

## **Gaslink & BGN Response to CER/11/044 Customer Bad Debt in Electricity & Gas Markets**

Gaslink & BGN recognise the issue of debt hopping and welcome the opportunity to contribute to the consultation process. Gaslink & BGN recognise there is a need to effectively address the issue of debt hopping in the Irish gas and electricity markets. Recent press on this matter has brought to the attention of the wider public that settlement of outstanding gas or electricity supply charges can be avoided by switching to another energy supplier, without a strong recourse/legal deterrent. It is likely that this publicity in itself will lead to this loophole in the open market arrangements being even further abused in the short to medium term.

The substantive issue is customers leaving debts behind them following switching to another supplier. It is the responsibility of each individual customer and energy supplier to come to reasonable terms for the payment of any normal or accrued debt. Switching to another supplier to avoid such obligations and forcing their costs onto the general customer base needs to be recognised and treated as an unacceptable practice. It should be recognised and demonstrated that no form of debt hopping is acceptable, and this loophole must be firmly closed. Abuse will continue where there remains an acceptable or tolerable level of debt hopping.

### **Response to specific consultation paper questions**

**Q1.** Respondents are invited to comment on;

- 1) the proposal to introduce debt blocking or debt flagging for business customers
- 2) the proposal to introduce debt flagging for domestic customers.

#### **Consideration 1; debt blocking for business customers:**

Gaslink & BGN support the principle of objection based debt blocking being incorporated into the Change of Shipper (CoS/Switching) market processes as administered by the Gas Point Registration Office (GPRO). Such measures have been seen to operate effectively in other open retail energy markets and can be implemented effectively, with reasonable controls and at reasonable cost. If this proposal is implemented, the Change of Shipper (CoS) processes would need to be revised to include a notification to the outgoing supplier, and a sufficient / reasonable time period in which a debt blocking flag can be raised via market messaging would need to be agreed. It is understood that the requirement is for the CoS process to be cancelled in such an event, with both shippers receiving notification / acknowledgement market messages accordingly.

Gaslink & BGN envisage that there will be cases where bad debts arise with the outgoing supplier following a CoS where the outgoing supplier does not receive the final bill settlement from the customer. In such cases a messaging option could be available to raise objections on grounds of non-settlement of debt up to a "maximum" period after completion of the CoS. The existing GPRO CoS Correction Process may be suitable for such scenarios, e.g. a correction request could be raised by the outgoing shipper on the basis of "non-settlement of final bill" within 5 weeks of the CoS date. It would however be essential that the CoS Correction Process is further systemised through market messaging for this service, as the current process is manually intensive and was not originally designed for volume use. The CoS Correction Process is currently (and should remain) a process that

requires acceptance between both suppliers for the GPRO to process the request and reverse the CoS. In this regard, it may be worthwhile for the CER and suppliers to carry out a legal analysis of the potential or otherwise for a claim of inducement of breach of contract by the outgoing supplier against the incoming supplier (in circumstances where the incoming supplier proceeds with the CoS despite being aware of the outstanding debt). This is an issue that could also potentially arise as part of the CER's debt-flagging proposal.

The CoS Correction process could also be utilised for correction of unforeseen practices, e.g. when process gaming or deliberate attempts of fraud are detected after the CoS event. It can reasonably be assumed that such gaming and debt avoidance attempts will occur, despite the best intentions of any agreed industry process – no process will be fool proof to attempts of fraud.

### **Consideration 2; debt flagging for domestic customers:**

Gaslink & BGN support the principle of objection based debt flagging on the same grounds and process/system requirements as Consideration 1. However, there are two differences for the CoS processes in this instance;

- 1- The incoming supplier must have a market message acknowledgement / acceptance available for them to allow the GPRO process to cancel the CoS request, and
- 2- A "time-out" needs to be automatically applied on a CoS debt flag raised by the outgoing supplier in the event that the incoming supplier chooses not to accept or react to the debt flag.

