

**OFGEM**  
**Proposed Corporate Plan**  
**2004-2007**

**Response by Citizens Advice**

**April 2004**

## **1. Introduction**

Citizens Advice welcomes the opportunity to respond to OFGEM's Proposed Corporate Plan 2004-2007.

Citizens Advice recognises the work achieved by OFGEM in strategically guiding the gas and electricity industries and we continue to remind OFGEM that its primary responsibility is to the customer and that responsibility is to protect the customers' interests through regulation. The OFGEM Corporate Strategy 2004 contained many fine words about the statutory responsibilities carried by OFGEM, especially in terms of the interests of consumers who are disabled or chronically sick, of pensionable age, on low incomes, or living in rural areas. However the Corporate Plan, we feel, does not adequately reflect the extent to which progress in this area ought to be both quantified and monitored.

Outside of the general need to deliver secure energy supplies and protection of the environment there is little here for consumers.

The balance between consumer choice and protection and between co-regulation and enforcement, we feel, needs to be made clearer and more transparent. Citizens Advice is in a position to provide detailed qualitative evidence to help this process and is keen to do so.

Citizens Advice sees the delivery of high quality customer service for fuel customers on low income, such as Citizens Advice Bureau (CAB) clients, as an important element in the Government's strategy for tackling fuel poverty. If companies do not provide an adequate service to these customers, this could be a threat to the overall success of that strategy. We believe it would be useful if regulatory policy on the sales and transfer process took proper account of the fact that competition is seen as one of three main planks in this strategy.

## **2. Summary of evidence**

In the year 2002/2003 the CAB Service advised 140,000 clients on problems with utilities. Many of the clients are on a low income or are otherwise disadvantaged because of age, disability or other factors. Although consumers have in many cases benefited from the introduction of competition into the domestic gas and electricity markets, CABx have advised large numbers of people who have suffered as a result of mis-selling. Most problems arise from misleading or improper sales techniques and poor administration. Many clients have been persuaded to enter into a contract with a new supplier without fully understanding what they have agreed to.

The problems arise with doorstep sales, telephone sales and sales in public places (e.g., supermarkets). In the case of telephone sales, a consumer may not be aware that he has verbally agreed to change suppliers or his answers to very general questions may be construed as an agreement by him to change to a new supplier. In the case of face to face sales, a consumer may not realise that the document he is being asked to sign is a contract. This may be due to a genuine misunderstanding on the part of the consumer. However, in some cases, reported to CABx the sales agent has deliberately misrepresented the nature of the document, for example, by pretending that it is simply confirmation that the consumer has been interviewed or is a request for additional information.

The following cases are typical of many reported to CABx:

An elderly client in Morecombe was asked to sign a form which he believed to be a request for literature. Unknown to him, it was a contract to change suppliers.

A bureau in Middleton reported the case of a client who was asked to sign a document so that (to quote the sales agent) 'you will no longer have to pay standing charges'. Again, unknown to her, this was a contract.

Two sales agents called on an elderly couple in Tunbridge Wells who thought they were maintenance workers. The couple was asked to sign a form but had no idea that it was a contract.

### **3. Specific comments**

#### **Deliverables 2004-2005**

2.2 Citizens Advice welcomes OFGEM's commitment to improving its achievement of delivery targets and in particular the 14 percent rise identified for the next year (2004-2005). We would like to see, however, top priority given to the achievement of customer targets. If the delivery of these falls short, the achievement of the others has an immensely diminished impact.

#### **Creating and sustaining competition**

2.4 We question whether OFGEM's objective of ensuring that competition works well for **all** consumers will be achievable for those consumers involved in the new energy efficiency trial. We understand that the 28 day rule will not apply and that consumers will be tied in to their contract with the supplier.

We note that in Q4 OFGEM will publish an assessment of proposed changes in industry processes under the Customer Transfer Project against OFGEM's published criteria. How will consumer experiences be fed into this process?

