity deals which a supplier may enter into with a particular group of customers as part of a separate negotiation process. With respect to the ratios and break downs of annual consumption figures the CER accepts that these must be agreed with industry as part of a separate process. The section of the handbook has been updated to reflect the comments received and to ensure the requirements are completely clear.

CER's Proposed Decision –that suppliers must present publically available tariffs in line with the requirements set out in the handbook and must publish these tariffs on their website.

b. Customer Sign Up

In order to ensure that customers are aware of basic information and are actively choosing the product that they sign up for, the CER proposed that a set of steps be followed by suppliers when signing up customers. In doing this a customer would be assured of receiving the information necessary to make an informed decision on their product and the appropriate documentation that goes with that decision.

Proposal 3 – The CER proposed that suppliers would follow the steps set out in section 3.9 of the handbook when signing up a customer.

The CER also proposed that suppliers would use standard wording in the doorstep checklist differentiated only by the supplier's branding.

The proposed content of the checklist was set out in Appendix A of the handbook.

Suppliers and consumer representative groups were broadly in favour of the proposed steps in the sign up process and the content of the doorstep checklist. Most suppliers indicated that they already have in place a similar set of steps.

There were views expressed in relation to the provision of hard copy terms and conditions and the need to provide a copy of the doorstep checklist in hard copy.

In their submission, one supplier expressed concern that requiring suppliers to present information in a standardised way could remove the individual identity of the supplier and could be anti – competitive.

The CER reviewed all comments received and has amended the steps appropriately. The CER accepts that suppliers do not necessarily provide customers with a hard copy of their terms and conditions at the point of sale. Some customers may choose to receive these documents in soft copy and avail of a discount to conduct business through electronic means. The CER does however consider it appropriate that customer be provided with a copy of the full terms and conditions applicable to any tariff they have chosen within a timeframe that allows them to avail of any cooling off period that may apply. The guidelines have been amended to reflect this position.

The CER still considers it important that all household customers are provided with a hard copy of the doorstep checklist when being signed up in person and that the content of the checklist is standardised. The aim of the checklist is to empower the customer in making their decision to switch. It is important that the customer is in possession of the information they need to question and ascertain that they are receiving the best offer for their circumstances. The CER is of the view that holding the checklist electronically on a hand held device takes the ownership of the checklist from the customer and it is then down to the sales agent to present the information. The checklist is also intended to allow the customer to consider the information they have been given and the steps taken after the agent has left them. This requirement has been retained in the guidelines. The CER will be working with NALA to finalise the content of the checklist and to ensure that the wording is in Plain English.

The CER does not accept that requiring suppliers to provide their information in a standard way will restrict a supplier's ability to offer tariffs in an individual matter nor does the CER accept that requiring this would be anti-competitive. The CER considers access to information that is simple and easy to understand is in the best interests of competition and will allow customers to make informed choices in the competitive market.

CER's Proposed Decision – that suppliers must follow the steps set out in section 3.9 of the Handbook when signing a customer up. In addition, that suppliers must provide customers with a hard copy version of the doorstep checklist when signing up a customer in person.

c. Other issues

In addition to the questions which sought specific comment, additional comments were received regarding the Code of Practice on Marketing & Sign Up.

The CER has received a number of submissions from the two consumer representative bodies in relation to the hours of contact listed in the Code of Practice. Comments were received in relation to the original 2010 and subsequent 2011 consultation. Both requested that the contact hours be

reduced and a proposal to align the timelines with those specified in the Consumer Credit Act was made. While the CER recognises that the Consumer Credit Act specifically applies to contacting customers in relation to credit and does not specifically cover marketing, the CER has considered the request and considers it appropriate to make this amendment.

CER's Proposed Decision – to align the hours of contact for marketing purposes with the hours specified in the Consumer Credit Act.

2.4 Code of Practice on Customer Billing

The Code of Practice on Customer Billing sets out the requirements for suppliers when issuing bills and taking payments from customers.

2.4.1 CER's Response to Comments

a. Tariffs & Prices

The CER proposed that suppliers must notify household customers of changes to tariffs 30 days in advance of the changes taking place, with the exception of where a customer has signed up to a more flexible tariff. This is to allow customers the time necessary to shop around and consider their options in advance of any changes taking place.

