



**A FAIR DEAL FOR CONSUMERS:  
Government Proposals for setting up Independent Consumer Councils**

**Public Consultation Paper  
on  
Consumer Councils**

**RESPONSE BY THE OFFICE OF ELECTRICITY REGULATION**

**November 1998**

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**INTRODUCTION**

In his response to the Government's Green Paper "A fair deal for consumers: Modernising the framework for utility regulation", the Director General of Electricity Supply (DGES) noted that the present arrangements for consumer representation in electricity and for the handling of consumer complaints have worked well. He is concerned to ensure that lessons learned from that experience are built into the new arrangements proposed by the Government; and that those arrangements do not constrain the regulator's ability to carry out his duties and functions or lead to any diminution in the successful handling of consumer complaints.

The structure and role of the consumer representative body should reflect the development of competition in the electricity and gas markets. In some areas - as the Green Paper pointed out - the operation of a competitive market, by enabling consumer choice, should provide the necessary incentives to ensure consumer protection without the need for intervention by a consumer council. In other areas, particularly monopoly distribution networks, there will need to continue a separate system of consumer representation. The arrangements for consumer representation should therefore reflect prospective developments in the competitive market.

**FUNCTIONS OF THE CONSUMER COUNCILS**

**Paragraph 10. The Government invites views on the functions the consumer councils should perform. Does the text in paragraph 9 represent a comprehensive list of functions? Should functions be added or removed?**

With both regulator and council charged to protect the interests of consumers, there is considerable scope for overlap of functions between the two and for confusion on the part of consumers and others. The consultation paper includes a number of functions for the council which the regulator will also need to have: for example, publication of information of interest to consumers and commissioning independent research on the impact of regulatory policy. It will therefore be essential that such overlap is managed sensibly and effectively.

The functions of the council should not result in distancing the regulator from the experience and views of consumers, or require the regulator to use only specified channels for obtaining advice. There is little case for imposing the same approach for larger industrial and commercial consumers as for domestic and small business consumers. It must be doubtful how far a council of only 4-6 members can adequately represent the diverse concerns of all such groups and convey them adequately to the regulator; and how far such groups would wish their interests to be so represented. Industrial and commercial consumers have developed their own representative organisations, and it would be inappropriate to prevent such customers having direct access to the regulator through the organisation of their choice, as well as directly if they so choose.

Under the present proposals, it is not clear how the council would, in acting as advocate for consumers, balance the function of providing strategic advice on the interests of all consumers with that of reporting on issues of concern to particular groups, nor how it could perform a voluntary mediation role with companies in resolving complaints if it was at the same time required to act as advocate.

## **RELATIONSHIP BETWEEN COUNCILS AND REGULATORS**

**Paragraph 13. The Government seeks views on the most appropriate framework for collaboration between consumer councils and regulators. It would particularly welcome views on whether there are any aspects of the relationship between council and regulator which are of such key importance that they need to be set out in the primary legislation.**

In view of the scope for overlap of functions, it will be important to establish agreed arrangements between regulator and council. It would be sensible to set these arrangements out in a memorandum of understanding (MoU). In some areas, such as consultation on regulatory decisions and on specific issues affecting the interests of consumers, this would formalise what already occurs in electricity, although OFFER would not wish such consultation to be limited only to the council. In other cases, such as the handling of complaints, arrangements should ensure that the regulator is kept fully informed of the issues arising.

The MoU will need to set out the arrangements agreed between council and regulator. It will also need to be flexible, capable of allowing for developments in the market as they arise. Its effectiveness will depend on co-operation between council and regulator. Accordingly, OFFER is not convinced that the relationship between council and regulator should be set out in legislation.

## **CONSUMER COMPLAINTS**

**Paragraph 25.** The Government invites views on the complaints-handling procedures outlined in paragraphs 17-24. It specifically seeks views on whether consumer councils should have a role in monitoring companies' handling of complaints, and whether the councils should, in addition, have a formal right to audit companies' complaints-handling procedures and to publish the results of the audits.

### **Individual customer complaints**

OFFER notes that the Government has decided that complaint handling should be provided in the first instance by the council. Where specific consumer complaints require formal determination or enforcement action by the regulator, including matters falling under the new Competition Act, it will be important that those complaints are quickly identified by the council and transferred to the regulator.

The action which the regulator will need to take on a particular case will depend on the circumstances. It is the regulator's responsibility to be satisfied about the facts of the case, and normally the regulator will need to agree factual information with the consumer and the company. The involvement of the council at this stage, and in reporting the final outcome to the customer, could lead to unnecessary confusion and duplication. Direct contact with the consumer should therefore not be prevented should the regulator consider it necessary. Further, where the regulator is approached direct by consumers alleging a breach of licence, or seeking a determination, it should be open to the regulator to act on them.

Knowledge of consumer complaints is as important for the regulator as it is for the council in understanding consumer concerns and in assessing the effectiveness of the regulatory system in protecting them. The council should therefore provide the regulator with full and regular reporting of consumer complaints. The proposal that the regulator should have access to the council's complaints data base would be a helpful complement.

