



## 'Consuming Debate' at Ofgem 17<sup>th</sup> January 2007

How we understand the priorities of gas and electricity consumers, in order that we may protect their interests, is arguably the most critical debate that we could have – and 100 people clearly agreed when they attended the first 'Powering the Energy Debate' seminar of the year on 17<sup>th</sup> January. 'Consuming interests: Priorities for the Energy Consumer' provided a forum for debate, often lively, on the experiences of consumers in the energy market, if/how they differ from other markets, and how we best engage with them - as new legislation on consumer redress currently makes its way through Parliament.

Ofgem Chair Sir John Mogg set the event in context – the real challenge, he said, is to effectively engage with customers, including those whose views are rarely reflected - before introducing the first speaker, Dr Elizabeth France, the Energy Ombudsman.

Dr France reflected on the role of the Ombudsman, as one form of alternative dispute resolution, and expressed her hope that the Ombudsman will have a role in the new arrangement envisaged by the legislation although she said the final form will be decided by the regulator.

She believes the Ombudsman is best suited to supporting individuals, helping them *"express areas of their complaints that remain unresolved when the complaints procedure is exhausted"*. It has the multiple benefits of being free to the consumer, independent and non adversarial. *"We are not there to do the emergency job. We are there to help articulate areas of concern"* she said.

Asked how the first six months had gone, she pointed out that her office had in fact been operating since July 2005, and complimented the Energy Retail Association for working together to enable the service to be formally launched so quickly. This entailed some decisions having to be made before the details of secondary legislation, which will follow the Bill, are known – but also gives the industry time to get its complaints procedures working well.

*"Companies will rise to it. If I have any worries, it is over suggestions that arrangements are hardwired – I assure you they are not"* Dr France reassured the audience. She said the Ombudsman *"can meet any standard the regulator might require"*. She went on to forecast changes in the scope of the Ombudsman scheme, eg to include mis-selling, but pointed out that it remains down to companies while the scheme is voluntary.

Dr France said she has been asked if the issues she faces are the same as in telecoms. Poor customer service and billing are the most common issues, in that order, she says – and companies should learn to listen. *"We have to deal with customer perception,"* she added. *"Some [customers] forget what made them complain by the time the Ombudsman is involved – it's the way they are treated in the complaints process that is far more important."*



France said that independent academic research has shown that 72% of complainants contact an Ombudsman primarily to seek an apology.

The Ombudsman can help the regulator identify broad trends – *“we help customers to articulate complaints, help companies with service and advise the regulator on what needs looking at”*. Concluding, Dr France said *“The ability to impose redress was missing in the sectors covered by the legislation. We can offer that as part of a package for consumers in this sector”*.

Chair of the National Consumer Council, Lord Whitty, started by welcoming Ofgem’s Consumer First project. He felt that energy companies still tend to behave like monopolies - *“consumers at any given time feel they are dealing with a monopoly”* he said and added that it is up to Ofgem to open up how people can switch supplier - *“There is a lot of inertia. People feel locked into their supplier”*.



Lord Whitty went on to point out that, while the energy industry is very complex, consumers think it is simple and so the potential for frustration is higher. *“Despite improvements the industry is seen as not that good at dealing with complaints”*. He felt that presently, companies tend to hide behind energywatch and customer service has not matched other sectors, with widely differing performance.

Turning to the new legislation, he believes it is *“not satisfactory”* - calling for clarification of responsibilities, more powers for regulators to ensure better customer service, and the incorporation of energywatch’s experience into the new system. However he did welcome the set-up whereby straightforward complaints would be dealt with by Consumer Direct, which he believes will make companies deal more effectively with complaints internally.

Lord Whitty went on to talk about sustainability and support for vulnerable customers – *“I have been gently critical of Ofgem on both”* he said. *“It has been taking on more responsibility but not enough”*. He welcomed Ofgem’s sustainability strategy but highlighted his view that Ofgem should do more, thorough licensing, to encourage green tariffs.

Lord Whitty also mentioned fuel poverty as an important responsibility for Ofgem, saying that Ofgem has *“done a lot to persuade companies to offer social tariffs”* but claiming more needs to be done eg tackling higher rates paid by pre-payment meter users.



The third speaker was John Howard, Council member for energywatch, who gave some interesting insights from his Chairmanship of the Financial Services Consumer Panel. Howard started by sharing his view that the FSA model would work well for energy as it has consumers amongst its members, giving them a place *"on the inside rather than pressed against the glass"*. While The NCC and Which? are campaigning groups, the FSA

Consumer Panel approach is, said Howard, to act as a sounding board for the FSA. On the downside, the panel has been accused of being *"too cosy with the FSA"* - paid for by the FSA and meeting on their premises.