Proposal 4 – The CER proposed that suppliers notify household customers of changes to tariffs 30 days in advance of changes taking effect.

Very few comments were received in relation to this proposal. One consumer representative group indicated they were in favour of this proposal if customers could close their account and move to a new supplier within this timeframe. One supplier requested that the requirement be reduced to 14 days as there was concern that fuel prices may vary more frequently and require a price change to be put in place in a shorter timeframe.

The CER has considered the comments and has decided to retain the proposal to notify customers 30 days in advance of changes taking effect. The guidelines provide for suppliers who offer more flexible tariffs and as such there is no need to reduce this requirement. The CER is confident that a customer can switch supplier within the 30 day timeframe.

CER's Proposed Decision –that suppliers must notify household customers of changes to tariffs 30 days in advance of the change taking effect.

b. Closing Account

The CER is of the opinion that customers' accounts should not be kept open for longer than is necessary and that suppliers must clearly set out the steps a customer must follow in order to close their account. This will allow customers to actively manage the closure of their account. A new section was added to the supplier handbook setting out specific steps a supplier must take.

Proposal 5 – The CER proposed that suppliers must set out the steps a customer must follow in order to close their account. The CER proposed that a supplier may not keep a customer's account open because they have not provided details for an incoming account holder and that in cases where a customer has attempted to close their account but has been unable to provide a meter reading that the supplier must put in place a process to close that account within a specified timeframe.

The majority of comments in relation to this proposal were in favour this new requirement. One supplier however expressed concern that if customers were not required to provide incoming account details and a meter read this could lead to an increase in bad debt.

While the CER recognises these concerns, there is a need for suppliers to set out their closure process. The CER does not consider it appropriate to keep a customer's account open indefinitely where the customer cannot provide incoming account holder details. In many cases the outgoing customer may have no contact with the incoming person and this places an unfair onus on the customer in relation to their own account. However, the CER accepts that where a customer refuses to provide a meter reading, access to their meter or provides an exceptional meter reading there would be a need for the supplier to follow up in advance of closing the account. Under these circumstances, the CER expects the supplier to actively engage with the customer to reach a satisfactory resolution before closing the account. The CER does not consider it appropriate for a supplier to leave a customer's account open where they are not actively engaging with the customer to reach a resolution. An amendment to the guidelines has been made to reflect this.

CER's Proposed Decision –that suppliers must set out their procedure for closure of account to ensure that customers are aware of their obligations when closing their accounts. A supplier may not keep a customer's account open where they have failed to provide contact details for an incoming account holder. A supplier may not keep a customer's account open indefinitely where a customer has been unable to provide a meter reading, however where a customer has refused to provide a meter reading, access to take a meter reading or the meter reading given does not match previous or expected meter readings the supplier may actively engage with the customer to reach a resolution prior to closing the account.

c. Other issues

A number of suppliers raised a question regarding the industry processes which allow closing meter reads to be replaced. Where a meter reading is subject to replacement it would not be possible to guarantee a final bill 6 weeks after the account is closed.

The CER accepts that the existing processes allow for meter readings to be replaced more than 6 weeks after a customer's account is closed. The EC directive places a requirement on suppliers to issue final bills within 6 weeks of account closure. The CER considers that suppliers should issue the bill within 6 weeks based on the information available. Replacement readings will be dealt with on an exceptional basis.

CER's Proposed Decision – The CER has amended the requirement in relation to final bills being issued within 6 weeks of account closure to reflect the exception which exists in relation to replacement meter readings.

The CER has also considered the matter of revised SPC and AQ's for I&C customers based on previous contact with customers. The CER considers it appropriate that where BGN has issued revised figures that the customer would be notified of the revised figures within a timeframe that allows them to query and respond to the revisions.

CER's Proposed Decision – that suppliers must notify gas I&C customers of any proposed revisions to their AQ & SPC's within a timeframe that allows them to review the revisions with BGN and their supplier.

