

From: Daniel Gordon
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23 July 2018

Dear Sir/Madam

CMA letter to heat suppliers/heat network operators

The Competition and Markets Authority (CMA) is publishing this open letter for suppliers and operators in the domestic heat networks sector. We want to draw your attention to the [final report](#) on our market study into your sector.

Our main recommendation to government is that the sector should be regulated. It will be for government to determine how to take our recommendations forward and we will work closely with the Department for Business, Energy & Industrial Strategy (BEIS) and the Scottish Government on the design and implementation of regulation. We appreciate that heat networks are expected to play a key role in reducing carbon emissions from heat in the UK and can offer benefits to customers.

This letter sets out the steps that you should take now to ensure that your customers are being treated fairly. All heat suppliers or heat network operators must comply with consumer and competition law: at the end of this letter, you will find links to guidance explaining your responsibilities.

CMA report findings

We found that the majority of heat network customers pay for heating and hot water at prices comparable with or lower than other potential sources of supply (such as gas) and experience comparable service standards. However, some customers – particularly those on certain privately-operated schemes – are getting poorer deals in terms of price and service.

We identified three causes of poor outcomes for customers

- (i) differing interests of property developers, heat network operators and customers in the design and build of networks;
- (ii) the monopoly supply of heat;

- (iii) limited customer awareness of what heat networks are, with customers lacking key information, both when looking for a property and during residency.

CMA recommendations

Customer protection

Issues relating to the quality of heat networks – particularly reliability – have the potential to cause serious harm to customers. We recommend that heat network customers are given similar protections to customers in the gas and electricity sectors. While regulation is being examined, all heat suppliers and heat network operators should introduce:

- a priority services register for vulnerable customers and support for vulnerable customers;
- a minimum standard of complaint handling;
- performance measures for quality of service and responding to supply issues; and
- access to an ombudsman with the ability to investigate suppliers and make binding remedies.

The [Heat Trust](#) has developed an approach to accreditation of heat networks, including of customer protection. This is a relevant example for other heat networks looking to meet consumer protection obligations. Over time, we would expect all heat networks, including smaller network operators, to have access to a suitable scheme for customer protection.

Minimum technical standards

The initial design and build of a network is crucial as it affects the costs and quality experienced by customers for the life of the network. We have found that, in some cases, end customer interests are not considered at the initial stage of developing a heat network. We therefore consider that the implementation of minimum technical standards is a necessary step to protect customers from poorly designed, built and operated heat networks.

New developments

Given concerns about current technical standards, the industry is already working towards a [voluntary quality assurance scheme](#), which will feed into government's design of new technical standards. Whilst these standards are being developed, all heat networks operators should:

- comply with the [Domestic Building Services Compliance Guide](#), which sets out minimum standards for the functionality and performance of communal heating;
- follow the [CIBSE ADE Heat Networks Code of Practice \(CP1\)](#) to maximise the operational efficiency of heat networks; and
- take into account the prices charged to customers over the life of the assets, as well as the initial cost of constructing the network, at the planning and design stage.

While not currently mandatory for all heat networks, this level of compliance should be a condition for any new schemes receiving funding from BEIS' Heat Network Investment Project, the Scottish District Heating Loan Fund and the Mayor's Energy Efficiency Fund in London.

Existing networks

For existing networks, we recommend that government or a sector regulator consult early on operational standards regulations which could be applied, in advance of the introduction of formal enforcement powers. In the meantime, heat network operators should make use of existing guidance, such as CP1 to maximise the operational efficiency of their network.

Pricing

While we found that the majority of customers on heat networks receive heating and hot water at prices comparable with or lower than other potential sources of supply (such as gas), heat networks operators charging customers higher prices:

- should consider how network costs can be reduced over time to make their tariffs comparable to a benchmark price set against an alternative fuel.

Where prices remain higher than the benchmark due to high costs, we have recommended that a sector regulator review the costs of the network and to intervene, where necessary, to require the network to become more efficient and therefore reduce costs to customers.

Better transparency for customers

Prior to moving into a property

Customers generally have low awareness of the type of heating in a property before moving in, so key issues such as contract duration, exclusivity and pricing relative to other energy options are often not considered until after customers have decided to move into a property. Therefore, we recommend that heat network operators:

- work with property agents and landlords to ensure clear information is provided to homebuyers/tenants before they move into a property (for example, by providing clear information packs);
- clearly explain to customers how the heat network operates and provide detailed information about payment, instructions on who to contact when things go wrong, and information on the supplier's/operator's complaints process (with a timetable for the resolution of complaints);
- provide estimated monthly and annual bills to customers that go beyond what is required in the Energy Performance Certificate to include the costs of heat network maintenance and repair;
- clearly set out service levels including the availability of call centre support, call out times, time to repair faults and any compensation for unplanned outages; and
- provide an estimate of planned and unplanned outages per year.

When living in a property

All heat network operators should already comply with the [Heat Network \(Metering and Billing\) Regulations](#) but our recommendations go beyond that, we recommend that heat networks operators should now:

- state all fixed and variable costs in plain English, without the use of complicated formulas (although these should be available on request);
- itemise any standing charges separately, setting out what is included (for example, the capital expenditure and operational maintenance).

If we suspect a heat supplier or heat network operator is breaking the law, we may consider taking enforcement action. Please take time to read this letter and share it across your business so that, as the government considers introducing regulation, you ensure that you are treating customers fairly.

Yours faithfully

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Annex A: Your legal responsibilities

Prior to regulation, if there were examples of heat network operators acting in a way which was seriously harming customers, the CMA could consider stepping in and taking enforcement action.

Competition law – what you need to know

Heat networks can act like natural monopolies, with only one heat network operating in a given area; in such cases you should be alert to the dangers of abusing a position of market dominance. At the CMA we have produced [a series of quick guides and films](#) that explain the main things you need to know to stay on the right side of competition law.

The consequences of breaking competition law are serious and include:

- Fines of up to 10% of a business's worldwide turnover.
- Company directors can be disqualified from running a company for up to 15 years.
- In the most serious cases involving anti-competitive arrangements, individuals may be investigated for committing a criminal offence, prosecuted and sentenced to up to five years in prison and/or made to pay a fine.
- Anyone who has suffered loss because of a company breaking competition law can claim damages against that company in the UK courts.
- Reputational damage can be significant and long lasting.

Fair contract terms and consumer law – what you need to know

Businesses that deal with customers need to make sure their terms are fair. The Consumer Rights Act 2015 aims to protect customers against unfair contract terms and notices.

At the CMA, we have produced [a series of quick guides and films](#) that introduce the main things you need to know about consumer law and your business responsibilities, including the types of terms that may be considered unfair. These guides provide a simplified overview and complement our more detailed guidance on unfair terms law. The full collection can be found at: www.gov.uk/cma/fair-contract-terms.

If you think you may be at risk of breaking either competition or consumer law, we always recommend that you seek independent legal advice.