Howard moved on to the new legislative proposals, saying there are some *"real problems"*. He was of the view that a big chunk of consumers, who are currently dealt with by energywatch, will be *"stranded"* between Consumer Voice and the Ombudsman, and said *"we have got to replace what energywatch is doing and it has to be a system that works"*. He cited reputational risk as an expensive alternative to this, referring to the financial sector's struggle to re-establish credibility after the mis-selling scandal was exposed to the press.

EDF energy's Peter Hofman outlined how the company listens to the views and expectations of customers, through focus groups and interviews and by taking research from bodies such as energywatch into account. Feedback from these sources is then used to help develop products. An EDF poll of customers' views in 2005 and 2006 *"told us trust in energy companies is low – behind tobacco, fast food and petrochemical companies"* admitted Hofman. He went on to point out that *"with low levels of trust we have a real problem helping customers to reduce energy use – customers see this as counterintuitive"*. Hofman moved on to call for a clear government policy on the environment. Customers act as good citizens when prices are low, he said but *"when price is the top concern, sustainability is less important than metering, billing and brand"*.



While the EEC has been effective, Hofman believes it has done little to change customer's behaviour. *"It's clear the approach of putting larger and larger obligations on energy companies needs to be refocused. The business model of the past gives us no chance for the future"* he concluded.



## Debate

Following the speakers, there was a lively and charged question and answer session.



**How do we draw a distinction between the interests of the consumer and the citizen? Simon Roberts, Centre for Sustainable Energy.**

Mr Howard believed that as a consumer, an individual may feel they can change things but as a citizen, they perceive themselves as one of millions and therefore not able to make changes. *"We should link these eg link price and sustainability, and you get much more behavioural change"* he said. Mr Hofman said that they have conducted research asking customers to distinguish between these two halves (ie price versus social issues) which concluded that *"customers are starting to value things not previously part of their decision making"*. Lord Whitty believes the trick is to persuade existing consumers to accept sustainability for the sake of future consumers, and structure the framework for those who cannot be thus persuaded to make *"price, quality and availability decisions more green"*. He believes this is part design, part regulation.

**Under the voluntary scheme, the Ombudsman can act immediately in certain cases and does not have to wait three months. When energywatch are not around, we are keen to see exactly the same in place. Duncan Sedgwick, Energy Retail Association.**



Elizabeth France pointed out that the 12 week safety net was there for consumers regardless of whether the company was done with their complaint or not and pointed out none of the timescales are set in concrete. She said the Ombudsman is not a first aid service for the disconnected, nor would it deal with mass complaints. She was of the view that, as the Ombudsman, she had the discretion *“to take on whatever, whenever”*. Howard and Whitty both expressed concerns that large numbers of customers might take more than one phone call to deal with their issues. Sir John Mogg said that Ofgem is concerned that a certain class of complaint will fail to find a home – *“we need all to be in a safe pair of hands.”*

### **Ofgem is failing in its duty to sustainability. Oliver Haward.**



Lord Whitty shared his view that letting the market decide on new technologies was not adequate, and that currently, the framework is technology blind. He demanded more intervention in terms of switching the market to more energy efficient technologies. *“Ofgem is a bit hung up on the view that the market will sort this out”* he said. Sir John Mogg clarified that Ofgem’s sustainability activity operates according to government guidance,

saying *“in sustainability, Ofgem has pushed its powers to the limit of its economic regulator role”*. He went on to say *“I don’t believe any statutory body should act beyond its powers”*.

### **UK has six vertically integrated power companies enjoying substantial profits, there are no new entrants, and fuel poverty is going up. Is switching the right measure of competition? Dominic MacLaine, Power UK**

Lord Whitty believed that switching is one sign of healthy competition. However he feels that vertically integrated companies do tend to act like monopolies, and would like to see measures tracking customer perceptions of service *“so some of the benefits of competition can be driven in customer service as well as in price”*.

Ofgem’s Steve Smith pointed out that, with respect to customer service, the best performing company is also the cheapest, and has grown from 4 million to 8 million customers in three to four years.

He also said that capped price offers have shielded British customers – go to other European markets, and these tariffs are not available. These are, he claimed, the sort of dynamics one would hope to see in a competitive market.



With respect to profitability, Steve Smith said that one highly respected analyst pointed out that Centrica was the only company to make a profit on retail this year – this was as much to do with the issue of free carbon permits, a concern Ofgem has pointed out to government. This should not be confused with lack of competition.

**We need to equip customers with the skills required to make effective complaints – Ann Robinson, SimplySwitch**

Dr France agreed that education is vital – and said that responsibilities and procedures for this must be clarified before legislation is signed off. Companies have a huge responsibility and have made great improvements. Lord Whitty believes that the new consumer body should facilitate education but not provide it – which means there is a risk it could fall between two stools. EDF's Mr Hofman pointed out that customers are not a homogeneous group – simple language can be seen as condescending by some – one way round this is to use intermediaries, eg Citizen's Advice.