

27 November 2024

Dear Ms Baker,

Innovation in the energy retail market – consultation response

Thank you for the opportunity to respond to this consultation. I'm a senior research fellow at University College London (where my work is funded in part by the [Energy Demand Research Centre](#), EPSRC grant reference EP/Y010078/1), and am also currently on part-time secondment at [Nesta](#). My research focuses on inclusive approaches to demand-side flexibility, and I recently co-authored a Nesta report on [prepayment customers' experience of the Demand Flexibility Service](#). This response represents my personal views.

I support Ofgem's aim to enable greater retail market innovation, while welcoming the continued focus on consumer protection. My response addresses consultation questions 3 and 10 only. Please do not hesitate to contact me should you wish to discuss this response further.

Best regards,

Michael Fell

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**Q3: What will be the impact on consumers of new, innovative products and services?
How can we maximize the benefits and minimize the risks?**

As the consultation document recognizes, consumers will have different abilities to benefit from new products and services depending on their characteristics and circumstances. This will in part depend on their capacity to use electricity flexibly, or "flexibility capital" (see this [blog](#), [paper](#), and [presentation](#) for more background).

The previous government's call for evidence on [future default tariffs](#) highlights the higher cost to serve customers with durable peaky profiles (potentially representing low holdings of flexibility capital). Over time, these costs are more likely to be passed on to these customers directly. Your consultation rightly recognizes that some customers are less able than others to build flexibility capital themselves (e.g. due to technology costs or permission restrictions).

To reduce their service costs, suppliers have the option to (a) offer services that attract customers with more flexibility capital, or (b) build the flexibility capital of their existing customers (e.g. through improving access to low-carbon technology). While innovation

across both these areas is possible, there is a risk that a short-term focus on attracting flexible customers, or focusing on “easy wins” to build flexibility capital, may still be more likely to leave certain groups excluded or underserved by innovation. This could be, for example, where engagement is more resource-intensive, or effective approaches less well understood.

My concern here is not principally about vulnerability, and could (for example) pertain to factors such as tenure, dwelling type, or educational factors which are not necessarily (although they may be) associated with circumstances of vulnerability. It also goes beyond consumer protection. It is more relevant to Ofgem’s responsibility to deliver a net-zero economy at the lowest cost to consumers. There is an acknowledged risk of customers being left behind by the low carbon transition, potentially undermining public support for action. There is also a potentially missed cost saving opportunity if innovations fail to unlock valuable flexibility in a sufficiently wide variety of contexts.

Inclusive innovation and its benefits can be maximized in a number of ways.

- The potential that innovation may have to address and benefit excluded groups could be made an explicit part of assessing applications for derogations/variations - as could the quality of applicants’ proposals for measurement and monitoring of these outcomes.
- The challenge of addressing certain complex consumer needs could be recognized and reflected in the terms of derogation/variation decisions – for example through time limit extensions or other reasonable accommodations.
- As it develops, the portfolio of derogations and license variations should be mapped to determine whether identifiable groups are being systematically excluded from innovation (this could include geographic areas or building types).
- Where there is evidence of exclusion, a more proactive regulator- (or government)-led approach could be introduced, such as publishing areas of specific innovation interest, suggesting the kinds of derogation/variation that could be available for relevant applications, and drawing a more explicit link between this process and wider innovation support mechanisms (such as funding).
- Levels of overall inclusive innovation activity across licensees of all kinds could, in due course, be evaluated. While introducing requirements in this respect may not be consistent with a market-led approach, there may be appropriate forms of recognition or incentive that would act to encourage attention to this challenge.

**Q10: What are your views on the options presented for amending routes to market?
What would be the risks and benefits of each option?**

I have two points to make in relation to consumer protections, whichever option is selected. These are based on my informal observation of previous innovation trials. Setting time limits for derogations is understandable. However, I believe it would be helpful to have clearly agreed conditions under which such derogations may be extended or made permanent (and ubiquitous to all providers). For example, where a tariff trial demonstrates sustained customer engagement and bill savings, a pathway to permanence should be clear. There may be situations where consumers are happy with an innovative service only for it to have to be withdrawn, undermining trust and confidence.

I believe in strong consumer protections, especially for those in circumstances of vulnerability. However, I have heard of innovators being put off testing services that may have been of genuine help to such customers because of extremely low risk tolerance when it comes to assessing applications. Alternatively, services sometimes end up being designed in ways that may not maximize benefits, out of an abundance of caution about possible risks (e.g. obligating smart tariffs to be non-punitive in some circumstances). Non-punitive products can be a good solution, but it is also the case that with the right checks and oversight in place, other options could be safely explored. Essentially, we should ensure that a rightful focus on consumer protection doesn't preclude innovation that would help benefit those who may otherwise miss out – including in vulnerable circumstances. The onus would remain on applicants to demonstrate the appropriate protections are in place.