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## **Which? response to Ofgem's consultation on a framework for consumer standards and policy options to address priority customer service issues.**

### **Executive Summary**

We welcome this opportunity to respond to Ofgem's proposals to address priority customer service issues, and to develop an overarching framework to raise consumer standards in the longer-term. Which? research shows that there has been a consistent decline in customer satisfaction with energy companies and we believe that there is a need for urgent improvements across the industry to deliver the service customers expect. In response to Ofgem's proposals, our key points are as follows:

- We agree that the customer service issues of ease of contact and identification and support for consumers struggling with their bills should be prioritised.
- We agree that the ability for consumers in vulnerable situations to be able to contact their supplier in a timely manner via their chosen contact method and get query resolution is an important focus. It will be important for Ofgem to explain which consumers are included in this definition of vulnerability, and ensure any system is flexible enough to enable the fluctuating cohort of 'vulnerable' consumers to access the support they need.
- In addition, Ofgem should consider what action is needed to improve ease of contact for *all* consumers, as Ofgem's own data shows that consumers generally are facing issues with contacting their supplier and getting queries resolved<sup>1</sup>.
- As part of its work to improve ease of contact, Ofgem should consider what additional measures will be needed to ensure positive and timely query resolution for consumers, such as adequate staffing and training. It will also be essential that requirements for alternative contact methods, and for suppliers to make repeated contact to offer debt repayment plans, take into account the needs, circumstances and contact preferences of all customers.
- We recommend that Ofgem's proposals for support for consumers struggling with their bills should also include referrals for third-party debt advice.
- Which? has consistently argued that measures designed to improve transparency for consumers are insufficient as a sole remedy for poor customer outcomes, and should therefore be considered only as part of a suite of broader measures to drive up standards. There is a broad range of examples for how reputational incentives or 'disclosure remedies' have been implemented, and there is mixed evidence on their effectiveness, although there are elements of some initiatives which seem to increase their effectiveness. When considering reputational-based or disclosure remedies, Ofgem should reflect on these initiatives which have been led by other regulators such as the Financial Conduct Authority. We have included some examples in our response.

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<sup>1</sup> Ofgem and Citizens Advice, 2023, Consumer Perceptions of the Energy Market Q4 2022, available from: <https://www.ofgem.gov.uk/publications/consumer-perceptions-energy-market-q4-2022>.

## **Consultation response**

We have focused our response on those areas where we have the most expertise to contribute at this stage.

### **1. Do you agree with our assessment on what good looks like for the issues consumers are facing relating to the priority issues of contact ease and identification and support/advice for consumers struggling with their bills. Are there any issues missing?**

We will address the proposals on contact ease first. Firstly, we agree that it is important that consumers in vulnerable situations are able to contact their supplier in a timely manner via their chosen contact method and get query resolution, and that suppliers are able to prioritise those with urgent needs. As part of this work, it will be important for Ofgem to clearly set out a consistent definition of 'consumers in vulnerable situations', which should explicitly include consumers who are struggling with their bills.

When considering what 'good' looks like for contact ease for vulnerable consumers, it is important to take into account the fluctuating nature of vulnerability which means that consumers can move in and out of vulnerability at different times throughout their lives, as well as the breadth of people potentially affected - a survey by the Financial Conduct Authority (FCA) found that 50% of UK adults display one or more characteristics of being potentially vulnerable<sup>2</sup>. It is therefore essential that any system is flexible enough to enable anyone who becomes vulnerable at any time to be able to access the support they need.

We would also encourage Ofgem to expand this focus to explore how to improve ease of contact for *all* consumers, particularly as Ofgem's own data shows significant and long-running issues in customer service quality which affect all customers<sup>3</sup>. We would argue that fundamentally, all consumers should be able to easily contact their suppliers and have their queries resolved in a timely manner.

While there are standards in place which require that suppliers are easy to contact, and that suppliers offer a range of contact methods to meet different consumer needs, there is clear evidence that customers are dissatisfied with the current level of contact ease. For example, our 2022 survey of energy customers in Great Britain found that many customers are dissatisfied with aspects of their company's contact services. We found that:

- 20% were dissatisfied with the ease of making contact with their provider
- 19% were dissatisfied with the variety of contact options available
- 18% were dissatisfied with the ease of finding the right contact details
- 15% of customers were dissatisfied by their provider's customer service contact hours<sup>4</sup>.

