



Chris Chapman  
Head of Planning  
Ofgem  
9 Millbank  
London SW1P 3GE

**Direct lines:**  
**Tel: 020 7257 0132**  
**Fax: 020 7257 0101**  
**Tanya.Morrison@shell.com**

4 February 2004

Dear Chris Chapman

### **Ofgem's Proposed Corporate Strategy 2004**

I write in reference to Ofgem's draft strategic plan published earlier this month. In the draft strategy document, Ofgem sets out its key themes for the upcoming year. These themes are:

- Creating and sustaining competition
- Regulating network monopolies
- Helping protect security of Britain's energy supplies
- A leading voice in Europe
- Helping protect the environment
- Helping tackle fuel poverty
- Improving Ofgem's efficiency and effectiveness.

Shell Gas Direct (SGD) is a supplier to non-domestic consumers as well as a wholesale gas shipper. We have some comments on the proposed corporate strategy which we hope will be reflected in finalising corporate strategy and when developing Ofgem's detailed corporate plan.

#### *Improving Ofgem's efficiency and effectiveness*

It is essential for ensuring that the other themes are delivered that this area is considered to be at least equal to the other areas of work. We have welcomed Ofgem's commitment to undertake regulatory impact assessments (RIAs). We consider these to be essential to ensuring that Ofgem's initiatives can deliver benefits to consumers.

Ofgem should consider further steps to ensure that it is guided by the principles of better regulation, ie be transparent, accountable, proportionate, consistent, and targeted only at cases in which action is needed accountability. Ofgem should publish good practice guidelines as to how it will undertake consultation. These guidelines should aim to be at the standard set out by the Cabinet Office. We are concerned that Ofgem continues to give too short time scales for response from the industry and

publishes too many documents at the same time (eg just before Christmas or just before the end of March).

Recent DTI consultations have provided for comments to be made on the way the consultation process is itself conducted, separate to responses to the consultation. Ofgem should look at adopting this procedure. We continue to be concerned that Ofgem proceeds with its policies without adequately addressing concerns raised in responses leading to the industry being asked to work on solutions to problems which have been inadequately defined. Or, Ofgem publishes documents taking forward a policy without first addressing points raised in response to other, related consultations leaving it unclear as to how, or indeed whether, points raised in response will be addressed. We consider this to be unsatisfactory.

We expect that the detailed corporate plan will make clear how Ofgem is prioritising its work. It is not unusual for unexpected or unplanned work to arise during the year. This may mean that Ofgem cannot complete all the projects that it is undertaking in the timescales originally envisaged. It should be clear which projects will be put back in these circumstances.

While individual projects which will arise from the key themes may individually be expected to have benefits for consumers, Ofgem needs to think carefully about its ability to crowd out separate initiatives by individual suppliers to benefit their own consumers. It is not clear how many of the projects undertaken by Ofgem are expected to work together nor the sequence in which they will be implemented. In its corporate plan, Ofgem should look at each project and consider its impact on types of licensee and the changes (including IT changes) expected throughout the year. We would like to see the industry being given the opportunity to lead on developing the market framework. However, this approach, while consistent with withdrawal from direct regulation, should not be confused with expecting the industry to solve problems as Ofgem sees them.

#### *Creating and sustaining competition*

We note Ofgem's statements regarding access to information regarding offshore gas production. Shell is working with UKOOA, the DTI and Ofgem to understand the benefits, and even necessity, of additional upstream information to Transco. Subsequently, it will be necessary to define the appropriate commercial arrangements which will need to be in place to allow for further information release eg confidentiality provisions and protection from liabilities. We would hope that Ofgem would acknowledge that the upstream industry acted quickly in phase 1 negotiations to ensure that Transco has the operational information it requires to ensure security of supply.

However, despite these discussions, we continue to be disappointed that Ofgem has not been able to produce written documentation as to what problem it is seeking to address. The market arrangements put in place by Ofgas/Ofgem were based on market signals (eg price) giving sufficient information to the market to allow for on-going balance of the system and security of supply. We do not know why Ofgem considers this approach to have not worked. We have had various views put forward regarding the need for greater information release, some of which were not sustainable, but have yet to see any clear analysis of how Ofgem expects further information to assist the operation of the gas market, and why it considers the information requirements of the gas market to differ from that of other commodity

markets. We note that in February 2002, an industry group concluded that information provision in the gas market was equivalent to that available in electricity, taking into account the different structures (eg gate closure) and we are not clear as to why, or indeed whether, Ofgem has a different view. We also note that an amendment has recently been proposed to the Energy Bill to allow the Authority and/or the Secretary of State to require upstream information to be published. Given the on-going cooperative discussions with the upstream industry, we would be interested in the Authority's views on the appropriateness of extending their remit into the upstream.

We support Ofgem's view that it should withdraw from regulation where appropriate. We are concerned that problems in the domestic market and/or the electricity market is driving Ofgem to impose new licence conditions, standards of service, or "voluntary" codes of practice on the non-domestic gas market without first making clear what problem it has identified here. Complaints about transfers in this market are low. Ofgem's approach in this area must be consistent with principles of good regulation to be proportionate and targeted only at cases where action is required.

Ofgem should consistently make clear in all documents and press releases where its policies affect domestic suppliers, non-domestic suppliers or all suppliers. Similarly with the term "consumer". The term "suppliers" is often used when "domestic suppliers" is meant which causes confusion for non-domestic consumers and their suppliers.

We note that Ofgem has identified potentially significant benefits to more diverse ownership of NGT's gas distribution networks. However, there is an equally high potential for there to be significant disbenefits. We consider it *essential* that full consultation on any plans developed is carried out before work begins to implement this change as we are not convinced by many of the assumptions in the RIA.

#### *Regulating network monopolies*

We remain unconvinced that Ofgem's approach to reform of the interruptions or exit regime will lead to it being more responsive to customer demands as choice will move from consumers to NGT. Ofgem staff had earlier suggested that the December 2003 document on the distribution network sale would provide much more detail on cross-subsidies (if they exist) etc but we have yet to see this analysis.

The SO incentive scheme for Transco introduced with its price control in 2002 is complex and inflexible. We recommend that a full, independent review is carried out of its workings in the lead up to the next price control.

#### *Helping protect security of Britain's energy supplies*

We concur with Ofgem's view that competitive markets best ensures security of supply. This needs to be combined with sufficient investment by network operators. Competitive markets need certainty that the environment in which they operate will not change by regulatory intervention except where demonstrably necessary. We consider it essential that the long term capacity regime in gas remains consistent going forward across the next price control.

*A leading voice in Europe*

We note Ofgem's intention to do more work on European issues. We are unclear as to how Ofgem's work will be coordinated with that undertaken by the DTI and look forward to more detail in the corporate plan. We are concerned that these areas of work can overlap. Work by the European regulators, for example through the CEER, or recently announced European Regulators Group, should be as open and transparent as possible. We would like to see continued involvement of industry participants in the development of policy as has been experienced through the Madrid process.

If you have any queries regarding the above, please do not hesitate me to discuss further.

Your sincerely

Tanya Morrison  
**Regulatory Affairs Manager**