

To: Andy MacFaul  
Head of Better Regulation  
Better Regulation Unit, Corporate Affairs Division

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Dear Mr. MacFaul,

### **ERA response to Ofgem's Proposed Corporate Strategy and Plan 2009 – 2014**

The Energy Retail Association (ERA), formed in 2003, represents electricity and gas suppliers in the domestic market in Great Britain. All the main energy suppliers operating in the residential market in Great Britain are members of the association - British Gas, EDF Energy, npower, E.ON, ScottishPower, and Scottish and Southern Energy.

We welcome the opportunity to offer comments on Ofgem's proposed Corporate Strategy and Plan 2009 – 2014 and would be happy to discuss any of the points made below in further detail with Ofgem if this is considered to be beneficial. This is a high level industry response and the ERA's members will also be providing individual responses.

#### **Introduction**

The next five years will be extremely important for the energy sector. The contents and focus of Ofgem's corporate strategy are vital to ensure that the competitive markets continue to work effectively, smart metering is introduced and the causes of fuel poverty are effectively addressed.

The ERA will continue to work with Ofgem in areas such as communications to customers, billing, green supply guidelines, fuel poverty and smart metering over the coming years to help achieve successful outcomes to the themes raised in the Corporate Strategy – as we have done in the past with such diverse issues as switching, complaints handling, billing, carbon monoxide, and the Disconnection Safety Net.

We welcome Ofgem's continuing commitment to policies and processes that are consistent with Better Regulation principles. Moreover, we would also encourage Ofgem to not seek to be too prescriptive, so as to complement rather than hinder further development of the competitive market. The benefits to consumers from the competitive market should be allowed to develop as these are much greater than if the market was to be too tightly regulated. While market conditions evolve constantly Ofgem needs to be wary of creating additional costs and uncertainty through constantly reviewing and introducing additional regulation, as this brings little or no additional benefit to customers or suppliers.

Ofgem has an important role as an 'independent voice' and must continue to communicate the complex issues facing the energy industry to inform third parties such as the government and consumer groups.

#### **1. Creating and sustaining competition**

We are pleased that Ofgem's recent energy market probe found no evidence that prices go up faster than they come down and that there is no evidence of retail prices rising by more than is justified by wholesale price rises. There is always a lag between the wholesale and retail markets because of the use of hedging as a prominent strategy by suppliers in order to protect consumers from any adverse consequences arising from their exposure to wholesale markets. This is why energy is purchased in

the wholesale market over varying periods of time from several years out to fine-tuning close to real time.

In addition, Ofgem found no evidence of an energy cartel, and confirmed that the British energy market remains one of the most competitive in the world. Proof of this is found in the millions of people switching supplier<sup>1</sup>.

Energy suppliers are aware at all times of the responsibilities they have in terms of keeping prices as low as possible in the context of wholesale prices. However, it is important to note that suppliers are also concerned with sustainability and security of energy supply – especially in such volatile times for the world financial and energy markets. Energy suppliers also have a duty of care to their stakeholders and investors. Energy companies have offered customers protection from the volatility of the market by “buying forward”. In 2008 the price of gas was at record highs<sup>2</sup> and although they have since fallen, it is understood that “the era of cheap energy has gone forever”<sup>3</sup> as the UK becomes more and more dependent on gas from volatile, global markets.

Debt remains another key issue for suppliers and unfortunately in the current economic climate we cannot expect this to improve in the near future. Ofgem needs to be fully aware of the impacts of the current external environment and the effect that this will have on consumers, and the challenges that this presents for the industry. Suppliers are aware that we need to work with Ofgem as they try to prevent and control energy debt and disconnections. This is particularly relevant as Ofgem reviews debt and disconnections and debt objections.

This is why the ERA welcomes the opportunity to work with Ofgem on their proposed measures to facilitate efficient market entry. However we would like to stress that additional regulation – if needed – should not be a burden to the market but rather it should ensure the right conditions for viable entrants who will benefit the consumers and the overall market conditions.

We welcome any Ofgem activity that might ensure a level and fair playing field that does not disadvantage any new entrant or existing participant in the market.

### **Doorstep Sales**

The members of the Association of Energy Suppliers have already contributed significantly to this objective by establishing the Code of Practice for Face-to-Face Marketing of Energy Supply (EnergySure). The Code ensures that every company operates honestly and cordially on the doorstep and their sales practices are rigorously assessed and independently audited by a leading firm of Auditors (Deloitte). Moreover EnergySure sets industry standards for the recruitment, training and assessment of every sales agent. Since its introduction in 2002, there has been a 99.7% decrease in complaints on direct selling.

Doorstep sales are a particularly effective and important method of reaching those customers who may never have switched before. Consumers who may hold preconceptions about difficulties in switching supplier can have their specific concerns answered in the comfort of their own home and have their confidence raised that switching supplier is a very straightforward process. Doorstep selling, in comparison to other routes to market, is the most effective method of encouraging first time switchers. Ofgem has recognised this.

