

By Email - FWP@ofgem.gov.uk

9 Feb 2024

## **Comments on the Ofgem Forward Work Plan 2024/25**

Thank you for the opportunity to comment on the draft FWP for 2024/25. We appreciate the clarity of your objectives and your current thinking on activities over this period.

While we agree with much of what is in the plan, overall:

**We would like stronger prioritisation of strategic over minor issues.** We remain concerned that Ofgem's limited resources are not always focused on the most important topics, and that staff (and industry) time and bandwidth is consumed by work streams that add comparatively little value to customers or net zero, while more important work is delayed. In particular, there is an opportunity to:

- Spend less time and resources on multiple minor amendments to the retail price cap and on long drawn out engagement with suppliers on immaterial compliance engagement;
- Bring more resources and accelerate work that could reduce the connection queue, use competition to speed up and improve the efficiency of the transmission infrastructure build, and measures to optimise the use of existing distribution networks. This work could have a very significant impact on achieving net zero quickly and more affordably for consumers and yet is either not happening or happening very slowly.

**We would like to see more joined up and co-ordinated working** across the Ofgem teams to manage whole system costs in the interests of consumers. In particular:

- the retail and the flexible system teams should work together to consider how best to promote level playing field competition between aggregators and retailers in harnessing consumer flexibility;
- The retail and infrastructure teams could be working together to address affordability and distributional matters. We would like to see more joined up thinking on reducing and distributing whole system costs, rather than affordability measures focused purely on the structure of the price cap;
- The flexible system team and infrastructure teams need to work together to ensure that customers do not have to pay for redundant infrastructure (including excessive expenditure on CCUS and network infrastructure) and that the true potential for low carbon flexibility (grid scale storage, interconnectors and aggregated consumer load) is taken into account in these infrastructure plans.

**We would like to see Ofgem speed up change, including by reducing its reliance on lengthy, slow, consultation processes.** We welcome the introduction of the new

Regulatory Sandbox and urge Ofgem to use this new approach to learn and design new regulatory arrangements in parallel with change in the sector. There is an opportunity for Ofgem to be more active in convening fora for stakeholders to help hold monopolies to account and speed up change where Ofgem is relying on monopolies to introduce change, such as in reform of the connection queue.

**We welcome Ofgem's focus on digitisation of the sector** and the leadership role you are taking in standardising asset data in particular. We would like to see a commitment also for Ofgem to use more digital tools itself as a regulator. For example, with the recent exponential growth in the data Ofgem collects from retailers in particular, there is potential to automate the collection of this data.

Our key comments on each of the 3 core regulatory activities are set out below.

### **Retail Market that works for Consumers**

**Standards** - We support the new outcomes and risk based approach to market wide compliance. However, we remain concerned that compliance engagement with individual suppliers is often not proportionate, with highly burdensome engagement on minor issues diverting attention from extremely bad behaviours that damage the reputation of the industry. Addressing this - for example by considering a self recording regime for good performing suppliers, like is used by the CAA - will free up people in Ofgem to work on more important matters and allow suppliers to focus on customer service improvements.

**Price cap** - the FWP contains continued work on micro adjustments to the price cap. Instead of these (which together often achieve very minor net adjustments) we would like to see a focus on simplifying the cap - reducing the scope for in-year adjustments, and ending supplier reconciliation measures - following an indepth opex review. Work on the impact of MHHS on the price cap is important but need not be prioritised for 2024, as MHHS is only due to go live in 2027.

**Fair prices** - we support this work but would like it to look at whole system costs (the size of the pie as well as how it is carved out across different customers in different regions), as per our comments above.

**Evolving markets** - as above, we would like to see the retail team and the flexible system team develop a joint work plan - involving colleagues in DESNEZ as appropriate - recognising the role that retailers plan in harnessing flexible consumer demand and the value of this flexibility. For example, research by Cornwall Insights<sup>1</sup> estimated that smart management of EV and electrical heating load could save the country £14bn a year by 2040. In particular, there is substantial joint work to do to create a level playing field between

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<https://www.cornwall-insight.com/our-thinking/insight-papers/the-power-of-flex-rewarding-smarter-energy-usage/>

aggregators and retailers in commercialising consumer flexibility, and to consider how best to protect consumers.