One aspect of query resolution that is currently missing from Ofgem's assessment and which may require a particular focus is complaints handling and outcomes. In our 2022 annual energy customer survey, of those whose last contact to their supplier was a complaint, 49% of customers were dissatisfied with the overall handling of the complaint, and 32% were dissatisfied with the outcome of the complaint<sup>5</sup>.

<sup>2</sup> FCA, 2018, The financial lives of consumers across the UK: Key findings from the FCA's Financial Lives Survey 2017', available from: <https://www.fca.org.uk/publication/research/financial-lives-consumers-across-uk.pdf#page=12>.

<sup>3</sup> Ofgem and Citizens Advice, 2023, Consumer Perceptions of the Energy Market Q4 2022, available from: <https://www.ofgem.gov.uk/publications/consumer-perceptions-energy-market-q4-2022>.

<sup>4</sup> Which?, 2022, Annual Energy Customer Survey. We surveyed 10,197 adults in Great Britain between 14th and 26th October 2022 about their gas and electricity providers. Fieldwork was carried out by an external research provider on behalf of Which?. These percentages are based on those who contacted their energy company in the past year. Available from: <https://www.which.co.uk/reviews/energy-companies/article/best-and-worst-energy-companies/which-energy-survey-result-s-ajqM43e6ycY8>

<sup>5</sup> Which?, 2022, Annual Energy Customer Survey. Base: respondents whose last contact to their energy supplier was a complaint.

In addition to looking at how to improve ease of contact, we believe that suppliers should also be encouraged to proactively consider how to reduce the prevalence of problems and queries which are causing consumers to need to get in contact in the first place. They could do this by (among other measures) providing clear communication, taking proactive steps to tackle problems at their root, and offering swift and full resolution of enquiries so that consumers do not need to make multiple contacts to resolve the issue. For example, in our 2022 annual energy customer survey, 13% of respondents had most recently contacted their provider with a query over a bill/direct debit/credit balance, suggesting that lack of clarity of communications is driving significant but avoidable volumes of contact<sup>6</sup>. Which? has recently conducted consumer research to identify the simple changes that suppliers can make to improve the clarity of their communications about billing and direct debit changes, and will be looking to work with suppliers to achieve positive change in the industry<sup>7</sup>.

Next, we will address Ofgem's proposals for identification and support/advice for consumers struggling with their bills. Firstly, we believe that Ofgem's view of what 'good' looks like for identification and support/advice for customers struggling with their bills should be expanded to include referral to free, third party debt advice. Customers who are having financial difficulties will often be in arrears to more than one company - a May 2023 report from the Money Advice Trust explains that 57% of their clients have between 1 and 5 debts, and 14% have more than 10 debts<sup>8</sup>. It is therefore critical that debt solutions take a holistic view of consumers' finances to ensure that repayment plans are manageable and compatible. Furthermore, Ofgem should make clearer that tailored repayment plans must be based upon an accurate and objective assessment of what is affordable for the consumer in order to be deemed 'suitable' or 'appropriate'.

We agree that suppliers should make use of data and customer interactions to identify consumers who may be struggling with their bills. Which? has been calling for energy suppliers to prioritise traditional prepayment meter customers in their smart meter roll-outs, so that suppliers are better able to monitor and identify customers who may be self-rationing and offer support at an earlier stage. Ofgem should consider and set out further guidance on how consumers with a traditional prepayment meter who are struggling with their bills can be identified.

We also recommend that Ofgem's view of what 'good' looks like for proactive engagement should be amended to provide for suppliers to make *supportive* contact with consumers in payment difficulty, rather than simply 'proactive' contact. We believe this is important to ensure consumers feel better able to engage and to reduce the risk they will feel pressurised.

## **2. Do you have any views on potential options to address priority issues and do you agree with the extra requirements we are proposing? Please supply evidence to support your response.**

It is essential that requirements for alternative methods of contact are able to cater to the needs, circumstances and preferences of all customers. For example, Which? research in the telecoms sector highlighted how not all consumers feel able to speak to providers, as 21% of those who had responsibility for their broadband were not confident speaking to their provider about changing their contract<sup>9</sup>.

Our survey of over 2,000 UK adults in 2022 also highlighted the diversity of customers' contact preferences.

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<sup>6</sup> Which?, 2022, Annual Energy Customer Survey.

<sup>7</sup> This research will be published in June 2023.