### **Auditing company complaint handling procedures**

Under their present licences, electricity companies are required to have codes of practice covering a number of areas of customer service; and they are required to comply with them and to report annually on their performance. OFFER needs to know how companies are performing against them and to assess whether changes are needed. It will therefore need to continue to monitor compliance.

Monitoring the level of customer service provided by the companies should have regard to the extent to which consumers are able to exercise choice in the market. When the market is fully open, all consumers will be able to change supplier where they are dissatisfied with the service provided by their existing supplier. As competition develops, there is less case

for auditing suppliers' procedures. In contrast, auditing would be appropriate in the case of complaints about, for example, the quality of supply provided by monopoly distribution companies.

## **ACCESS TO INFORMATION AND POWERS TO PUBLISH**

**Paragraph 37. The Government invites comments on the information requirements of the consumer councils. It would particularly welcome comments on:**

- (i) Whether the consumer councils should have independent rights of access to information held by the utility companies, or whether requests for information should always be routed via the regulator. If the latter, does the Gas Act model provide a suitable precedent for extension to the other utility sectors?**
- (ii) If councils are given independent right of access, should these rights be limited to information needed in respect of certain specific functions of the councils? What safeguards should there be for companies against unreasonable requests?**

It would be consistent with the independent role of the council for it to have independent right of access to information held by regulated companies, without its requests having to be routed via the regulator and without having to rely on a power of the regulator to require companies to give information to the council (as in the present Gas legislation). It would be sensible for this right to cover information reasonably required by the council relating to service standards and complaints, particularly where this information relates to monopoly businesses or businesses with significant market power; and for the council to consult with and co-ordinate its requests with those of the regulator.

## **ORGANISATIONAL ISSUES**

**Paragraph 51. The Government invites views on the most appropriate regional structure for the consumer councils, and on the ideas outlined in paragraphs 42-50. In addition, responses to the following specific questions would be welcome:**

- (i) What is the most appropriate structure to ensure that the national councils have sufficient regional intelligence to fulfil their remit?**
- (ii) To what extent will different arrangements be appropriate for the different utility sectors?**
- (iii) Should there be a formal, statutory obligation on the consumer councils to open offices in Scotland and Wales?**

- (iv) **Is it realistic to think in terms of a single national call centre handling all customer complaints for each utility sector (backed up, where necessary by regional offices)? Would such an arrangement be acceptable to consumers?**

**Paragraph 54. The Government seeks views on the approach to accountability and transparency outlined in paragraphs 52-53.**

In setting the framework of the new council, there needs to be an appropriate balance between national issues and regional concerns. The structure of the electricity industry has meant that there has been a significant regional component to consumer concerns; and the regional Consumers' Committees and OFFER's Regional Offices have been important in identifying issues and in successfully resolving complaints. As competition develops, the regional component can be expected to decline with respect to supply. It will remain important, however, for consumer concerns relating to quality of the distribution networks.

Through its Regional Offices, OFFER has dealt in recent years with upward of 60,000 - 70,000 consumer contacts. A high proportion of those contacts are for information about the electricity market, answering inquiries, and identifying relevant company contacts. OFFER agrees that such contacts could be handled via a national call centre.

There remains, however, a significant number of complaints which are local in nature, often complex and require detailed investigation. For a large proportion of these, the knowledge, experience and contacts which OFFER has built up at regional level (not only with PESs, but also with bodies such as Citizens Advice Bureaux), together with the involvement of the regional Committees, have contributed significantly to the successful resolution of complaints to customers' satisfaction. (Complaints to OFFER have in the years since Vesting fallen by more than half, to under 7,000 in 1997). It would be sensible for complaints, particularly those about the distribution networks, to continue to be dealt with regionally, and for the council's organisation to reflect this. Such regional handling of complaints should also ensure a deeper appreciation of consumer concerns and issues by the council. The national call centre could be used to direct complaints to the relevant area office of the council.

OFFER considers that it should be left to the council to determine what regional structure of consumer representation is appropriate for electricity and gas. The council may wish to maintain separate offices in Scotland and Wales. The Scottish electricity industry has a very different structure from that in England and Wales; and British Gas Trading presently maintains a separate trading name in Scotland. In addition, liaison with the Scottish Parliament, and with the Welsh Assembly in the case of Wales, is likely to be an important part of the work of the council.

OFFER agrees with the approach proposed to accountability and transparency for the consumer councils.

## **RESOURCES**

**Paragraph 60. The Government seeks views on the four principles for resourcing the consumer councils set out in paragraph 55.**

**Paragraph 63. The Government seeks views on the extent to which the consumer councils will need to collaborate on multi-utility issues, and the extent to which resources could be pooled to address these issues.**

OFFER agrees with the four principles for resourcing the consumer councils; and with the Government that the effectiveness of the councils will depend, in large part, on the quality of their staff. Considerable expertise in handling complaints resides within OFFER's regional offices and arrangements should ensure that full use is made of this in the new council. Smooth transition from existing arrangements requires, amongst other things, a mechanism for deciding, before the new council comes into formal existence, how it is to be staffed, under what terms and at what locations.

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