

Consolidated Segmental Statements team, Ofgem
By email only

22 September 2023

Dear Consolidated Segmental Statements team,

We welcome the opportunity to comment on the proposals to expand the existing Consolidated Segmental Statements (CSS).

We agree with Ofgem's policy objectives¹ underpinning this work, specifically requiring suppliers to be transparent about their profits to encourage competition and build customer awareness and trust. As a challenger supplier that has grown to be the second largest retailer in the country we agree that any transparency requirements on supplier profits should not just apply to vertically integrated companies, but to most, if not all suppliers.

However, it is essential that any requirements are proportionate. **The proposal to amend the CSS and to require more suppliers to publish CSS does not meet the proportionality test.**

If Ofgem is keen to see more transparency on profits, we urge you to consider the minimum new regulatory requirements to achieve your objectives. We suggest you start by identifying where retailers' published audited accounts do not meet your objectives and consider what should be done to fill the gap. Amending the CSS, and extending those reporting requirements to more suppliers has resulted in overly onerous and complicated proposals which we are unsure will achieve your objective.

In this regard, we note that since the CSS was introduced in 2009 and later re-assessed in 2021:

1. Regulatory concern and the need for transparency has narrowed. The CSS was designed to provide a greater understanding of the commercial

¹ *Reliable information that is transparent, comparable, and consistent will help to inform our monitoring and protect the interest of consumers Ensuring customers are treated fairly - We are proposing to expand the scope of the CSS so that we can reinstate the publication of energy bill breakdowns on our Data Portal⁷. This helps consumers to understand what they are paying for and how much, and to ensure suppliers are held to account by justifying their prices; Promoting competition - The CSS is currently the only source of comparable segmented financial information available to external parties such as prospective suppliers and investors. This review aims to increase the market coverage of the CSS to a similar level as when it was first introduced, to provide a broad overview of profitability in the sector which encourages fair competition. ([Reviewing the Consolidated Segmental Statements](#) - Our initial proposals)*

relationship between the generation and retail arms of vertically integrated businesses - to address fears about these businesses skewing generation or retail markets and 'hiding' profits which could be inflating customer bills. It follows that the CSS is an overly complex tool to meet the relatively simple objective of providing confidence in and visibility of supplier profits;

2. Through the price cap, Ofgem has significantly reduced concerns that suppliers are charging too much and earning excess profits. Since the last review in 2021 the majority of customers are now on these types of tariffs. The burden and cost of the intervention needs to be proportionate to the potential consumer harm within this new context; and
3. Ofgem has very significantly increased the amount of financial information it collects on suppliers and the need for further reporting to assist Ofgem in its duties is very significantly lower than it was a decade ago and even since its last review.

Simply expanding the coverage and complexity of CSS without recognising the different purpose of intervention and materially changed circumstances will not deliver Ofgem's intended policy outcomes in a proportionate manner.

We ask Ofgem to assess less onerous options and compare these against the option of amending and expanding the CSS through a robust impact assessment. This should also consider how customer friendly various products are. We are not convinced that the CSS is an accessible tool for customers, consumer advocates or even many journalists.

We welcome Ofgem's moves to simplify the expansion of CSS by dropping proposals for further granularity (e.g. tariff type) and removing the CSS specific audit requirement. However, in requiring the CSS to be reconciled to audited accounts and published within four months of the supplier's financial year end, Ofgem is - by implication - requiring statutory audits to be completed within a couple of months of year end. This proposal:

- a) Is simply unachievable in 2024 for companies like us that have already scheduled audits, with a view to publishing Annual Accounts towards the end of the statutory nine month period.
- b) Represents a very significant change to our normal audit schedules on an ongoing basis (bringing them forward by six months) and may significantly increase the cost of our Group audits.

Neither is it clear why it is so important to publish this information within such a short time from year end. To avoid these types of costs and consequences, it is

very important that Ofgem reviews and fully costs up various solutions through an updated impact assessment.

