Ofgem, 10 South Colonnade, Canary Wharf, London E14 4PU

BEIS, 1 Victoria Street, London SW1H 0ET

Monday, 16 September 2019

Dear Retail Markets teams,

FLEXIBLE AND RESPONSIVE ENERGY RETAIL MARKETS: Putting consumers at the centre of a smart, low carbon energy system

We are researchers at UCL Energy Institute[1], whose work focuses on social and legal issues connected with an energy system in transition. We welcome the opportunity to respond to this important consultation.

Please note that we have only included, and responded to, questions were we think we can contribute useful evidence based on our own work (or that of colleagues) or perspectives.

We hope these responses are useful, and would be happy to discuss any of them further, or provide more details.

Your faithfully,

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[1] Please note that this response is written in a personal capacity and does not claim to represent the views of others at UCL Energy Institute.

1. Do you agree with our vision for the future of the energy retail market, the outcomes we are seeking to achieve and our characterisation of the key challenges we need to overcome?

Broadly yes, this vision captures most elements of what we would see as being important in a future energy retail market. There are possibly some questions around what is not included, and which we will touch more on later in the response. Just to highlight one example, there is discussion later in the consultation document about the development of more local energy offerings, and potential conflict with the universal supply obligation. It would be concerning if significant differences arose in terms of the services and prices available to customers in different regions and nations of Great Britain as a result of localization of energy products/services. So the overall vision could conceivably include something about broad equality of access across the country.

3. Are there current or emerging harms to energy consumers which are currently out of scope of the regulatory framework? Do these differ for domestic and non-domestic consumers?

While this section of the consultation document touches upon the opportunities and challenges raised by *flexibility* and its growing role in the energy system, we are not sure there is yet sufficient focus on it as a theme. Many of the new products and services will be built around and ability to provide flexibility to electricity systems, including offerings like heat-as-a-service and peer-to-peer trading.

In a recent paper with Gareth Powells (free version available here, and blog overview here), MF discusses some of the potential fairness implications associated with different users' capacity to be flexible. For example, some new products might allow customers to choose a lower threshold of reliability of (grid) electricity in return for a lower price, or a lower level of energy service (e.g. heating). Those with onsite generation storage might experience little negative impact of this, while those without may simply use it as a new form of self-disconnection or rationing. These challenges apply equally to domestic and non-domestic contexts. The question of this kind of systemic inequity increasing does not seem to be addressed in the current approach -- although this may be more a question for policy than for regulation.

A further issue of systemic inequality relates to who has access to new products and services. A project MF is involved in considering the social impacts of P2P energy trading is looking for evidence of where benefit and harm could be expected to arise. It is running behind schedule, but some of the underlying logic models provide an overview of the sorts of impacts we might expect and how they could come about. Many potential disparities concern whether or not consumer actually has access to a P2P market to participate in.

A further project MF is involved in (EnergyREV) is considering smart local energy systems more broadly. Your approach rightly considers the implications of localisation and the interaction of this with the universal supply obligation. However, again, we are not sure if there is enough recognition of the way in which such new arrangements could sustain and increase existing disparities between groups of the population. For a range of reasons (such as resource availability, existing civil society ecosystems), innovative energy schemes are more likely to appear in some parts of the country than others -- meaning that some regions are more likely to experience the benefits than others. We expect shortly to have available a similar logic model to those linked to above for how positive/negative outcomes might be expected to come about as a result of the emergence of smart local energy systems, which we will begin to test against the available evidence. We would be happy to share an early version of this with you when available, if of interest, since it may be helpful in

thinking through challenges associated with limiting access (geographically or otherwise) to new products and services.

4. Would it be beneficial to allow suppliers to specialise and provide products and services to targeted groups of customers? If so, how can this be delivered while balancing the need for universal service?

As you point out, the inability to focus on certain consumers (to the exclusion of others) has likely stifled the development of innovative new offerings of the kind required to transition to a low-carbon energy system. However, as you recognise, there is a risk in this approach that certain groups are systematically excluded from access to such new offerings, by virtue of geography or ownership of technologies (for example). This will not always be the case -- new services may be developed specifically with otherwise excluded groups in mind -- but this cannot be assumed. As the previous answer suggested, for various reasons, innovative local energy systems that support vulnerable consumers may be comparatively much harder to realise in some parts of the country than others.

If the regulations are changed to permit targeting, it will be very important to both keep a watching brief (with a well-designed monitoring plan) on these impacts, and be ready to address them if early indicators are observed. This may include using the launch of targeted products as an experiment, allowing comparison of the expenditure (and other outcomes) of households/businesses with and without access over time. This will require cooperation of the companies/organizations involved -- which could be made part of any revised regulations.

Where systematic disparities are recognised, address could include providing support to improve access to new services to otherwise excluded consumers. If, for example, people are excluded because there are no innovative local energy schemes where they live, support could include capacity building to equip local organizations with the knowledge and resources to adapt and reproduce successful services from elsewhere (findings from the EnergyREV project mentioned above could inform this).

Both of the above examples (monitoring and capacity building) would require some additional sharing of data and approaches than is currently the case. The way this is done will have to be carefully designed to balance the need of companies to remain competitive with the need for societally good outcomes. There are examples in the biomedical sciences domain of how commercial concerns can be balanced against a requirement for openness; a similar kind of approach may be needed in this case.

5. Are incremental changes to regulation sufficient to support the energy transition and protect consumers? Or does this require a more fundamental reform, such as moving to modular regulation?

Incremental changes are preferable, as long as they are done with the help of a regulatory sandbox, to keep up with the fast technological innovations currently taking place within the energy sector. Policy/regulation naturally moves at a slower pace than technology, and this is already a problem (see other sectors currently grappling with decentralisation, such as accommodation and transport). This is creating a disconnect between policymakers and technology start-ups, with consumers suffering as a consequence. The sandbox is essential to provide evidence necessary for incremental regulatory changes, and should encompass as many applicable legal areas as possible (i.e. not only particular energy codes, but also non-energy legal fields such as contract law, consumer law, data

privacy law etc). It should also provide a long enough timeframe to test new technologies to a sufficient extent. Two years is too short, as the trial has to end prematurely and consumers participating are then plunged in the dark due to the trial having to end. A timeframe such as 4 years would be more suitable to collect the necessary evidence for policymakers to make incremental changes. More information is available in these slides.

Whatever the approach, the onus should be on those offering new services to say why they believe they will be in line with any relevant principles, such as around consumer protection. Not only this, but there should be a requirement to say how they will evidence that harms are not being caused, based on what data -- and their method/outcomes should be approved and stored by Ofgem, as along with the periodic monitoring results. This will have two beneficial outcomes. Firstly, it will allow evidence of harm to be recognised quickly, and responded to -- allowing correction/prevention of the harmful offering, and suggesting caution if others propose a similar model in future. Secondly, it will highlight examples of highly beneficial practice which could allow companies to better promote their services to, for example, local authorities. This combination of cutting out poorly performing models and promoting beneficial ones could act as a 'ratchet of best practice', even in a rapidly developing market.