

Bord Gáis Networks Response to Directive 2011/83/EU Consumer Rights Directive

1. Introduction

Bord Gáis Networks (BGN) welcomes the opportunity to respond to the consultation on Directive 2011/83/EU on Consumer Rights.

In general, BGN welcome the Directive and the government's proposed approach to transpose this Directive into Irish legislation.

2. Overview of Directive Benefits

The Directive provides the key benefit of harmonising consumer protection rules across member states, which provides benefits for:

- (i) Traders in terms of harmonised rules on protection rights and
- (ii) Consumers if they buy goods and services from other member states.

3. Implications for Gas Industry

3.1 Change of Gas Supplier

In terms of the implications for the gas industry in Ireland, much of the provisions of the Directive would relate to the contract between gas consumers and gas suppliers in the competitive market. BGN's interest here would lie in the gas supplier switching process (which is facilitated by BGN as operator of the gas point register which tracks the supplier to every gas consumer) and the implications that the Directive would have on existing change of shipper processes e.g. consumer withdrawal rights. Our understanding is the Directive increases the withdrawal rights for a gas consumer to 14 days unless they explicitly waive that right during the withdrawal period.

BGN will continue to actively engage with the energy regulator (CER) and gas suppliers in the market to amend current processes (as appropriate) to address any enhanced consumer rights brought about by this new Directive. This would include engagement with industry on arrangements for instances where the consumer invokes their withdrawal rights in a new gas supplier contract. As part of this, BGN will be seeking clarifications on the rights and obligations of the incoming and outgoing supplier in this instance.

3.2 Connections/Siteworks Charges

A further issue for BGN would be potential impact on connections/siteworks which are typically transacted and paid for by phone. In many cases, such activities would not fall under the €200 exemption proposed by the Consultation, but such activities are already regulated.

BGN would propose that gas connections should fall under an exemption as it would come under contracts in sectors and activities that are the subject of sector-specific European Union consumer protection legislation (and in some cases additional national consumer protection rules). Otherwise this could lead to the creation of an additional layer of regulation would not be in the interests of traders nor consumers.

We note that once off connections for telecommunication providers is an exception in the proposed legislation, so we would ask that this principle be considered in gas connections also.

In the absence of such an exemption, BGN would like to seek confirmation that connection offers by phone which are instigated by the consumer would not require written consent to BGE's offer and BGE's confirmation of that offer in a durable medium.

4. Responses to Specific Consultation Questions

BGN would like to specifically respond to one question raised in the response document:

Q1 Should the implementing Regulations avail of the option to exempt off-premises contracts with a value of less than €50 from the Directive's provisions on consumer information and the right of the consumer to withdraw contract?

BGN would agree with the approach that a minimum financial threshold be attached to the enforcement of the Directive's provisions but would like to see further clarity of how the monetary threshold is established. In certain products and services, the value of the contract is easily ascertained due to the existence of a specific list price attached to the product with a specific quantity ordered determining the contract value, but how is this approached when it comes to utility contracts where while the price per unit might be set, the consumption is variable and so the value of the contract is not clear at the outset e.g. standard direct debit gas contracts, pay as you go meters.