Finally, **Ofgem has not provided sufficient information on its proposal regarding the inclusion of reporting on “Other Activity”** for us to be able to comment on them in detail. Neither the purpose, nor the practical implications of these proposals are clear to us.

1. With regard to the purpose, Ofgem states that it needs to monitor performance, particularly if the activities mean there is a risk that the business will fail because of losses in those other activities. It is unclear to us that this is a material threat especially given the new financial resilience regulations and reporting in place.
2. With regard to the practical implications of the proposals, on one reading they could be very onerous - particularly for companies with multiple non-regulated businesses - and potentially damaging to competition.

We ask Ofgem to urgently clarify, to all suppliers, the nature of its proposals and explain the thinking behind it. In doing so, we ask Ofgem to respond to the challenges about the proposals on Other Activity, especially the legal basis for requiring suppliers to publish information about non-licensed activities, set out in the EUK response.

We would welcome the opportunity to discuss our concerns and alternative proposals bilaterally.

Kind regards,
Baiba Delvere
Head of Regulation, Octopus Energy

Accompanying Appendix - Questions

Q1. What are your views on the proposal to expand the market coverage of the CSS?

We agree with the objective of requiring more suppliers to provide transparency on their profits to help inform Ofgem protect the interests of consumers and promote competition.

We do not agree with Ofgem's proposal to expand and amend the CSS to achieve this outcome. This is overly complex, costly and is unlikely to achieve Ofgem's objectives. Instead, we propose Ofgem starts with a clean sheet of paper and reviews audited information about retailer profits, revenues and costs as published on Companies House, then sets out the minimum additional interventions required to ensure information on profits is transparent, robust, accessible and comparable across suppliers.

Q2. Do you have any other thoughts on the CSS?

We are not convinced that the CSS is the right instrument for Ofgem to achieve its stated objectives.

In this regard, we note that since the CSS was introduced in 2009 and later reviewed in 2021:

1. The focus of regulatory concern and the need for transparency has narrowed. The CSS was designed to provide a greater understanding of the commercial relationship between the generation and retail arms of vertically integrated businesses - to address fears about these businesses skewing generation or retail markets and 'hiding' profits which could be inflating customer bills;
2. Through the price cap, Ofgem has significantly reduced concerns that suppliers are charging too much and earning excess profits. Since 2021 most customers are now on these types of tariffs. Consequently, the burden and cost of the intervention needs to be proportionate to the potential consumer harm; and
3. Ofgem has very significantly increased the amount of financial information it collects on suppliers and the need for further reporting to assist Ofgem in its duties is very significantly lower than it was a decade ago or even at the point of its last review of CSS in 2021.

It follows that the CSS is an overly complex tool to meet the relatively simple objective of providing confidence in and visibility of supplier profits

Q3. Do you agree with our consideration that the current proposal will not impose significant costs upon newly obligated suppliers? If you consider otherwise, then please let us know and provide any supporting evidence.

No, we do not agree.

Our major concern is the impact the proposed requirements will have on our statutory account audit timescales. It will certainly not be possible to achieve the proposed timescales for 2024 and will be costly thereafter. We explain our concerns further in response to Q9 and Q10.

We are also particularly concerned that the cost implications associated with the proposals around 'Other activities' could be significant. We are unable to put a cost estimate on this as these proposals and their practical implications are unclear. We ask Ofgem to provide more clarity on its thinking here, including its rationale for this additional requirement, which is unclear to us. We explain our position further in answer to Q8.

As noted in Q1, we think Ofgem's objectives could be met with relatively minor additional reporting beyond what is already contained in statutory accounts. However, if Ofgem does still consider it should be proposing CSS type reporting to meet its objectives, we urge you to conduct a full impact assessment to ascertain implementation and enduring running costs and measure them against the potential benefits of its proposals.

Q4. What are your thoughts on our proposal to publish a list of obligated suppliers to our website in December each year?

We do not agree with the proposed approach. For some smaller suppliers, it creates uncertainty on an annual basis and gives them limited time to prepare to meet the proposed deadlines. This is especially the case as meeting the CSS deadline will require the supplier to have completed its statutory audits ahead of the CSS deadline.