2.5 Code of Practice on Disconnection

The CER consulted on and issued a decision in relation to the Code of Practice on Disconnection in December 2010. No specific changes were proposed to the guidelines issued at that time, however a new section was added to cover situations where there is no registered account holder at a property.

2.5.1 CER's Response to Comments

a. Disconnection of a premises with no registered account holder

The CER proposed to include a section in the Code of Practice on Disconnection covering the disconnection of premises where there is no registered account holder. This is to ensure that the incoming energy user or landlord of a property is given an appropriate amount of notice and opportunity to open an account in advance of disconnection.

Proposal 6 – The CER proposed that suppliers must issue a notice in writing at least 10 working days in advance of the request for disconnection at a household property and at least 5 working days in advance for a non-domestic property.

A number of comments were received in relation to this proposal. While suppliers were not in favour of this proposal, the comments were aimed towards the requirement around non-household properties as these properties could accumulate a large debt very quickly in some instances if a supplier was required to wait up to 5 days before requesting disconnection. The CER has considered these comments and amended this requirement in relation to non-household properties. The CER recognises that certain meter types are usually disconnected when there is no registered account holder and it is inappropriate to require a supplier to wait 5 days before processing this disconnection when there is no registered account and this has now been reflected in the guidelines.

CER's Proposed Decision – The CER has amended the requirement in relation to the 5 notification period for disconnection of non-household premises to reflect that for some meter types it is standard practice to disconnect when there is no registered account holder.

b. Other issues

Suppliers expressed concern that if they were required to issue written confirmation of all payment plans that this could lead to a significant increase in costs due to the number of payment plans currently being put in place. The CER accepts that not all payment plans are being negotiated to avoid disconnection and a large number of customers are seeking to enter into payment plans voluntarily to avoid debt occurring. The cost of requiring suppliers to issue confirmation in writing to all of these customers would be significant. However, the CER considers it appropriate that where a customer has agreed to a payment plan to avoid the imminent threat of disconnection that this customer would receive confirmation in writing of what they have agreed to. The guidelines have been amended to reflect this.

CER's Proposed Decision – The CER has amended the requirement in relation to written notification of payment plans to apply to payment plans entered into to avoid imminent disconnection.

A number of suppliers submitted comments in relation to the appropriateness of the guidelines on disconnection with respect to large customers with individually negotiated contracts. There were concerns expressed that in requiring these customers to be provided with a minimum number of days contact in advance of disconnection that suppliers could be exposed to extremely high levels of debt. The CER accepts that in these circumstances a minimum notification period is not appropriate and that these customers are appropriately equipped to negotiate this into the terms of their contract should they require this. The CER has amended the guidelines to reflect this position.

CER's Proposed Decision – The CER has amended the requirement in relation to notification of disconnection for large customers with individually negotiated contracts.

The CER has considered the matter of the sequence of disconnection for dual fuel customers. While the CER recognises that suppliers are entitled to make dual fuel offers to customers, the CER does not consider it appropriate that a customer who may have paid for all aspects of one fuel but not the other, would have the fuel against which they have made payment disconnected. The CER has amended its requirements to state that where a customer has indicated that they are paying one fuel only, that disconnection may only take place against the fuel that the customer is accruing debt against. Where a supplier offers a dual fuel account, it must be clear to the customer when making a payment that it is a payment for either electricity or gas. In the event of non payment and where the supplier has followed all conditions set out in the relevant codes or practice, the supplier may only disconnect the fuel against which the debt has occurred.

CER's Proposed Decision – that where a supplier offers a dual fuel account, it must be clear to the customer when making a payment that it is a payment for either electricity or gas. In addition, that in the event of non payment, and where the supplier has exhausted its requirements under the Codes of Practice, the supplier may only disconnect the fuel against which the debt has occurred.

2.6 Code of Practice on Complaint Handling

The Code of Practice on Complaint Handling requires suppliers to set out their process for handling complaints, including any timelines that are associated with steps in the process. It aims to ensure that customers have access to a simple easy to follow process when they experience difficulties with their energy supply.

2.6.1 CER's Response to Comments

a. Definition of a Complaint

In order to ensure consistency in reporting the proposed an industry definition for a complaint. The CER proposed to adopt the definition contained in the ERGEG Guidance on Good Practice in Complaint handling.

