

# **Ofgem Proposed Corporate Strategy 2004-2007**

**NCC response to Ofgem consultation**

By Georgia Klein

#### **About the National Consumer Council**

**The National Consumer Council is an independent consumer expert, championing the consumer interest to bring about change for the benefit of all consumers. We do this by working with people and organisations that can make change happen – governments, regulators, businesses and people and organisations who speak on behalf of consumers.**

**We are independent of government and all other interests.**

**We conduct rigorous research and policy analysis and draw on the experiences of consumers and other consumer organisations. We publish. We campaign. We help people to come together to advance the consumer cause.**

**Issues of disadvantage are at the heart of our work, as often the most vulnerable people find it hardest to be heard.**

**We have linked organisations in England, Scotland and Wales, and a close relationship with colleagues in Northern Ireland. And we work with consumer organisations in Europe and worldwide to influence European and global governments and institutions.**

**We are a non-departmental body, limited by guarantee, and funded mostly by the Department of Trade and Industry.**

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We welcome this opportunity to comment on the themes proposed in Ofgem's strategy and within them, the best way of Ofgem achieving its objectives and hope that the March 2004 consultation of the Corporate Plan reflects our concerns. Our overall comments and those relating to particular strategy themes are set out below.

## **Summary**

On the whole we find that the strategy touches upon those issues that we consider a priority for the fuel poor and other disadvantaged consumers. However, we are disappointed to note that there is no mention of disconnections, self-disconnections or tariffs specifically designed to help vulnerable groups.

Also missing are bigger picture issues which cut across your work programme and have a massive impact upon how Ofgem goes about its work - namely balancing social, environmental and economic objectives and balancing a pro-competition, deregulatory approach with protecting consumer interests. The National Consumer Council would hope that in future, Ofgem could be more transparent about these aspects of its regulatory decision-making and suggest that work of this nature is including under theme 8 - improving Ofgem's efficiency and effectiveness.

We certainly feel that social obligations and consumer interests are a poor relation to other objectives and as a consequence, Ofgem has taken a less stringent and creative approach to tackling current market difficulties experienced by consumers than is merited. In the context of rising energy prices we hope that valuable areas of work mentioned in the strategy go beyond a mere tick-box approach and bear the fruit that is needed - for example the introduction of metering competition and piloting of long-term service contracts.

## **Detailed comments**

### **2. Creating and sustaining competition**

The National Consumer Council is concerned that deregulatory decisions (e.g. removal of remaining retail price controls in March 2002) are based on insufficient tests of effective competition.

As work by Energywatch has shown, the evidence suggests that competition (i.e. switching rates) has slowed but

with increasing consolidation in the market this will serve to further reduce competition. Further it is not clear that competition is serving consumers' interests in light of evidence that profit margins made by suppliers have been increasing over this same period. In addition consumers are experiencing ongoing problems making effective price comparisons and there is evidence that some groups of consumers - in particular pensioners, those on low incomes and prepayment meters - are gaining the least benefits from competition. Together these concerns suggest a number of important areas of work for Ofgem:

### ***-Evidence-based deregulatory decisions***

It is critical that Ofgem's supply market review seeks to develop more effective tests of competition. These must have regard to the benefits being delivered to disadvantaged consumers and must continue to be developed in consultation with consumer organisations. We recommend a cross-utility approach is taken to the development of these tests.

More routine data (in addition to the proposed regulatory impact assessments) about the performance of providers against these must be made publicly available to facilitate informed debate before deregulatory decisions are taken and to help with enforcement of obligations. In particular, data regarding price changes, affordability and bill payment method by socio-economic group must be freely and routinely available.

### ***-Switching***

Whilst we welcome Ofgem's commitment to improving the process for customers to switch, the measures taken so far to address this established problem have been insufficient. For instance, the recent measures taken are only applicable to those on prepayment meters and in debt - as opposed to all consumers in debt - and even this limited step is flawed since a pilot testing this approach showed it to be a failure. More rigorous measures that benefit more consumers need to be taken.

The same applies to the regulation of suppliers' marketing practices. We are disappointed that insufficiently stringent regulatory measures are being proposed in light of the body of evidence demonstrating their necessity. Our responses to the proposed changes to marketing licence condition 48 detail what steps we consider to be necessary.

Whilst initiatives to enable domestic consumers to make energy efficiency improvements to their homes are welcome, the longer-term supply contracts being piloted at present are susceptible to abuse if energy prices are raised and the consumer is unfairly locked in. Such

contracts also offer the opportunity for energy suppliers to essentially become providers of expensive credit to poorer consumers. Strict regulation is required to prevent these kind of scenarios before they have a chance of becoming reality. We would also think that it is possible to provide these services without amendments to the 28 day rule - for example through third party management. We would like to see Ofgem actively pursuing innovative alternative ways of offering these kind of packages to consumers which do not lock them in to companies for their energy supplies.

