



Ofgem
10 South Colonnade
Canary Wharf
London E14 4PU

By email: retailpolicyinterventions@ofgem.gov.uk

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Dear Maureen,

This letter is Uswitch's response to the Ofgem consultation on revisions to Market Stabilisation Charge, published on 31 March. Our response is not confidential.

The situation in the energy market is difficult. Wholesale energy prices continue to be volatile, resulting in suppliers unable to offer tariffs to new customers. We understand it is a difficult time for many suppliers, as the market continues to be unpredictable. Therefore, some measures aimed to stabilise the market are justified.

We have seen many suppliers fail in the last six months, most citing the price cap as the reason. The design of the default price cap pushed many suppliers into a position where they cannot adequately finance their operation. Ofgem's proposals to reform the Market Stabilisation Charge (MSC), to compensate nearly all supplier losses at the time of switch if the wholesale market drops by as little as 10%, also shows that Ofgem does not believe that the remaining suppliers are able to function in a competitive market.

Despite some suppliers struggling at the moment, customers cannot be forgotten as they are also being very heavily affected by the current energy market conditions. Not only are prices high and the price cap has risen by nearly £700, on average, but the lack of reasonable fixed tariffs on offer means customers are unable to take control of their energy bills. Many more customers will be pushed into fuel poverty as a result of the price rises and we are concerned how many will not be able to heat their homes next winter. It is the job of the regulator to ensure customers are protected, not just in the future but also at present. It is not right that the customers alone are now being asked to pay for regulatory failures.

We understand why Ofgem introduced the MSC as a temporary measure - in a volatile market, if the prices fluctuate significantly, some suppliers can lose if others choose to take advantage of price changes and gain customers. This is why we supported Ofgem's original proposal of MSC - we believed it struck the right balance between allowing customers to exercise their right to choose while still giving suppliers some compensation for potential losses. If the wholesale prices were to drop by 30%, as per original proposal, the change

would be significant and supplier losses would be high if they lost customers to competitors who were more willing to take advantage of lower wholesale prices. Yet, customers would still be able to see some savings if they engaged in the market. Unfortunately, the amended proposals are a step too far and the regulatory pendulum has swung completely in suppliers' favour.

Some of the statements in the recent consultation we were particularly concerned about:

1. *"In return for delaying part of the benefits of falling wholesale prices for active consumers, the MSC, especially with the proposed new parameters, is expected to reduce the risk of financial stress for well-managed firms. We judge this to be in the interest of consumers, so that the firms who serve them are able to fund their businesses."*

This argument only works if Ofgem has no confidence that suppliers can survive in a competitive environment - i.e. they would go bust if any of their customers switch away. If suppliers are relatively financially stable and Ofgem is looking to implement the additional measure as a precaution, it would only work as a disadvantage to customers with no clear benefit to the market.

In addition, it is not clear why Ofgem thinks now is the right time to protect suppliers at any cost - many suppliers went out of business in the last six months and nothing was done to prevent that. We were repeatedly told that this is part of the functioning of a competitive market. Now that most of the small, challenger suppliers have gone bust, Ofgem appears to have picked winners and is choosing to reward the remaining ones based on size, effectively creating an oligopoly in the retail energy market.

2. *"While the strengthened MSC is likely to be fed into fixed term contract prices, which would reduce the savings for engaged consumers, disengaged consumers (who are more likely to be low income or vulnerable) would not be affected."*

Ofgem is specifically targeting customers who want to switch and rewarding those that are inactive by inflating the cost of tariffs customers may want to switch to. It is incorrect to assume all 22 million customers on price capped tariffs are inactive, low income or vulnerable. While some are and need to be protected, this measure does not do that (as the prices for those on the capped tariff will be higher for longer) and it eliminates any incentive for customers to engage. With this proposal, Ofgem sends a clear message to customers - do nothing. It is the exact opposite of what we know the customers want to do.

Supplier and customer interests are not the same. We have increasingly noticed that Ofgem is confusing the two. By protecting suppliers, Ofgem believes customers are being protected from higher costs long term, completely ignoring customer own interests at

present. Customer interests in the current market conditions are clear - they want to take control of their bills, not just wait until this is done for them. We see the biggest customer engagement with energy in recent history. Our site visits are higher than ever, with many wanting to find ways to save. The widely covered story of customers submitting meter readings ahead of the new price cap coming into effect and crashing supplier sites just shows how many customers are concerned about their bills.

As a result, previous perceptions of "engaged" and "disengaged" customers, that Ofgem still seems to base their decisions on, no longer apply. Due to such high interest in the energy market at the moment, any drop in wholesale costs will be widely covered and won't go unnoticed - customers will try to find a better deal and notice that the reductions are not passed to them (due to the new MSC).

It is even more concerning that Ofgem is considering potentially having MSC in place long-term. Ofgem's proposed rationale for a long-term charge is that it would increase investor confidence and therefore raise investment in the sector. While the market needs more investment to prepare for Net Zero, it does not necessarily have to come from the parties already present in the market. By shielding existing suppliers and discouraging switching, Ofgem would eliminate the attractiveness of the market to new entrants and investors that could bring the much needed investment. And by effectively promoting and entrenching an oligopolistic market, Ofgem also reduces incentives for existing suppliers to invest, by removing the pressure to innovate that competition normally creates. The argument that customer number stability would attract investment is simply incorrect - new entrants would not see a way in and gain customers, while existing market players would have no incentive to invest in the market they are already fully benefiting from.

Finally, by encouraging consumer passivity at the time when they should be most engaged, it will not achieve customer protection long-term. Waiting for savings to be passed through when Ofgem deems it the right time removes any incentive for customers to engage with the market. Targeting active customers in particular seems especially counter productive, as they are what's driving competition in the market. Customer engagement does not have an on/off button - the industry has put in a lot of effort in getting customers more engaged and ensuring engagement is sustained. With specifically targeting active customers, Ofgem will bring the market back to 2000 - an oligopolistic structure with lack of competition, lack of consumer engagement and remaining supplier complacency that results in higher bills.

Sincerely,

Justina Miltienyte
Head of Policy, Uswitch