

**Tuesday, 22 March 2005**

Andrew McFaul  
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Dear Andrew

**DRAFT OFGEM CORPORATE PLAN 2005 – 2010**

Thank you for the opportunity to comment on your Corporate Plan for 2005 – 2010. Please accept my apologies for its late arrival. I would first like to make a few general comments about the plan and then some more detailed comments.

***General comments***

The draft Corporate Plan contains much that is predictable and to be expected. This is to be welcomed because it reduces the potential for regulatory risk, not only for companies, but for consumers as well.

Much of the Corporate Plan endorses and assists the delivery of the Joint Work Programme which the Council and Authority endorsed when it met in February.

At a recent meeting with business consumers, we discussed in depth the draft Ofgem Corporate Plan and this response includes a number of their comments. One of Business Consumers main comments relates to the complexity of the regulatory regime and the burden that this places on organisations who seek to keep abreast of change and a concern that additional regulatory intervention serves to introduce greater competition is taking place at the expense of moves to ensure that existing regulated structures are working to deliver benefits to consumers. energywatch has real sympathy with this view

***Creating and sustaining competition***

We note that the emphasis remains within the plan that markets are the best means of delivering benefits for consumers. We would agree with that point but would add that there needs to be, particularly within a competitive retail market, a much clearer view of the limits of competition in achieving the principle objective to protect consumers. The review of the supply licence conditions for example will provide such an opportunity but we are concerned that Ofgem views this only as an exercise in deregulation. We are concerned that taking such a narrow view will also miss the opportunities for

the development of transitional regulation that will better facilitate consumers' participation in the market. Another example is metering competition and competition in connections, which we believe are clear examples of the need for Ofgem to moderate the rate of introduction of competition, while paying greater attention to ensuring the success of existing regulation.

You are also aware of the concern that energywatch has expressed over the past 8 months about the unjustified increase in wholesale gas prices and their effect on retail gas and electricity prices. This will be a major area of work for energywatch in the coming year and we welcome your commitment to close surveillance throughout 2005-2006.

The supply licence review is an important piece of work for energywatch. Ofgem have committed to our involvement in this and we welcome this. It is as important that the review of the supply licence conditions be based on the real experience (and expectations) of consumers as it is on the interpretation of indicators of competition. This may mean additional regulation in unexpected areas – for example, extending the marketing licence condition to small business consumers who have no real regulatory protection nor the time or resource to dedicate to energy issues any more than a domestic consumer would have. Ofgem need to be as open to extending regulation as it is to retracting it to achieve its principle objective.

You will be aware that energywatch has been concerned for some time about the extent of vertical integration, especially within the electricity market. We welcome your acknowledgement that there is growing concern about the degree of concentration within both the wholesale and retail markets and that any future merger would require careful scrutiny. We note that you plan to publish key indicators of the competitive market. We welcome this since it will add to transparency in the market. These indicators will be something that energywatch will want to focus on in its regular Policy meetings with Ofgem.

Your draft work plan states that you plan to consult on whether you should undertake a review of competition in the business market. You will be aware that energywatch undertook a similar piece of work in 2004 into the experiences of business consumers in the energy market and the extent of competition available to them. For example many public sector consumers said that they had real difficulty in obtaining sufficient competitive supply offers that were valid for sufficient time to allow internal evaluation and approval. This research involved extensive contact with a whole range of stakeholders including consumers and their representatives, suppliers and Ofgem. It is important that our two organisations do not duplicate work and would suggest that energywatch and Ofgem meet to discuss this issue further.

We welcome the establishment of Ofgem's concordat with the FSA, and believe that consumers will be interested in understanding the proposed scope and referral processes, including the extent to which this has been used in connection with the wholesale gas price investigation.

### ***A Leading Voice in Europe***

It is becoming increasingly important for British consumers that markets on the continent be liberalised soon rather than later. We therefore welcome the clear commitment Ofgem is making in the draft Corporate Plan to become a leading voice within Europe on the benefits that markets can bring for consumers. However it will be important at the same time for Ofgem to take a balanced view about liberalisation and what it has delivered for consumers so far.

### ***Regulating Monopoly Networks***

The main area of work for energywatch with regard to networks over the coming year will be in relation to the transmission price controls for gas and electricity and the development over the long term of the charging methodologies for gas and electricity distribution.

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

In response to the comments in 5.18 about greater reliance on demand side response beyond the voluntary market mechanisms mentioned here, energywatch believes that this requires a much deeper understanding of the mechanisms which must work quickly and with the full support of all parties in order to be effective. There is evidence that the mechanisms in place to interrupt firm sites under emergency conditions are far from robust, and a lack of firm evidence as to the availability of mothballed capacity within timescales required.

Concern has also been expressed by consumer representatives about the potential inconsistencies that may be introduced as between owners of gas distribution networks in respect of meeting the 20 year winter obligation. Transco has taken investment decisions based on its own interpretation of the obligation, and this will almost certainly be open to varying interpretations by the new owners

### ***Protecting the environment***

We welcome your commitment to integrate environmental issues across their organisation and the production of Impact Assessments which include environmental appraisals. Given Ofgem's new sustainability duty it would seem sensible that these be extended beyond just environmental (and market) issues to include an assessment of social impacts as well. We agree with you as well that where it is appropriate to do so that Government should "adopt flexible, market mechanisms that deliver reductions [in CO<sub>2</sub>] where they are most appropriate and at least cost to consumers." While we agree with you that it is for Government and environmental regulators to set environmental targets we do believe that Ofgem should ensure that its presence in this debate is as much about efficient policy development as it is about policy implementation and that this should be reflected in the outputs described for this area of work in Appendix 1.

### ***Tackle Fuel Poverty***

Working together on issues affecting vulnerable consumers is a key part of the joint energywatch/Ofgem work programme. We are looking forward to working together to develop a better understanding of the effectiveness of the priority services register where effectiveness is as much about what

services consumers would deem to be priority services as it is about the means by which companies deliver them. There are important synergies here with work that will be undertaken on the supply licence review. We note with interest also the review you plan to undertake into companies approaches to Corporate Social Responsibility and again we look forward to working with you on this.

If you would like to discuss any of these points further please do not hesitate to contact me either by email at [lesley.davies@energywatch.org.uk](mailto:lesley.davies@energywatch.org.uk) or by phone on 0207 799 8362.

Yours sincerely



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energywatch is the trading name of the Gas and Electricity Consumer Council