Proposal 7 – The CER proposed the following definition would apply to complaints:

A complaint is defined as:

The expression, (through various channels, letter, email, phone call, physical claim) of a customer's dissatisfaction and his/her explicit expectation for a response or resolution.

The comments received in relation to the definition of a complaint were broadly favour of the proposed definition. One supplier sought clarification in relation to

queries. The CER does not expect a query to be recorded for the purpose of complaint reporting. A customer contact should only be recorded as a complaint if it meets the requirements of the definition above.

CER's Proposed Decision –that the definition of a complaint shall be: The expression, (through various channels, letter, email, phone call, physical claim) of a customer's dissatisfaction and his/her explicit expectation for a response or resolution.

b. Complaints Process

The CER considers it appropriate that a supplier would attempt to resolve a customer's complaint appropriately prior to referring the customer to the CER's independent complaint resolution service. While most suppliers attempt to address a customer's complaint at the first point of contact, the CER considers it important that a customer has the opportunity to escalate their complaint to a more senior level for consideration before the complaint is considered closed.

Proposal 8 – The CER is proposing that suppliers must have a minimum of one level of escalation contained within their complaints handling process.

A number of positive comments were received in relation to this proposal.

CER's Proposed Decision –that suppliers must have a minimum of one level of escalation contained within their complaints handling process.

c. Closure of Complaints

Where a customer has forwarded a complaint to their supplier, the CER considers it appropriate that the complaint is dealt with in a timely fashion and closed in a clear manner, while providing clear and timely information to the customer on how to access the CER's independent complaint resolution service.

The CER proposed that a supplier should issue a final answer to the customer's complaint within 2 months, except in cases where a technical procedure is required that would require an extended time period for addressing the complaint.

In addition, the CER proposed that where a customer has completed the supplier's complaints handling process, that the supplier should issue a written notice of closure of the complaint and include the details of the CER's Energy Customers Team should the customer wish to escalate their complaint.

Proposal 9 – The CER proposed that suppliers must close complaints within 2 months unless a technical procedure that requires an extended time period for addressing the complaint is necessary.

In addition the CER proposed that the complaint must be closed by the supplier in writing and the customer should be provided with the CER's Energy Customers Team contact details should the customer wish to escalate their complaint.

Suppliers were broadly in favour of the requirement to close customer complaints within 2 months. Those commenting all indicated that they aim to resolve complaints in a far shorter timeframe, however where technical issues are involved that there could be a longer time taken to resolve the issue. One supplier asked that recognition be given to the need for the customer to engage if the complaint is to be resolved within the timeframe. One consumer body requested that if the complaint is to be dealt with over a 2 month period that the complaint would be acknowledged at a far earlier point.

The CER recognises that in certain circumstances it may take longer than 2 months to address a complaint. The proposal in the guidelines provided for this situation and as such does not require amendment. The guideline has been amended to reflect the requirement on the part of the customer to engage with their supplier in order to have their complaint dealt with appropriately.

A number of suppliers indicated that they did not consider it appropriate to close all complaints in writing. Suppliers felt that a customer's complaint should be closed using the same communication method that the customer had chosen. So for example, if a customer had initiated contact over the telephone the customer's complaint should be closed over the telephone. They indicated that to require complaints to be closed in writing would be unnecessary and lead to higher costs.

The CER recognises that there may be some costs associated with this requirement, however SI 453 of 2011 places a requirement on suppliers to close complaints in writing. The CER guideline requires that where a customer has completed the supplier's full complaints process and is not satisfied with the outcome that the supplier would issue closure in writing to the customer providing details of how to contact the CER's Energy Customers Team. The CER considers this to be a reasonable approach to this new legislative requirement. In cases where a customer's complaint has been resolved over the phone at the first point of contact, the customer would not have needed to escalate their complaint and therefore would not require a written response to their complaint.

CER's Proposed Decision – The CER has retained the requirement for suppliers to issue closure of complaints in writing (letter or email) to customers who have completed their full complaints process and are not satisfied with the response that they receive.