<sup>8</sup> Money Advice Trust, 2023, Counting the Costs: A spotlight briefing on the impact of the cost of living on callers to National Debtline, available from:

[https://moneyadvice Trust.org/media/documents/Counting\\_the\\_costs\\_spotlight\\_briefing.pdf](https://moneyadvice Trust.org/media/documents/Counting_the_costs_spotlight_briefing.pdf)

<sup>9</sup> Yonder on behalf of Which? surveyed 2114 UK adults, of whom 1913 were solely or jointly responsible for decisions about their household broadband. The survey was conducted online between 12th and 14th March 2021. Data was weighted to be representative of the UK population. Available from:

[https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0014/231602/which.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0014/231602/which.pdf).

68% most wanted energy providers to include an email address on their energy bill, 66% a telephone number, 49% a website address, 35% internet chat, 10% facebook messenger and 2% another method<sup>10</sup>. It would also be helpful for Ofgem to provide further detail about how companies can ensure they are meeting consumers' accessibility needs in line with these proposals.

Ofgem should also consider what further measures, in addition to extended hour requirements, would be necessary to ensure customers are able to have their query resolved in a timely manner. This is important as currently, 22% of energy customers are dissatisfied with their provider's speed of response to answer their query, according to our 2022 survey<sup>11</sup>. For example, contact centres would need to be adequately resourced. Contact centre staff should also be adequately trained to ensure that they are equipped to provide appropriate support to customers, and to identify and refer vulnerable customers to specialist teams where necessary.

It is also important that customers' needs and preferences are considered as part of Ofgem's proposals to require suppliers to start contacting and offering suitable debt repayment plans at the earliest opportunity and make every effort possible to do this for customers that suppliers have been unable to make successful contact with. In recognition that some groups of consumers are less able to respond to certain communication channels, Ofcom has introduced welcome changes that encourage providers to rotate through different contact methods before taking further action when a customer misses a payment<sup>12</sup>. We encourage Ofgem to consider a similar provision to enable vulnerable consumers to receive the information and respond using their preferred channel of contact, giving them every opportunity to overcome any individual capacity challenges.

Finally, when making proposals to improve identification and support for consumers struggling to pay their bills, Ofgem should ensure that it engages with and learns lessons from initiatives in other sectors, such as the Financial Conduct Authority (FCA)'s guidance for firms to support customers during the Cost of Living crisis<sup>13</sup>.

#### **4. Do you agree with our proposed approach of introducing reputational incentives in our priority areas? Please supply evidence to support your response.**

Which? has consistently argued that transparency for consumers is insufficient as a sole remedy for poor customer outcomes. The FCA has also previously recognised the limitations of relying solely on consumer engagement to achieve change, commenting that 'when thinking about remedies we need to recognise the limits of relying on consumer engagement and active choice to drive good outcomes.'<sup>14</sup>

Reputational incentives should therefore be considered only as part of a suite of regulatory measures designed to drive up standards. A review conducted for Which? by Professor Amelia Fletcher looked at a broad range of examples for how 'disclosure remedies' had been implemented in the past, and found that evidence of their effectiveness has been mixed overall, although there are elements which could help to support their effectiveness, such as measures to ensure compliance, prescriptive rules around disclosure, and consumer testing when designing disclosure remedies.<sup>15</sup>

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<sup>10</sup> Which?, 2022, Energy bills transparency. Available from:

<https://www.which.co.uk/policy-and-insight/article/energy-bills-transparency-aT5uF9p6RIqE>.

<sup>11</sup> Which?, 2022, Annual Energy Customer Survey.

<sup>12</sup> Ofcom, 2022, Treating vulnerable customers fairly - A guide for phone, broadband and pay-TV providers. Available from: [https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0024/244473/2022-treating-vulnerable-customers-fairly.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0024/244473/2022-treating-vulnerable-customers-fairly.pdf). 'When contacting a customer about their debt, take account of the customer's circumstances where appropriate as well as their preferred communication channel. If a customer in debt has not expressed a preference or if they are not responding, use a range of communication channels before taking any follow-up action, such as enforcement and debt recovery. Rotate between communications channels to increase the chance of reaching the customer.'

<sup>13</sup> FCA, Cost of living: Information for firms. Available from: <https://www.fca.org.uk/firms/cost-of-living>.

