



Ref No: 3/0.28

27 October 2004

Ms Marie Cawley
Consumer and Competition Protection Directorate
1 Victoria Street
LONDON
SW1H 0ET

Dear Ms Cawley

DESIGNATION AS A 'SUPER-COMPLAINANT' UNDER THE ENTERPRISE ACT 2002

I am writing on behalf of the General Consumer Council for Northern Ireland to be designated by you as a super-complainant under Section 11 of the Enterprise Act 2002 for claims on behalf of consumers.

Please find attached our application form for your consideration.

Yours sincerely

ELEANOR GILL
Chief Executive

Application for designation as ‘super-complainant’

- 1. Name and address of organisation** General Consumer Council for Northern Ireland
Elizabeth House
116 Holywood Road
Belfast
BT4 1NY
- Contact for correspondence** Mrs Eleanor Gill (Chief Executive)
- 2. Nature, purpose, activities, sectors covered and age**
- The General Consumer Council for Northern Ireland (hereafter referred to as ‘the Council’) is a statutory, non-departmental public body (NDPB).
- Its main purpose is to promote and safeguard the interests of all consumers in Northern Ireland.
- The Council’s activities include :-
- Researching and monitoring consumer issues
 - Campaigning for the best possible standards of quality, service and protection for consumers
 - Issuing information and resources to promote greater awareness of consumer rights and how to get redress
 - Giving general advice and information on consumer complaints
 - Seeking to influence both the public and private sectors to improve their goods and services
 - Investigating complaints about passenger transport, coal, natural gas and electricity
 - Investigating and speaking out about important consumer issues of the day
 - Responding to consultation documents and proposed legislation considering other complaints and matters, having regard for any other remedy
- The Council covers all sectors of consumers in Northern Ireland. It has a specific statutory duty to protect the interests of passenger transport, coal, natural gas and electricity consumers.
- The Council has existed since 1985. It has not, and never did have, any trading arm.
- 3. Constitution, status, board and management structure** The Council was established by the General Consumer Council (Northern Ireland) Order 1984. It is a ‘body corporate’ and is not regarded as an agent or servant of the crown.

The Board is the Council itself, which is appointed by the Head of the Department of Enterprise, Trade and Investment and consists of a Chairman, Deputy Chairman and twelve members.

The management structure is that of a Chief Executive, Director of Energy and Corporate Services and Section Heads for Energy, Consumer Affairs, Consumer Education, and Corporate Services.

4. Current list of council members

Chairman:	Mr Stephen Costello MBE
Deputy Chairman:	Mr Bill Osborne
Member:	Mrs Grace Bennett
	Mr Brendan Bonner
	Mr John Collinson
	Mrs Fionnuala Cook OBE
	Mr John Dobson
	Mrs Jill Girvan
	Mrs E Siubhan Grant
	Ms Maria McGuinness
	Mrs Penny McNeill
	Mr David Mann
	Mr David Moore

and principal officers

Chief Executive :	Mrs Eleanor Gill
Director of Energy and Corporate Services:	Mr Wesley Henderson
Head of Energy:	Ms Joanne Stevenson
Head of Consumer Affairs:	Mr Alan Walker
Head of Consumer Education:	Mrs Carol Edwards
Head of Corporate Services:	Ms Donna Magee

5. CVs of council members and principal officers

These are attached as appendices 1 and 2.

6. Current list of directorships, shareholdings, and any other substantial interests in companies held by council members and principal officers

This is attached as appendix 3.

7. Two years' accounts

Accounts for the last two years are attached as appendix 4.

8. Past conduct of council members and principal officers

None of the council members or principal officers falls into any of the categories listed in paragraph 1.11 of the 'Guidance for prospective designated super complaints bodies' issued by the DTI's Consumer and Competition

Policy Directorate. Nor is there any other known circumstance which might affect the integrity of any member or principal officer.

9. The Council is so constituted, managed and controlled as to be expected to act independently, impartially and with complete integrity

Members and officers are recruited by open competition in accordance with the guidance issued by the Office of the Commissioner for Public Appointments. While in office, they are expected to adhere to the Seven (Nolan) Principles of Public Life. Additionally, the Council's activities are externally audited by a firm of accountants and, from the year ending March 2004, will be audited annually by the Northern Ireland Audit Office. The Council also comes within the jurisdiction of the Northern Ireland Assembly Ombudsman.

10. Evidence of experience of acting in consumers' interests

The following are some examples of how the Council has acted in the interests of consumers and how it has often been successful. The examples have been taken from the period 1995 to 2003. They also cover a wide range of topics which both demonstrates the width of the Council's remit and the breadth of experience and expertise in consumer affairs. All references have been taken from annual or other reports and these, if not attached as appendices, are available on request if required.