2.7 Code of Practice on Vulnerable Customers

The Code of Practice on Vulnerable Customers sets out the requirements for suppliers to ensure that customers who would be most affected by the loss of energy supply are not disconnected during designated periods. In addition the Code requires suppliers to put in place alternative communication formats for those that need them.

2.7.1 CER's Response to Comments

a. Definition of Vulnerable Customers

The CER included the revised legislative definition for vulnerable customers in the energy industry as set out in SI 463 of 2011. The definition extends the obligations on suppliers to a broader range of customers than previously applied.

As the system of registering vulnerable customers requires a customer to self declare eligibility, the CER proposed to allow suppliers seek supporting evidence from customers, as appropriate, prior to inclusion on the register.

Proposal 10 – The CER proposed that suppliers may request evidence of eligibility from customers wishing to be included on the industry register of vulnerable customers.

There were a range of responses received in relation to the definition of vulnerable customers set out in the guidelines. All responses received with the exception of one were in favour of the new requirement to allow suppliers seek evidence of vulnerability.

Separate to this, the customer representative groups would like to see the definition of vulnerable customers expanded to include customers who are financially vulnerable. On the other hand suppliers would like to see the revised definition further defined to ensure that only those who should be on the register are included.

While the CER recognises that there are a number of customers facing financial difficulties at the moment, the definition of vulnerable customers is set out in SI 463 of 2011 and the CER does not consider it appropriate to include additional customers at this time. Separate provisions in the area of prepayment metering have been put in place specifically to assist customers in financial hardship. The CER is monitoring installation of these meters to ensure that suppliers are providing these customers with a means to avoid disconnection.

The CER recognises that the revised definition of vulnerable customers set out in SI 463 of 2011 is far wider than the previously used definition. However the definition covers those who are genuinely in need of energy. We recognise that suppliers are in favour of registering customers with genuine requirements, however there are concerns regarding the number of customers who may claim eligibility. In a self registering system this may be the case, but the CER believes there are systems in place to protect suppliers from customers seeking to register inappropriately. Debt flagging and seeking evidence from a customer with respect to their vulnerability should protect suppliers from a situation where a customer would register simply for the purpose of avoiding disconnection over the winter and then move to another supplier to avoid bill payment. The CER does not propose to issue further guidance on the definition of a vulnerable customer at this time, however we will continue to monitor the provisions within the guidelines and will seek to provide further guidance if evidence arises to show that the registration process is being inappropriately used by customers.

CER's Proposed Decision – The CER has retained the proposal to allow suppliers to seek evidence from customers of their vulnerability. No change has been made to the definition of a vulnerable customer.

b. Other Issues

One respondent raised the possibility of the CER requiring suppliers to have in place a requirement not to disconnect additional customers in extenuating circumstances for example extended periods of cold weather or particular instances of financial vulnerability.

While the CER accepts that from time to time extenuating circumstances may arise where it would be appropriate not to disconnect a customer, the CER believes that suppliers already operate in this way. During the extended bad weather in 2010 suppliers came together and voluntarily chose not to disconnect any customer until the weather improved. The CER wishes to allow suppliers to retain discretion in this regard; however this will be kept under review.

2.8 Code of Practice on the Use of Prepayment Meters & Budget Controllers

The Code of Practice on the Use of Prepayment Meters & Budget Controllers sets out the information that must be provided to customers and the way in which suppliers must deal with customers whom they are considering for use of these meters. The Code aims to ensure that customers have the information they need to use their meter correctly.

2.8.1 CER's Response to Comments

a. Combination of Natural Gas and Electricity requirements

In the guidelines the CER combined previous guidelines on prepayment metering for natural gas and budget controllers to ensure consistency in the requirements for both electricity and natural gas. Although the technology differs slightly between electricity and natural gas, the same principles of use should apply.

Proposal 11 – The CER proposed that one set of guidelines would be used for this type of metering in both the electricity and natural gas markets.

All respondents favoured the combination of the guidelines.

CER's Proposed Decision – The combination of natural gas and electricity guidelines will be retained.

b. Other issues

One respondent raised the possibility of making prepayment meters more widely available for basic budgeting as well as for debt reclamation. They also raised an issue in relation to prepayment meters being removed from a customer's home when they have completed payment against their debt.