### ***-Competition in the interests of consumers***

More fundamentally we wish to discourage Ofgem from pursuing competition and deregulation for its own sake rather than for promoting the interests of consumers, especially vulnerable ones. The recent consultation on metering competition - part of Ofgem's review of gas metering arrangements - could be considered to be an illustration of this.

### ***-Metering competition***

It is not clear how Ofgem expects metering competition to lead to lower gas supply charges to consumers, improved service (e.g. installation, maintenance, bill accuracy, payment convenience) or innovation (that will help consumers and not block new entrants). Nor is it clear that this will improve consumers' ability to switch suppliers. Additionally, in light of the vulnerabilities of consumers on prepayment meters, competition should not be introduced without clear protection for consumers in terms of supplier obligations.

Furthermore, the strategy's discussion of the potential for innovative metering to deliver lower costs to consumers sounds hollow when little information on the progress of this work so far is made available and work to investigate the seemingly unjustifiable charges for prepayment meters is not being conducted to a public timetable or discussion. We would urge Ofgem to make this work more accessible to stakeholders and encourage their participation in regulatory decision-making.

## **6. Helping protect the environment**

The results of the second survey on the quality of energy efficiency advice shows how suppliers still have to improve the quality of their advice, in particular improving the identification of customers who may need help when they contact suppliers' call centres and the value of assistance given. This is in spite of Ofgem issuing good practice guidelines and there being incentives for suppliers to maximise take-up under the Energy Efficiency Commitment. Clearly current industry incentives for improved practices are insufficient. Long-term service contracts may be the answer but not necessarily without the creation of other problems. We hope that other approaches to raising standards can be explored with consumer organisations.

Since many consumers in financial difficulties may not proactively contact a supplier and ask for help we are pleased to note that work is underway to provide better information to help consumers cut unnecessary energy expenditure. We look forward to being consulted on approaches as they are developed.





## **7. Helping tackle fuel poverty**

### ***-Payment methods, tariffs for vulnerable groups & debt***

We would welcome any cross-utility approach (i.e. energy, water and telephones) to widening the choice of payment methods, tariff options, debt prevention and debt collection strategies made available for consumers on benefits. However, we believe this work should be extended to include low-income consumers who are not on benefits and those without bank accounts and with or without outstanding debts to suppliers- since they could also benefit from wider assistance with budgeting and keeping bills down.

We are pleased to note Ofgem's work on the third party deductions scheme with DWP, Ofwat and energy and water suppliers but are disappointed that declared intentions to engage consumer groups and the Post Office in a more open debate about the scheme has not taken place as planned. We would urge Ofgem to proceed with this and place it in the context of the work it has been doing so far into debt and payment approaches. NCC is very keen for Ofgem's thoughts so far to be made public in order to facilitate us and others making a useful contribution.

Ofgem's work will need to identify what features of payment methods are of value to consumers - especially the disadvantaged - including frequency, range and ease of access to payment outlets. This must result in licence obligations on suppliers on the range of payment facilities needing to be offered, how they are marketed and their supply levels (i.e. take-up targets). The introduction of tariffs specifically for vulnerable groups and a revised third party deduction scheme also need to be considered as part of this work. We would expect that any work in these areas take detailed input from consumer organisations.

### ***-Energy efficiency***

The collective gains of current energy efficiency schemes for fuel poor households are questionable - whether Ofgem administered or not. We would hope that Ofgem could be

more assertive about the problems caused by the inappropriate balance and supplier incentives created by environmental and social targets within the Energy Efficiency Commitment and work to remedy the co-ordination problems created by a disparate government approach to energy efficiency schemes.

## **Other missing issues**

### ***- Disconnections and self-disconnections***

In order to sufficiently encourage appropriate action, Ofgem should specify that disconnections should in no circumstances take place during the heating season. Ofgem should aim for a steady decline in the number of disconnections and then fix a date at which they will be eliminated. At the same time, work must be done to ensure that self-disconnections do not increase. Whilst Ofgem has indicated that it will do work in this area, no mention is made of it in the corporate plan - we believe it should be.

### ***-Balancing objectives***

Balancing social and environmental objectives is a critical challenge faced by Ofgem - and one which is not supported by the nearly-absent DTI's social and environmental guidance, nor highlighted sufficiently within the corporate plan. Ofgem must make it clear how it balances economic, social and environmental objectives in its decisions. NCC feels that currently social objectives are a poor relation. Companies' social obligations should be given the same priority as environmental obligations. More needs to be done if fuel poverty targets for 2010 and 2016 are to be met. As a minimum, best practice under the Social Action Plan should be transformed into standard practice before price increases aggravate the problems of affordability.

We look forward to working with you in order to help ensure that a balanced approach is found.

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**i** Review of the Marketing Licence Condition. National Consumer Council response to Ofgem's consultation on gas and electricity sales and marketing. October 2003.(PD88/03)

Energy sales and marketing. The National Consumer Council's response to Ofgem's consultation Making markets work for consumers. The regulation of gas and electricity sales and marketing: proposals for the amendment of standard licence condition 48. January 2004. (PD05/04)