Domestic Prepayment meters (PPM) may need some unique rules / processes for CoS as they are cash management / budget management tools for the customer and the customer's supplier. In the event that the customer is on a debt recovery tariff under the current Code of Practice for PPM, then it is valid that a debt flag is treated as an automatic debt blocking.

Other considerations for PPM include a derogation on PPM CoS for an initial 1 year period from other suppliers entering the PPM programme. This is to allow time for more complex functionality and system protection to be integrated to manage debt collection on the meters and also to manage the transfer of outstanding credit and debit between suppliers at CoS.

### **Q2. Respondents are invited to comment on;**

1) the proposal to allow debt blocking/debt notification for small and medium sized businesses in electricity as well as all NDM business customers in the gas market. Are you in favour of the proposal?

2) the proposal not to allow debt objections for Large Energy Users (LEUs) or DM/LDM in the gas market?

Outline reasons for agreement or disagreement.

### **Q2-1) Debt blocking for business customers (NDM):**

Gaslink & BGN support the principle of objection based debt blocking of NDM business customers with gas for all the grounds and process/system requirements as outlined in Consideration 1 earlier.

**Q2-2) Gas DM & LDM:**

Gaslink & BGN do not believe that specific or new debt flagging or debt blocking processes are needed in the Gas DM or LDM CoS processes.

**Q3.** Respondents are invited to comment on the proposed grounds for raising an objection or notification;

- 1) Do you consider that it is appropriate to raise an objection or notification on the grounds of contract default? Is it appropriate for this provision to apply for both business and domestic customers?
- 2) Do you consider that the proposed debt thresholds and timings in section b are appropriate? Do you think the monetary thresholds should be the same or different for electricity and gas?
- 3) Do you consider that it is necessary, as outlined in section c above, to allow for objections or notifications to be raised for business customers for sums below the threshold where debt has remained unpaid for a longer period of time?
- 4) Respondents are invited to propose alternative grounds or suggested modifications to the grounds outlined above?

**Q3) Thresholds and guidelines:**

Gaslink & BGN do not wish to comment on the nature or scale of thresholds or guidelines other than to emphasise that discussions around (what might be seen as an acceptance of) scales of debt could promote abuse and gaming. The message could be seriously diluted if “acceptable” levels of debt hopping are tolerated. Also, the process for managing and auditing would become prescriptively complex and costly.

**Q4.** Respondents are invited to comment on the means of acquiring customer agreement to the information on debt being passed to a third party?

**Q4) Debt flagging to third party:**

Gaslink & BGN reserve the right to seek further legal guidance and clarification on what reasonable measures may be required to ensure the GPRO can remain compliant with Data Protection legislation in its role as Data Processor or Controller of debt flag / block notifications. Preliminary guidance varies considerably, depending on the specific process options under consideration at this stage.

**Q5.** What do you consider would be the impact on competition of a debt blocking or debt flagging solution?

**Q5) Competitive market:**

The competitive energy market in Ireland was ranked No.2 behind Victoria, Australia in the World Energy Retail Market Rankings 2010 ([www.utility-customer-switching.com](http://www.utility-customer-switching.com)). In 2009 (*before the market in Ireland became fully exercised in 2010 & 2011*), Ireland was ranked as No. 1 in World Rankings for actual Customer Switching Rates. The Irish energy market is thus already a World Class benchmark and applying valuable lessons learned to further improve the processes can only enhance the competitive standing of the market.

**Q6.** What are your views on allowing for customer debts to be transferred between suppliers?

**Q6) Debt transfer:**

For credit type metering, such arrangements would be of a commercial nature between the counterparty suppliers. The GPRO would have no role in this other than facilitating the agreed CoS process.

For advanced metering such as Prepayment, the functionality of the meters and back office systems might be able to support some arrangements around this. Such functionality / service could be developed but could reasonably take 12 months to complete the phases of design & definition, development, testing, training and rollout. Cost considerations of such development should be considered relative to the size of this market in Ireland.