<sup>14</sup> FCA, 2017, FCA Mission: Our Approach to Competition. Available from:

<https://www.fca.org.uk/publication/corporate/our-approach-competition.pdf>

<sup>15</sup> Professor Amelia Fletcher, Centre for Competition Policy, University of East Anglia, 2016, The role of demand-side remedies in driving effective competition - a review for Which?. Available from:

It will therefore be important for Ofgem to consider the effectiveness of similar initiatives in other sectors, and identify any relevant learnings that could apply to the design of reputational incentives in the energy sector. For example, the FCA trialled a remedy in 2015 which required firms to publish the lowest interest rates they offered on easy access savings accounts, which it was found 'did not have a clear, measurable impact on providers' rate setting strategies'.<sup>16</sup>

However, the involvement of consumers when developing such initiatives was shown to be helpful to the effectiveness of an FCA initiative to help consumers switch insurance providers. During the initiative's development, the FCA 'carried out extensive behavioural trials with over 300,000 customers across three firms to find out what was most likely to help consumers to engage at renewal and switch'.<sup>17</sup> This approach was shown to be successful with estimated consumer savings of between £39 million and £330 million a year, which the FCA believes is partly down to 'consumers being prompted to make better informed decisions through engaging and shopping around, leading to changes in consumers negotiating or switching at renewal'.<sup>18</sup>

A further example that Ofgem should consider is the requirement which was introduced by the Competition and Markets Authority (CMA) for all eligible banks to take part in large scale surveys ranking the service quality of personal and business current account providers, and to display the ranking prominently both in branch and on their websites and apps<sup>19</sup>. It would be useful for Ofgem to explore the ongoing impact of this requirement and the extent to which it has been able to support customers to make correct decisions about the quality of providers.

Finally, Ofgem should also reflect on the introduction of front-of-pack traffic light nutrition labelling as an example of a successful intervention. A 2022 survey of consumers in Northern Ireland found that the labels had a positive impact on consumer behaviour, with 62% of consumers choosing foods with healthier traffic light colours always/most times<sup>20</sup>. The success of this intervention may be attributed to the prominence and clarity with which the information is provided.

## **7. Do you have any comments on the factors that should be considered in determining whether to use principle-based or rule-based approach to setting standards?**

Firstly, Ofgem should explore innovative approaches. For example, the FCA is in the process of introducing a 'Consumer Duty' for financial services, a type of principles-based regulation which it describes as 'outcomes-based' regulation, which is focused on delivering outcomes rather than defining inputs, and which will require firms to act to deliver good outcomes for customers<sup>21</sup>. As the Consumer Duty has not yet been implemented, it is not possible to assess its effectiveness, but it would be useful for Ofgem to engage with the FCA and identify any learnings from the development process, as well as to follow the implementation of the Duty and understand any applicable lessons.

<https://www.which.co.uk/policy-and-insight/article/the-role-of-demand-side-remedies-in-driving-effective-competition-aJlIM4V8ks2g>

<sup>16</sup> FCA, 2020, Introducing a Single Easy Access Rate for cash savings. Available from:

<https://www.fca.org.uk/publication/consultation/cp20-01.pdf>

<sup>17</sup> FCA, 2017, FCA Mission: Our Approach to Competition. Available from:

<https://www.fca.org.uk/publication/corporate/our-approach-competition.pdf>

<sup>18</sup> FCA, 2019, An evaluation of our general insurance renewal transparency intervention. Available from:

<https://www.fca.org.uk/publications/corporate-documents/evaluation-general-insurance-renewal-transparency-intervention>

<sup>19</sup> CMA, 2017, Retail Banking Market Investigation Order 2017. Available from:

<https://www.gov.uk/government/publications/retail-banking-market-investigation-order-2017>

<sup>20</sup> Ipsos for the Food Standards Agency in Northern Ireland, Eating Well Choosing Better Tracker Survey Wave 8 2022. Available from: <https://www.food.gov.uk/research/ewcb-2022-executive-summary>

<sup>21</sup> FCA, 2022, A new Consumer Duty: Feedback to CP21/36 and final rules. Available from:

<https://www.fca.org.uk/publication/policy/ps22-9.pdf>

This consultation sets out that rule-based standards will generally be used 'where there is a need to prevent a particularly detrimental activity or require a supplier to act in a specific way,' and we agree with this approach. Principle-based regulations may be appropriate in certain circumstances, where they are accompanied by rigorous and proactive monitoring and robust enforcement, but they should not be a substitute for clear rules where these are needed to ensure consumers are properly protected from harm.

**8. Do you agree with our early view of reputational based incentive options for winter 2023 and the potential incentive options for development over the longer-term? Please provide explanations to support your responses.**

As we have explained in our response to question four, we recommend that Ofgem reflects on reputational-based incentives which have been trialled in other sectors, and considers these only as part of a suite of regulatory measures including clear baseline rules where necessary.

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