**Evolving regulation** - we would like to see Ofgem use the new Future Regulation Sandbox to design consumer and other retail regulations in an agile fashion, in parallel with (not holding up) market evolution. There is much that can be learned from the parallel working of regulators and industry in developing the covid vaccine.

**Business retail** - we support Ofgem in shining a light on the behaviour of brokers and considering how you use your powers to ensure they act in the interests of business customers.

### **Infrastructure for Net Zero**

**Connection queue** - This is by far the biggest and immediate obstacle to reaching net zero. We welcome the plans Ofgem put together last year, and the modification decision to reduce the connection queue. However, we remain concerned that the multiple actions required by multiple actors will be unco-ordinated, slow and may not bring about the desired effect in terms of faster connections and delivery of renewable power onto the system. We urge Ofgem to monitor real progress on the ground (eg. how many GW of TEC is provided with a shorter connection wait time) and to engage with developers. We are concerned that there is no involvement of developers in the Connections Delivery Board Ofgem has convened for this issue.

**Network competition** - We are disappointed that Ofgem was not ready with thoughts on the early stage competition regime soon after the Energy Act was passed last year (as it was, for example with Code Reform). We would like to see this work progress quickly so that the benefits of competition can be captured quickly and without disrupting the pace of network build required. We are disappointed that Ofgem has refused to develop a regulatory approach for competitive transmission connections. We urge Ofgem to consider using the Future Regulation Sandpit to run pilots and trials to allow the development of a competitive regime for transmission connections. We urge Ofgem not to let the pace of the review into the IDNO regime hold up this important work on competition in transmission.

**Infrastructure planning** - While we recognise the need for some planning, we note that flexibility markets and products are still in their early phase of development. There is a risk that consumers are asked to pay for an overbuild of expensive, sunk cost assets - overengineered networks and excessive CCUS infrastructure for example - because the potential for flexibility to reduce peaks and support a low carbon system has been underestimated. It is vital that those working on the market arrangements and other enablers for a flexible system are involved and can influence these planning decisions.

**Network innovation** - We are concerned that the SIF has now become a very expensive distraction, getting in the way of innovation both within and around network companies,

rather than substantially driving it. We would like to see Ofgem review their approach here - including considering whether more systemic interventions - such as requiring networks to publish select data in raw form, using league tables to accelerate network monitoring investment and DSO activities, encouraging “fast following” of genuine innovation in the sector, or more competition (see point above) - would be more effective in driving innovation at a much lower price tag. We would also like Ofgem to consider the role of the Future Regulation Sandbox to explore the regulation of the FSO and DSOs.

### **Efficient Flexible Energy System**

**Consumer flexibility** - we would like to see Ofgem playing a more active role in improving routes to market for consumer flexibility. In the past this has been left in the hands of the System Operator and/or network companies who have been slow to make progress. For example, it is unclear to us why the FSO control room has been allowed to move so slowly in using aggregated consumer flexibility, when this has now reached over 1GW and could be playing a vital role in reducing reliance on gas fired generation to balance the system. As another example, there is strong consensus on the need for an asset register to reduce conflicts and streamline registrations to flexibility markets, and we would support Ofgem taking a leading role and mandating this. Ofgem can also be more active in driving the DNOs to take their own system operation roles seriously, implementing the “flexibility first” mantra of RIIO-ED2. We would like to see swift progress from Ofgem in publishing league tables and obtaining feedback from flexibility providers on the performance of different DNOs.

**Digital NESO** - we are concerned by the lack of attention being paid to the very considerable investment in software and skills that are needed by the NESO to manage an increasingly digital and diverse electricity system. We would like to see Ofgem include this element in its work in developing the framework for regulating this new body, and to explore stronger incentives on the NESO to reduce balancing costs, including through better use of data and digital solutions.

**Distribution charging methodology** - we are disappointed that there is no commitment for this project to look at dynamic DUOS. We are running pilots with a couple of DNOs and an aggregator to show the ability of distributed assets (including EV batteries and consumer heat load) to respond to real time price signals and help DNOs manage constrained areas on their networks. Learning from these pilots could usefully be brought into the new Future Regulation Sandbox approach to evolve the DUOS methodology.

**Wholesale market reform** - we would like to see Ofgem develop a work plan exploring how it should use its powers to address the very significant issues in the wholesale market, between now and the introduction of reforms being considered by REMA. Ofgem could also be proactive in exploring how significant market reform could be implemented more quickly than has previously been the case.