## **Helping tackle fuel poverty**

2.9 OFGEM's duty to protect vulnerable customers is particularly vital. We would like to see OFGEM work not only with Government, industry and energywatch but also with consumer bodies, to identify hard-to-reach vulnerable groups and to get a firmer grip on responding to the needs of customers who are subject to inappropriate or aggressive marketing techniques.

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

2.10 Citizens Advice welcome the commitment to transparency and consultation and anticipates being involved closely in the review of the Memorandum of Understanding for working with energywatch.

## **Performance indicators**

3.3 Citizens Advice believes that the quarterly indicators are insufficiently tight and that they provide no quality control for those cases which fall into the "not achieved" category. We believe that 10% of customers having to wait over two weeks for a substantive response could leave a large number of customers in unnecessary distress. By not putting a higher cap on response time OFGEM have provided no redress for customers who have to wait for many weeks for a response.

## **Budget Information**

4. Citizens Advice notes that in 2004-2005 OFGEM will be expending £720 000 on Consumer Affairs, £980 000 on Enforcement (less than 3% of the total budget) and £570 000 on the Social Action Plan. Since one of the stated objectives of OFGEM is transparency we would like to see a more detailed breakdown of these budgets.

We would point out that enforcing the licence conditions in place to secure consumer protection is a low spend area. Many of the cases CABx report demonstrate breaches of standard licence conditions, which result in significant detriment to our clients.

## **Performance 2003-2004**

Retail Markets – Citizens Advice are particularly concerned about the levels of mis-selling and perceive that new enforcement procedures may not be preventing some of the more egregious cases which Bureaux are uncovering. The monitoring and investigative powers OFGEM possesses need to be held up to scrutiny by consumer bodies as part of the ongoing process of compliance work.

Market Infrastructure – Citizens Advice is concerned that solutions to problems with industry processes supporting customer transfers and billing has been left to the industry to lead, and that OFGEM will not now be measured on progress in this area. This should change so that the Regulator’s performance on this issue is measured against consumer experience.

Helping to Tackle Fuel Poverty and Working Towards A Low Carbon Economy – with regards to the Social Action Plan, - Citizens Advice would like to see more qualitative and more quantitative statistical monitoring reports on social obligations in the quarterly update and rather more commentary on particular trends and problem areas. The Priority Service Register system remains under-publicised and we want to see targets for growth in take-up and awareness.

#### **4. Recommendations**

Citizens Advice believes that OFGEM should consider enforcing or endorsing the following measures to obviate some of the more severe problems faced by consumers.

All fuel suppliers’ marketing and sales staff should be fully trained in relevant consumer protection law and obligations specific to the fuel industry designed to protect consumers. This should not be restricted to the Face-to-Face Marketing of fuel code.

OFGEM should not only monitor but take prompt and tough action to ensure fuel suppliers comply with their licence obligations, for example to give customers who transfer a copy of their contract within five days. OFGEM action should also extend to full and effective use of their enforcement powers in respect of consumer protection legislation, such as the Consumer Protection (Cancellation of Contracts Concluded away from Business Premises) Regulations (the Doorstep Selling Regs.) and Consumer Protection (Distance Selling) Regulations, which have a link with standard licence conditions.

All customers who transfer to a new supplier should have a 14 day period in which they can cancel the contract and be returned to their original supplier.

Consumers should receive automatic compensation for any delays in suppliers reinstating them with their former supplier following an erroneous, mis-sold or cancelled transfer. Further, OFGEM should have the power to resolve individual disputes concerning suppliers’ compliance with the sales and transfer process.

The fuel industry should make it much easier for customers to find out who the fuel supplier is, for example when they move into a property. Ideally there should be one central database or register covering both gas and electricity suppliers.

Please contact Susan Marks if you have any queries concerning this submission or would like to discuss any issues we have raised. Tel: 020 7833 7132, e-mail [susan.marks@citizensadvice.org.uk](mailto:susan.marks@citizensadvice.org.uk)

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