A more proportionate solution could be to set an absolute volume and/or meter point threshold to obligate suppliers - based, for example, on the position at the middle of the supplier's reporting year. If the threshold is static and the supplier

can identify its eligibility many months ahead of year end, it will be easier for suppliers to plan accordingly.

Vertical integration and threshold:

Q5. Do you agree with our proposal to remove the requirement for suppliers to be vertically integrated suppliers to submit a CSS?

As noted above, we support the proposal for more suppliers - whether part of a vertically integrated business or not - to provide information required to deliver transparency on their retail profits. We do not think the expanded CSS is the correct tool for this purpose.

Ofgem could run a separate exercise to explore whether the CSS is still a useful tool to assuage concerns about vertically integrated businesses. This is a different question from the best way to achieve retail profit transparency across the retail market as a whole.

Q6. Do you agree with the proposal to lower thresholds for the domestic and nondomestic market?

In principle we support increasing profit transparency across the retail market. That said, we do not agree with Ofgem's proposed solution or the approach to setting thresholds for suppliers in the non-domestic market, as this is impractical.

Additional Financial Information:

Q7. What are your views on our proposal not to request additional financial information?

Octopus agrees with these proposals, but thinks Ofgem should go further and re-assess the use of CSS as a policy solution more broadly.

'Other' Activities

Q8. What are your thoughts on our proposal to include an additional column for reporting 'other' activities separate to the supply or generation business?

Ofgem has not provided sufficient information in the consultation document to allow us to comment on these proposals - we are not entirely clear on the

problem Ofgem is trying to address or what activities Ofgem is attempting to capture.

Ofgem states that it needs to monitor performance, particularly if the activities mean there is a risk that the business will fail because of losses in those other activities. It is unclear to us that this is a material threat especially given the new financial resilience regulations and reporting in place. Neither is it clear that annual reporting - rather than Ofgem issuing information requests from suppliers where they have concerns - is an effective way of managing this risk.

The practical implications of these proposals - especially for a Group like Octopus which has multiple businesses could be very onerous. They may, on one reading, also require us to publish information that may be commercially sensitive.

We ask Ofgem to respond to the challenges about these proposals, especially the legal basis for requiring suppliers to publish information about non-licensed activities, set out in the EUK response.

Transition Period

Q9. What are your thoughts on our proposal not to include a transition period for the first year of reporting now that the additional financial information and the audit requirement have been removed?

Octopus does not agree with the proposed timeline. The proposals would require us to expedite our statutory audit timelines by six months, which is not deliverable for FY 2024. We are unclear as to the rationale behind this urgency - much of this data is already publicly available for previous financial years and Ofgem itself receives a suite of financial data that allows it to assess competition and supplier financial health.

A transition period does not remove our concerns about the proposals. On an enduring basis, Ofgem's proposals would be very disruptive - they would require us to overhaul our existing financial auditing timelines (which are based around typically publishing nine months after the end of the financial year), processes and procedures to fit within a very condensed time frame. Further, the materially shorter delivery time will significantly increase ongoing audit costs.

Given the cost implications we would urge Ofgem to fully impact assess its proposals to remove a transition period and condense delivery timeline.

Audit Requirement

Q10. Do you agree with our proposal to remove the audit requirement and instead propose the CSS must reconcile back to statutory accounts?

Yes, in principle Octopus agrees with the proposal to remove the audit requirement, as it simplifies the proposals.

That said, as described elsewhere in this response, it will be very costly and practically very challenging to publish the information, reconciled with audited financial reports, in the requested four month timeline.

Q11. Do you agree with the proposal that Ofgem retains the right to request an audit where there may be cause for concern?

In principle, we support Ofgem retaining the right to request an audit if they are concerned the published data presents a misleading picture. However, we can only lend support to this proposals once we are clear what criteria Ofgem would use to trigger such a step and the types of things that would create a cause for concern.

We would welcome Ofgem providing more concrete benchmarks to allow us to comment on its proposals in the next phase of consultation.

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