The CER recognises that prepayment meters are of benefit to customers who are in debt and also to those who would like to budget for their energy bills. Due to the costs associated with these meters being spread across all customers and the advent of the smart metering programme in electricity, the CER has only made a limited number of these meters available to customers in genuine financial hardship. The CER anticipates the prepayment option will be more widely available to customers when smart metering commences. In terms of the prepayment meters being removed from customer's homes when the debt has been repaid, while this existed previously due to an extreme shortage

of meters, as new meters have now been made available the CER does not anticipate any meters being removed in this way once debt has been repaid.

One supplier asked the CER to acknowledge 'lifestyle' prepayment metering customers in the guidelines. The CER is aware that one supplier is offering all of its customers the option to have a prepayment meter installed at their home at extra cost. At this time the guidelines are written for suppliers of prepayment meters installed by the distribution system operators only.

2.9 Terms and Conditions of Supply for Household Customers

The CER has included a new section in the guidelines for suppliers setting out the requirements for terms and conditions of supply to household customers. As suppliers are required to submit these to the CER for approval, the section aims to guide suppliers on what must be included and how their terms and conditions will be assessed by the CER when they are submitted.

2.9.1 CER's Response to Comments

Proposal 12 – The CER proposed that the requirements set out in section 9 of the Handbook are implemented by suppliers.

As set out above, responding suppliers raised concerns regarding the proposed requirement to provide customers with a hard copy of their terms and conditions of supply in advance or at the point of sign up.

The CER reviewed all comments received and has amended the requirement appropriately. The CER accepts that suppliers do not necessarily provide customers with a hard copy of their terms and conditions at the point of sale. Some customers may choose to receive these documents in soft copy and avail of a discount to conduct business through electronic means. The CER does however consider it appropriate that customer be provided with a copy of the full terms and conditions applicable to any tariff they have chosen within a terms and conditions in a timeframe that allows them to avail of any cooling off period that may apply. The guidelines have been amended to reflect this position.

Two suppliers raised concerns regarding the requirement to issue notification to customers 30 days in advance of changes in terms and conditions. The CER remains of the view that household customers should be provided with this level of notice in order to allow them to manage their accounts and switch supplier in the event they are not satisfied with any proposed changes.

CER's Proposed Decision – that suppliers must apply the requirements set out in section 9 of the handbook to their terms and conditions for household customers.

2.10 Other Issues Raised

Due to the wide range of areas covered by the consultation paper and handbook, the CER received a number of additional comments regarding the proposals in the supplier handbook.

2.10.1 CER's Response to Comments

a. Security Bonds/ Deposits

The CER had proposed in its handbook that suppliers should return deposits and security bonds to customers after 12 months provided the customer had met the supplier's credit terms. A number of suppliers indicated they did not consider this proposal to be appropriate, in particular in relation to business customers. Suppliers indicated they believe that decisions regarding deposits should be at the discretion of the supplier only. Two consumer representative bodies indicated they believe the CER should be involved in the level that deposits are set at.

The CER has considered the issues raised regarding these payments and while we accept that the deposit or security bond is a safeguard against debt for suppliers, we do not accept that in the case of household customers that this payment should be retained indefinitely. The CER is of the view that a number of safeguards now exist in the energy market to assist suppliers in avoiding bad debts and as such is retaining this requirement for household customers. The CER does however accept that suppliers should be in a position to negotiate and develop their own policies in relation to deposits and security bonds for business customers. The CER has amended its requirements to reflect this and will monitor the application of deposits in the business market to ensure that this issue does not interfere with customers benefiting from competition in the market.

With respect to the level that deposits are set at, at this time the CER does not consider it appropriate to require suppliers to set deposits at a specific level, however we will keep this issue under consideration and should this change will amend the requirements accordingly.

b. Level of Restriction Being Placed on Suppliers

A number of suppliers indicated in their responses that they considered the level of requirements being placed on suppliers to be excessive and potentially restrictive to competition. They cited concerns regarding the presentation of information and their ability to offer innovative products specifically.

