

Representation

Draft Modification Report

0403: EU Third Package: 21 day switching with flexible objection period

Consultation close out date: 02 March 2012

Respond to: enquiries@gasgovernance.co.uk

Organisation: Consumer Focus

Representative: Richard Hall

Date of Representation: 2 March 2012

Do you support or oppose implementation?

Support

Please summarise (in one paragraph) the key reason(s) for your support/opposition.

We consider that this proposal would deliver many of the same benefits as UNC396 – please see that response for further details. In the event that implementation costs and timescales are similar we have a marginal preference for 396 over 403 as we consider that there is value in having a consistent objections window – please see the ‘anything further’ section for more details.

Are there any new or additional issues that you believe should be recorded in the Modification Report?

No.

Relevant Objectives:

How would implementation of this modification impact the relevant objectives?

We consider that this proposal would facilitate objective (d), securing effective competition between suppliers. Making the switching process faster should enable consumers to reward/punish suppliers more easily, increasing the incentives on them to keep costs down and service standards up.

Impacts and Costs:

What analysis, development and ongoing costs would you face if this modification were implemented?

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The overwhelming motivation for consumer switching is to save money. Delays in carrying out the switch have the effect of leaving consumers out of pocket, as they are paying their old higher tariff for longer than they need to. Given the UK's high annual switching rate (~17% per annum) we would be surprised if the annual materiality (to consumers) of this lost opportunity did not run into many £millions.

Implementation:

What lead-time would you wish to see prior to this modification being implemented, and why?

As soon as possible.

Note that Article 54 of the 3rd Package (gas) states that:

"Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 3 March 2011. They shall forthwith inform the Commission thereof.

They shall apply those measures from 3 March 2011 [...]"

"Bring into force", "apply those measures" etc clearly envisages that the necessary processes will be done, dusted and fully operational by 3 March 2011. It is now March 2012 and we are still some way off an implementation decision, let alone operational implementation.

The UK is badly late in giving effect to the legislation and may risk enforcement action if it continues to be so. It is not clear to us who bears the legal risk here; we suspect DECC rather than suppliers or Ofgem as we presume transposition obligations principally rest on government. However, in the interim the financial risk is being borne by consumers who are suffering slower switching timescales (and consequent delay in getting on to a better tariff) than they are (legally) entitled to receive. We would urge you to make a prompt decision on this modification. Given our statutory duties, we fully reserve the right to take further action in the event that consumers continue to be denied their legal rights.

Legal Text:

Are you satisfied that the legal text and the proposed ACS (see www.gasgovernance.co.uk/proposedACS) will deliver the intent of the modification?

We have not reviewed the legal text.

Is there anything further you wish to be taken into account?

Please provide any additional comments, supporting analysis, or other information that that you believe should be taken into account or you wish to emphasise.

The comparative cost and timetable for industry implementation of UNC403 versus 396 is not particularly clear. In the event that one is capable of delivery (materially) quicker and cheaper than the other we would consider this a swing consideration in its favour.

In the event that there is no price/time difference between the two proposals, we would favour 396. This is because we consider it would be more efficient and fair to have a consistent objections window on a year round basis rather than to flex this according to season. From a consumer perspective, a switch is a switch regardless of time of year – applying different rights to different dates may cause confusion. We acknowledge industry concerns that many objections to erroneous transfer take place in the last couple of days of the existing five day objections window but do not consider that in itself this is a compelling argument against 396. Better communications with consumers and work to tackle the problems that cause erroneous transfers in the first place (such as poor sales behaviours and unnecessarily confusing products) could allow a three day objections window to work without consumer detriment.

Although not the motivation behind either modification, we consider that allowing dual fuel switches to both take effect on the same day could be a significant fringe benefit of any rationalisation in gas switching times. The mod report for 396 suggests that it would facilitate that outcome, while the 403 report is silent on that point. Does it share this benefit? If it does not, we would more strongly favour 396.