- Against the background of Northern Ireland's Reform of Water and Sewerage Services, a consultation exercise in which the majority (72 per cent) supported extending the role of GCCNI, the General Consumer Council has been proposed as the consumer representative body for domestic water consumers.
- After campaigning by the Council, it was agreed to extend the National Food Survey to include Northern Ireland.
- Following representations by the Council, Northern Ireland Railways introduced a Belfast Zone in which a flat rate would be charged for travel between any of the Belfast stations.
- The Council expressed concern that the nutritional guidelines for school meals were out of date and restricted improperly to primary schools. Subsequently, the Department of Education agreed to update the guidelines and to apply these to both primary and post-primary schools.
- The Council was the only Northern Ireland organisation to give evidence to the House of Commons Transport Select Committee's inquiry into aviation. The Council campaigned for the maintenance of regional access to Heathrow airport.
- The Council successfully persuaded Government to review the Transport (NI) Act 1967 and particularly the bus licensing arrangements.

- Following the publication of a major report by the Council on school uniforms, the Customs and Excise agreed nationally to exempt from VAT school uniforms for all primary school pupils and for those in schools where all the pupils are aged under fourteen.
- The Council was one of only four consumer organisations invited to give oral evidence to the European Committee of the House of Lords on the EU Draft Directive establishing minimum standard rights for consumers in Member States.
- Phoenix Natural Gas Company is the only supplier of natural gas in Northern Ireland. The Council persuaded the company to accept most of its recommendations to improve their customer contracts and all of its recommendations for improved customer service standards.
- The Council persuaded the Government to officially review the orange badge scheme for disabled drivers and the law for controlling litter and dog fouling.
- The Council persuaded the Regulator to suspend gas re-connection charges in debt-disconnection cases to allow time for a full investigation.
- The Council persuaded the Department of Agriculture to recommend the vaccination of all laying flocks to reduce the level of Salmonella.
- The Council's consumer information and advice website 'www.Consumerline.org' was voted the 'Public Information Website of the Year' at the prestigious International Business Communication Awards ceremony in London. Subsequently, the Government decided to adopt the website as a portal site for consumer advice in Northern Ireland. Average monthly hits in 2004 stands at 116,334. The website's popularity continues with a monthly high of 151,449 in March 2004.
- The Social Security Agency asked the Council to produce a consumer guide to the direct payment of benefits and the range of options available to consumers. This followed the publication of the 'Short-changed' paper in the series issued by the Council entitled 'The Price of Being Poor'.
- As a direct result of the Council's evidence, the Lord Chancellor decided to increase the Small Claims Court limit to £2,000.00.
- Translink provides all of the train services and most of the bus services in Northern Ireland. The Council secured improvements to Translink's Passenger Charter. These included better compensation arrangements, more timely advance information for passengers, and a target time for answering telephone calls.
- Following representations from the Council, the Northern Ireland Court Service agreed to stop charging consumers probate fees for personal applications.
- As a result of the Council's publication 'Hungry for Change – Community Action to Tackle Food Poverty'

(see appendix 5), the Armagh and Dungannon Health Action Zone has undertaken a 'Decent Food For All' project, costing £1/2 million, to improve food access.

- Following intervention by the Council, Northern Ireland Electricity and OFREG agreed that the practice of resolving meter complaints was not in accordance with the law, nor in the consumer's interest. In future, complainants will be able to have their meter, and its installation, independently tested.

The Council has a statutory duty to investigate complaints made to it by consumers about electricity, coal, gas and passenger transport. A survey of complaints investigated by the Council during the year 2002/2003 showed that 96% of those who replied were satisfied with the Council's handling of their complaint. Following the Council's intervention, many complainants received from the company either a full explanation or an apology, while others received a goodwill payment. In other cases, the company changed its position on the matter complained about.

Also, the latest figures available (for the year 2002) show that 76% of the Council's stakeholders were satisfied with the quality of the Council's research. Additionally, 82% of those surveyed, who said they knew something about the Council, also said that it did good work on behalf of consumers.

11. Evidence of expertise within or available to the Council

The Director and other principal officers have worked for the Council for many years. Consequently, there is a broad base of experience within the Council of representing expertly the interests of a wide range of consumers. Additionally, when dealing with technical or legal issues, the Council has obtained outside assistance. This practice will continue. It is perhaps also worth stating that the Council has a very close working relationship with the Trading Standards Service and with the Department of Enterprise, Trade and Investment. The Council also draws on the expertise within those two bodies.

12. Evidence of the capability to put together reasoned super-complaints on a range of issues

(a) In 1992, as a result of consumer complaints, research and comparisons with the market in Great Britain, the Council successfully requested the Office of Fair Trading to investigate the Northern Ireland home-heating oil market. The Council had concerns that cartels were operating and that price-fixing was occurring.