The CER does not consider the level of requirements it is imposing on suppliers to be overly restrictive or in any way hindering of competition. The CER has not imposed any restriction on the type of products that suppliers may offer, only to ensure that suppliers explain their products appropriately and provide customers with sufficient information to make an informed choice. The CER seeks to ensure that customers, and household customers in particular, are protected from unfair and anti-competitive practices in the markets. By seeking to make information more accessible to customers and ensuring adequate processes and procedures are in place to assist customers with switching and addressing concerns when something goes wrong the CER believes that customers will be more confident in their ability to switch supplier. Ultimately a supplier will attract and retain customer by offering a minimum level of customer service to their customers. The

guidelines set out by the CER provide a foundation for quality customer services that suppliers may wish to build on.

The CER does however recognise that the requirements regarding non-household customers should not be as prescriptive as those for household customers. The Supplier Handbook has now been split into two sections to ensure that there is no confusion regarding the difference in requirements for the two different customer types.

CER's Proposed Decision – to split the Handbook into two distinct sections, one setting out the requirements for household customers only, the other section setting out the requirements for non-household customers.

3.0 Conclusion

The CER has now reviewed all responses received and amended the Supplier Handbook accordingly. Overall the CER welcomes the responses received and has adapted the requirements where appropriate to ensure that customers are adequately protected within the natural gas and electricity markets. The key change as a result of the comments received has been to split the requirements into two sections, one for household customers and the other for non-household customers. The CER is of the view that this should provide clarity to suppliers regarding the requirements they have for their different customer types.

The Supplier Handbook is intended to be enduring and as such a number of sections have been generalised with further work to support them to take place at industry workshops.

The Supplier Handbook is now being issued as a proposed decision to allow all interested parties to consider the revisions made and a final version will be issued in February 2012.

4.0 Next Steps

4.1 Next Steps

The CER has issued the Supplier Handbook as a proposed decision to allow final comment on the revised requirements for suppliers. Following a short consultation period the CER will issue the final Supplier Handbook and commence working with suppliers to implement the changes.

The proposed changes will require suppliers to put in place a number of new practices and revise their Codes of Practice, Customer Charters and Terms and Conditions of Supply for Household Customers accordingly.

The CER wishes to confirm that the proposed Supplier Handbook Guidelines relate to the supply of electricity and gas and not to any other services that might be provided by suppliers that are not covered by supply licences.

The consultation on the CER's proposed decision will be open until 24th January 2012. Once responses have been received and reviewed, the CER propose to issue a final decision on the supplier handbook on 17th February.

4.1.1 Universal Design

In addition to the revised requirements, suppliers are required to develop an implementation plan with respect to the requirements to apply Universal Design to products, services and communications set out in SI 463 of 2011. The CER requires suppliers to submit their implementation plans setting out their short term (within 6 months), medium term (up to 18 months) and long term goals regarding Universal Design. This implementation plan is to be submitted to the CER by 31st January 2012.

The CER will then review supplier's implementation plans by the end of February 2012.

4.1.2 Update Codes of Practice, Customer Charter & Terms and Conditions of Supply for Household Customers

On foot of the decision, suppliers will be required to update their own Codes of Practice to include any changes required by the CER and submit these to the CER for approval. There are a number of aspects to the guidelines that may

require changes to suppliers existing Customer Charters, Codes of Practice and Terms and Conditions and their associated operational procedures. The CER considers it appropriate to allow suppliers sufficient time to make these changes and as such is setting 31st March 2012 as the submission date for revised Codes of Practice. Where a supplier has a specific concern with respect to this implementation date the CER will address that with the supplier directly.

4.1.3 Proposed Timetable for Decision & Implementation

Codes of Practice, Customer Charters & Terms and Conditions of Supply to household customers

- a. Proposed decision consultation until 24th January 2012
- b. Decision on Supplier Handbook issued 17th February 2012
- c. Suppliers to submit their revised Codes of Practice by 31st March 2012
- d. CER to review and approve revised Codes of Practice by 30 April 2012
- e. Suppliers to implement revised Codes of Practice by 31st May 2012

Universal Design

- a. Suppliers to submit their implementation plans for Universal Design by 31st January 2012
- b. CER to review implementation plans by end February 2012