

ICoSS response to Ofgem Call for input on Consumer Outcomes

The Industrial and Commercial Shippers and Suppliers (ICoSS) group is the trade body representing non-domestic industrial and commercial (I&C) suppliers in the GB energy market¹.

Please note we have restricted our assessment to the impact on the non-domestic retail sector. This response is not confidential.

Q1. In your view, what are the key factors we should consider if we are updating our regulatory framework for retail energy suppliers, keeping in mind the balance between our growth and net zero goals, and consumer interest duties?

We believe that ensuring meaningful competition between suppliers is the most effective mechanism to improve customer satisfaction and ensure downward pressure on customer costs. Effective competition will also promote economic growth. Reducing the regulatory burden on suppliers will promote innovation and competition and also reduce costs that are passed onto customers.

Q2. Why do you think there is such a divergence of satisfaction rates across different consumer cohorts?

Our response is restricted to the impact on non-domestic customers and so we have not undertaken a comparative assessment between the domestic and non-domestic markets. We do note however that customer satisfaction is highest amongst the largest non-domestic customers. We ascribe this to the lower level of regulation in this sector and the fact that this sector of the market has the highest level of competition.

Q3. The Consumer Outcomes have been developed based on what industry, charities, consumer groups and consumers have told us they need to cover. Do you agree that these outcomes cover the most important expectations consumers have of energy suppliers?

We have not identified any further outcomes. Please see our response to Q4 below on how they can be streamlined.

Q4. Do you think we should streamline or consolidate the Consumer Outcomes further and, if so, which should we prioritise?

Yes. Our view is that effective competition and a lower regulatory burden are the only effective means to ensure non-domestic customer costs are kept low and have access to good customer service.

Competition is the driver to improve consumer outcomes and not stipulations or expectations on how supplier businesses are managed. There is strong competition and switching in the non-domestic market which means consumers can easily choose the best supplier for them based on price, service or other factors consumers prioritise.

Focussing on the market delivering the outcomes expected could result in the combination or removal of many outcomes. For example, Outcomes 6-9 could be achieved through a competitive market where non-domestic customers would switch to suppliers with good customer service and Outcome 3 removed as poorly run businesses will not attract customers.

Q5. Do you agree with the explanations provided of the Consumer Outcomes in the appendices of this call for input? Do they help you understand the intent of the outcomes?

We note the statement on page 40 regarding vulnerability Outcomes 23 & 24 only applying to Domestic Customers. It is not clear whether this exclusion also applies to Outcome 8. We would welcome clarity that vulnerability provisions are not being extended to non-domestic customers through any of the Outcomes.

Q6. Why do you think these outcomes are not materialising consistently for all consumer groups given that they are in line with our existing rules?

Competition is being hindered by the continual need for suppliers to develop processes and systems to meet new policy objectives, reducing the ability of suppliers to innovate and keeping costs higher. The level and complexity of existing legislation and regulation also reduces the scope for suppliers to lessen costs to ever increasing customer prices. Reduce the scale the regulatory change, and reducing its complexity would improve customer experiences.

Q7. Do you think some outcomes are more important for consumers than others?

The outcomes regarding effective competition (Outcomes 4 & 5) are the most important as they will further the majority of the other outcomes. Without a functioning market many of the other outcomes will not be easily achievable.

Q8. Do you see an opportunity for outcomes, though not necessarily the Consumer Outcomes set out in this call for input, to be applied to wider market participants? Who should they apply to and why?

We believe that outcomes, if implemented, should apply to all market participants who engage with customers, such as networks and TPIs to ensure a consistent support framework for customers.

Q9. Do you have a preferred approach among those outlined below or should we retain the current framework? Do you have an alternative suggestion? Please explain your reasoning.

We see the potential benefits of moving an outcomes based regime in the licence but we believe that there are challenges with any move from the current framework. Any new regime must still have regulatory certainty and to avoid increasing the regulatory burden.

Owing to the heterogenous nature of the non-domestic market and its customers, we do not believe that existing reputational incentives provide an accurate picture of supplier performance and do not believe that they can provide an effective benchmark to measure Consumer Outcomes.