(b) Mainly as a result of complaints from individual consumers, the Council decided to investigate the Bulk-supplied Liquefied Petroleum Gas (LPG) to Domestic Consumers Market in Northern Ireland. It issued its report 'What Choice' (attached as appendix 6) in 1993. The Council found, among other things, that consumers had no LPG-supplier choice, since only the company which installed

the tank could refill it. This lack of competition stemmed directly from the terms of the contracts which domestic consumers were required to sign. The Council concluded that price and service to consumers suffered as a result of this situation. The Council made many recommendations to the LPG companies and also asked the Director General of Fair Trading to investigate the Northern Ireland market and, if necessary, to refer the case to the Monopolies and Mergers Commission. The LPG companies accepted most of the Council's recommendations. Although the Director General decided, as he had done in Great Britain, that he would not have been justified in taking any action under the competition legislation, nevertheless, he did take a close look at the Northern Ireland market.

(c) Since coming into existence, the Council had received each year a small but disturbing number of complaints from owners of static holiday caravans. Grievances included things like:-

- having to buy the caravan from the site owner in order to get a pitch on that particular site;
- the site owner telling the caravan owner to replace his caravan with a new or re-conditioned one, or else remove it from the site;
- pitch rents increasing above inflation without any improvement in services or facilities; and
- difficulty in allowing relatives or friends use the caravan without the site owner demanding an additional fee.

And so, in 1994 the Council commissioned research into the static holiday caravan industry in Northern Ireland. The following year, it published its report 'Static Holiday Caravans' (attached as appendix 7) in which it showed, among other things, that the market was harming caravan owners in that it was affording them less protection and freedom of choice than that enjoyed by similar owners in Great Britain. The report also concluded that the terms and conditions imposed by site owners may have been ineffective in law or unenforceable under the terms of the Unfair Contract Terms Act 1977. The Council concluded by making appropriate recommendations to the site owners and, failing their implementation, to the Director General of Fair Trading to investigate the Northern Ireland market with a view to referring the case to the Monopolies and Merger Commission. Although no case has yet been made to the Commission, the Council, together with the Trading Standards Service, continues to campaign and to monitor the situation.

(d) To ensure that consumers are not being harmed by flawed market structures or unreasonable operators, the Council periodically monitors fuel prices, ferry and air fares, and car insurance. To keep consumers informed, the Council publishes its findings.

13. Evidence of being able to deal

As already stated in section 11, the Council's Director

with competition and economic issues involved in super-complaint cases and other principal officers have considerable experience and expertise in consumer affairs. As a result, they have also acquired a degree of expertise in dealing with competition and economic issues. However, when the need arises, the Council also uses external advice for such issues. This practice will continue.

The following are some examples of the Council's involvement in competition and economic issues. More detailed information can be made available if required.

- In 1988, the Council gave evidence to the Monopolies and Mergers Commission on the coming together of Northern Ireland's two major bus companies, Ulsterbus and Citybus.
- In 1995, the Council gave evidence on the sale of the Belfast City Airport to Belfast International Airport to the Monopolies and Mergers Commission.
- In 1999, the Council gave evidence to the Competition Commission about the economic effect of the arrival in Northern Ireland of grocery multiples from Great Britain.
- In 2003, the Council gave evidence to the Competition Commission on the proposed Safeway/ ASDA/ Sainsburys/ Tesco/ William Morrison merger.
- Finally, and also in 2003, the Council gave evidence to the Competition Commission about the purchase of some sea routes by Stena Line from P & O Ferries.

Additionally, the Council has referred to the Office of Fair Trading's guidance on how to make a super-complaint and is satisfied that it is able to comply with that guidance.

14. Statement of willingness to co-operate

This is attached as appendix 8.

15. Formal undertaking to notify the Secretary of State of any material change to the information supplied on this application

This is attached as appendix 9.

16. Other information considered relevant to meeting the designation criteria

Under Article 4 (2) of the General Consumer Council (Northern Ireland) Order 1984, the Council may -

- (a) consider any complaint made to it relating to consumer affairs and, where it appears to the Council to be appropriate having regard to any other remedy which may be available to the complainant, investigate the complaint and take such further action in relation thereto as the Council may determine;
- (b) carry out, or assist in the carrying out of, inquiries and research into matters relating to consumer affairs;
- (c) promote discussion of, and the dissemination of information relating to, consumer affairs;
- (d) report to a Northern Ireland department on any matter relating to consumer affairs which is referred to the Council by that department.

A list of all the Council's responses to consultation papers since 2001 is attached as appendix 10. Also, a list of all the Council's publications (reports and leaflets) since 1995 is attached as appendix 11. Any of these are available on request.

17. Information to be omitted when this application is placed on the DTI website

The Council asks that, mainly for security reasons, the addresses and CVs of members and principal officers should not be made public. However, you will find, at appendix 12, a summary of the backgrounds of members and principal officers, which you may place on your website.

Signed by:
(Chief Executive)

Date: 27 October 2004