LAGUR

Local Authority and Government Utilities Resource

P O Box 65, Wadhurst, TN5 7WR
Telephone 01622 73896
e-mail lagur@powamalgam.demon.co.uk

Ms Rachel Fletcher
Consumer Markets
Ofgem
9 Millbank
London SW1P 3GE

Dear Ms Fletcher

Non-domestic Supply market Review

The Local Authority and Government Utilities Resource (LAGUR) are a Lobbying and Educational Body representing the Public Sector and multi-site organisations in the private sector. The majority of its membership is Local Authorities but it also has Health Authorities, Universities and other multi site organisations as members. With its consortia Membership it represents some 300-400 organisations which equates to some 10,000 large sites and in excess of 100,000 Small/Medium sites.

LAGUR welcomes the opportunity to contribute to this consultation, after many years of raising competition issues in the SMUG meetings. The criteria that you have quoted seem to indicate that these are the values that would be used to assess competition in a traditional commodity market. Lagur believes that the energy markets are unlike any other and although we do not have access to an economist we have experience over the whole of the market. Without going into all the details here, we believe that the following factors are not all found in any other market.

- The energy market is part competitive and part regulated;
- The consumer has no option but to use the market;
- The market is risk protected from generation/ production to the wholesale market by way of back to back contracts;
- The retail market is exceptionally complicated for the consumer

Because of this we would ask OFGEM to be more flexible in the way that it assesses competition.

Our comments follow, listed under the headings that you requested followed by some general comments that maybe of a useful nature.

1. **Evidence of Price collusion, parallel price movements from different suppliers**

This seems to be a request that would carry a lot of weight in any other market but as far as energy is concerned the retail prices tend to originate from the same or similar sources, which are the screen based systems of the wholesale market. It follows that there is a very small difference in the prices offered in the market place and prices tend to move in parallel with one another. A symptom of this is that no offer is left on the table for more than a few hours which indicates that the suppliers change prices at similar times. In this area it is clear by the existence of Banks, Finance Houses etc in the trading market that there are profits to be made and therefore costs to be passed on to the consumer. One survey by the off-shore producers showed that gas changed hands on average 15 times before the consumer received it. Presumably if this traded market did not exist then the price to the consumer would be less, following bi-lateral agreements but as the market does exist it should not only be subject to financial regulation but also to Ofgem regulation.

2. **Sustained increases in retail margins**

Again a criteria that Ofgem is fully aware of and should not be regarded as an indicator of a competitive or non competitive market. The margin makers are the 4 or 5 large suppliers that are vertically integrated. These companies keep the margins in the retail operations small so that it becomes a barrier to new entrants because they have to work within these low margins. The large profits are being taken further up the supply chain by these companies as can be seen by the ever increasing profits of the parent companies

3. **Predatory pricing in the supply market**

The price setting is as one and therefore there is not any predatory pricing but there also seems no correlation between the movements in domestic supply prices and the I & C markets either in number or in value.

4. **Barriers to entry or expansion to supply companies**

Low retail margins are a barrier to entry as per item 2. The complexity of the market and the high cost of administration has been such that, several companies choose not to continue in the multi site sector because of the introduction of the competitive market in the metering area, the increased demands of billing, and transfer process(Mobil and BP). Others have chosen not to continue in the retail market at all (ESSO) preferring to take the profits upstream which again supports the theory that retail margins are kept low. **It should be noted here that we are not campaigning for higher margins to be paid by the consumer but that they should be taken and fed down from higher up the supply chain.**

5. **Impediments to Customer switching.**

In the multi-site market the cost of transfer is very large to consumers as well as to suppliers and therefore because the pricing structure is such that prices are simila, then the cost of change will prevent consumers from switching.

Billing is clearly an impediment to switching and the case was made for this in the Domestic Market. In addition one very large consortium with a very sophisticated bill checking system states that 30% of its bills are incorrect. This means that 30% of their bills are returned unpaid which probably amounts to between £50 and 100 million pounds worth. If the market was competitive then no suppliers could stand this situation. Virtually all the criticisms in the domestic market can be applied to the I & C Market. The measures being taken in the domestic market should be tailored for the I & C market.

Energy Contracts are a big turn-off for consumers. They are written in legal jargon and in most cases for most consumers are non-negotiable. These should be simplified for the whole industry where all the back-to-back contract implications should be gathered into one document and then the variable clauses from company to company should form another.

Ancillary pipe work is another barrier. If you are having work done on site you are a brave man if you suddenly decide to change suppliers.

6. Poor information to customers on prices and services

The majority of the I & C market only receives pricing and service information when they look at renewing their business. On a more general view pricing information is only available at a cost to consumers and this cost cannot be justified for the average SME.

7. Low Rate of innovation

The purchase of energy is carried out in a similar way to what it was when the market opened. Large Users will say that there has been an effort to share risk to obtain lower prices by using flexible contracts but following the recent price hikes this has caught many consumers who have ended up paying much higher prices. It is also a market not really open to SME’s

8. Low degree of product differentiation

There is a low degree of product differentiation because the average consumer finds it difficult in a very complicated market how things can be different. Because of the high prices it also means that the overriding factor is how to get the lowest price and as in 9 other basic services are not available from a lot of companies.

9. Poor Quality of Service.

Again this has been clearly documented in many reports by various bodies such as Cornwall Consulting where even the basics of customer service are not enjoyed by energy consumers, Billing, AQ’s and Query Resolution. Unfortunately customers have lived with bad service for so long now that it has almost become accepted as the norm and service is no longer regarded as an issue in competitiveness. There are far fewer account managers than before privatisation and it is now unusual to ever see an account manager at your premises

Europe. There are a number of issues that do not really fit into any of the criteria that you have asked for but we feel we that they are worth including in this submission. Although we have been asked to keep this report to the retail I & C market, mention must be made of the impact of Europe on the Wholesale pricing markets which reflect in the retail markets. We support Ofgem in its efforts in Europe to get a level playing field across the European Community.

Continual Regulatory change in the markets causes cost and confusion not only to the consumer but also to suppliers as well.

Consumer confidence in the market place. LAGUR would regard that data within the energy industry is both enormous and in many cases inaccurate (from customers, as well as in the industry). The responsibility for this relies as much with the consumer as with the other agencies but at the end of the day it makes the customer nervous to change supplier and therefore affects competition.

SME's have fears that because of the complexity of the market more suppliers will cease to supply this type of business. This should be taken into consideration when any future takeovers or mergers are being considered,

Electronic Billing protocol. Because a lot of companies now receive bills electronically every time they change suppliers they have to change their software to receive the supplier's bills. If you have a large computer system this can be quite costly and if these costs are added into the best value calculation it can well prevent customers changing suppliers. A solution would be for the suppliers to agree a common protocol for the electronic processing of bills.

Clearly Default and out of contract payments are an incentive to competition but this does not work in every case and therefore out of contract prices should be notified to consumers and a period of time should be given, say 1 month for consumers to make alternative arrangement before they are implemented. This could be a notice 1 month prior to the ending of a contract.

If in fact this project goes ahead then one of the by products should be the development of measurements to measure the amount of competition that is in the market at any one time

LAGUR would be prepared to work with OFGEM in providing examples if required but cannot commit themselves to this work without knowing that a review would be done on Competition in the I & C market.

Yours faithfully
R. R. Sinden

Co founder