We do not believe that embedding the outcomes in the Standards of Conduct guidance will be beneficial as it will create a dual governance process of outcomes-based regulation, alongside the existing prescriptive regime. This will increase the regulatory burden on suppliers and increase customer costs.

a) What level of action/intervention do you feel would be proportionate to drive up customer service in the non-domestic sector? Does it differ from domestic?

We note that the customer segment with the highest level of satisfaction is the larger non-domestic sector which has the lowest regulatory burden and the highest levels of competition. We believe therefore promoting competition in the non-domestic sector, through reducing the regulatory burden and providing market stability, will be the most effective method to improve customer service

Q10. Do you think a voluntary approach – where suppliers make a public commitment to deliver the Consumer Outcomes without formal regulatory change could be effective? What conditions would need to be in place for this to work?

A voluntary process can provide some benefits in ease of delivery, though as it would be voluntary it would not cover all suppliers and so some customers may not benefit.

Q11. Could a more outcomes-based regulatory framework benefit the supply market? Do you think this kind of approach could unlock innovation and growth? Please provide examples.

We agree with the risks identified for the move to an outcomes based regime with greater regulatory uncertainty driving higher compliance costs as suppliers and other market participants adopt risk-adverse behaviours. We see the advantages of an outcomes-based approach if these risks can be adequately addressed. Any regulatory regime must still provide certainty to suppliers as to what is expected of them and not unduly penalise suppliers who delivers the Consumer Outcomes in a manner different to the regulator's expectation.

To avoid increasing the regulatory burden on suppliers and stifling innovation, any move to outcomes based must result in the removal of prescriptive regulation. The creation of significant amounts of "guidance" (in fact prescriptive regulation) must also be avoided.

Q12. Are there specific licence conditions where less prescription could benefit the retail market without compromising consumer protection?

a) For suppliers: are there any areas where you find guidance helpful or unhelpful?

We note the tendency for guidance to become highly prescriptive, as in the recently updated Operational Capability and the Financial Responsibility Principles, Guidance is also not subject to the same checks and balances as formal licence changes and we would be concerned if guidance effectively became a substitute to prescriptive regulation though the licence. Our view is that guidance should be used sparingly.

Q13. Are there areas where prescriptive rules should remain in place? If so, why?

We believe that the existing rules provide certainty to suppliers and other market participants as to what is expected of them. It is our view that it will prove difficult to remove prescriptive regulation in any area, without trusting the market to deliver appropriate outcome. More specifically, we believe it will be particularly difficult to move to outcomes-based regulation in those areas that deal with process such as supplier of last resort, compliance with industry codes and mandatory information provision to customers

Q14. What factors should we consider to determine whether specific rules are best delivered through prescription, principles or outcomes?

The primary consideration should be whether the rule is necessary in a functioning retail market where commercial pressures will ensure delivery of the desired outcome and reduce customer costs.

Q15. Which of the monitoring approaches we outline below would be the most effective for monitoring supplier performance against the Consumer Outcomes? Are there alternative approaches? Please provide evidence.

We agree with the risk that invasive monitoring of supplier behaviour against certain metrics will result in some business models being unduly constrained. Our view is that the best way to

deliver the proposed outcomes is through promotion of effective competition, which can be assessed using, in the main, information centrally available from code bodies regarding switching rates, etc.

Q16. How do we best measure our success as to whether we have:

- a) Improved consumer outcomes and achieved our ambitions for customer service and**
- b) Reduced regulatory burden and encouraged growth and innovation**

We believe that the best mechanism to measure success of regulation in the non-domestic sector is through assessing the state of competition in the market. Such indicators include the number of active suppliers, market concentration, product offerings, price spreads and switching rates. Much of this information can be obtained through the code bodies with residual information provided by suppliers through existing RFIs.

Q17. Is there anything Ofgem can do to improve how we work and engage with you as a stakeholder on retail energy supply policy and regulation?

We currently have regular meetings with the regulator and hope that these will continue. It is essential that the regulatory continues its dialogue with all suppliers and stakeholders as its develops its thinking in this area.

Yours sincerely



Gareth Evans