ERA members continue to work hard to ensure that high standards are maintained. Additionally, significant success has been achieved both directly, and via agencies including Trading Standards, in helping the vulnerable and elderly reduce the risk of doorstep crime through the ERA’s Be Safe Be Sure campaign. Over 10,000 leaflets have been distributed raising awareness and encouraging confidence in dealing with all doorstep visitors.

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<sup>1</sup> The Probe report demonstrates that in the first six months of this year, over 3 million people have switched electricity supplier, and 2.3 million people have switched their gas supplier.

<sup>2</sup> The high for the annual gas price last year was 99.3p/th on 4 July. For power the high was £91.55/MWh on 25 September

<sup>3</sup> Malcolm Wicks, Hansard, 23 January 2007, column 399WH

Against this background, we do not believe that further prescriptive regulation in the sales and marketing area is necessary.

### **Complaint Handling**

ERA members have cooperated with Ofgem and other stakeholders to deliver the successful transition to the new complaint handling arrangements. All suppliers are committed to ensuring best practice in dealing with customers' complaints. We would appreciate any involvement in Ofgem's future intentions regarding customer satisfaction research in order to further our understanding of the market and customers' needs.

### **Detection and minimisation of theft**

We look forward to responding to this consultation and to build on the proposals developed by the ERA/ENA energy theft group.

### **Smart meters**

ERA members are in full support of a roll-out of smart meters across Britain. The ERA is firmly of the view that the energy efficiency and carbon reduction objectives of the EU and the UK Government are unlikely to be achieved with the current technological and administrative arrangements for metering and billing. We believe that once smart metering infrastructure has been rolled out across England, Wales and Scotland it will be possible for devolved, regional and local Governments to use the technology in the development of their own plans for reducing carbon emissions. This will help the UK to make the considerable carbon reductions necessary to meet the challenging targets set out in the Climate Change Bill. **However industry must have a clear timetable, soon, to ensure the government's request is fulfilled.**

The energy retail industry has carefully assessed the specification for smart meters and eight potential market designs for their roll out.

The ERA's aim was firstly to identify a technology standard for smart meters that would ensure interoperability – in other words, once you have a smart meter installed you don't have to change it if you change suppliers. Secondly, we sought a roll-out methodology that can deliver universal smart metering within ten years, with the lowest cost and minimum disruption to customers, and with the highest delivery success. The results of this assessment demonstrate that a 'Regional Franchise' model appears to have the best chance of success. Under this model in each region of the roll-out a single service company becomes the sole provider of smart metering equipment.

Both elements require significant cooperation between energy suppliers. To make the business case work and to address the problems raised by competition law, it is the industry's view that primary legislation is required to ensure an effective mandate for the roll out of smart meters.

The focus on meter interoperability must continue and Ofgem needs to include planning for engaging with DNOs and other stakeholders within its short-medium term plan, to ensure that infrastructure requirements are properly reflected in the way forward for the delivery of smart metering.

## **3. Sustainable Development**

Ofgem has a key role to play in order to remove barriers to innovation and to provide regulatory and policy frameworks that support long term sustainable investment. Energy suppliers will continue to offer their customers products that enable them to manage their energy use and energy costs effectively, and will continue to innovate in areas where they believe they will gain competitive advantage, such as billing, green supply and smart meters.

## **Billing**

In 2006 the ERA introduced a new Code of Practice<sup>4</sup> to help customers by clearly setting out what they can expect from their energy supplier, including:

- Clear, accurate, informative and timely bills and statements
- Support and advice on monitoring energy consumption
- Support and advice for those having difficulty paying their bills
- Contact details for raising questions and issues with suppliers

Suppliers aim to ensure communications to customers are tailored and specific to the needs of those customers, based on the information the supplier has been able to collect. The advent of smart metering will greatly assist suppliers in achieving even better results, and in the meantime we will continue to work with Ofgem to ensure customers are receiving the necessary information, without being too prescriptive, so suppliers can innovate and compete in this area. It would be better if Ofgem was not prescriptive about what's required, but allowed suppliers to innovate and compete in this area.

## **Different tariff structures and products**

The ERA and its members are very interested in Ofgem's work examining the impact of different tariff structures and products, (including rising block tariffs). We would welcome being made aware of the results of it and the opportunity to discuss this with Ofgem in the future.

## **Green Supply Guidelines**

We welcome the recent publication of Ofgem's Green Supply Guidelines and will continue to work with Ofgem and other stakeholders to ensure that customers have access to the right information to make informed decisions and that any accredited tariff delivers additional environmental benefits.

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

The ERA stresses that the way towards security of supply and alleviation of fuel poverty does not lie with further taxation of energy suppliers – especially the so called 'windfall tax'. It's easy to call for action from energy companies – especially in terms of fuel poverty, but they cannot tackle such complex social issues alone.

Whilst prices have gone up for consumers in the wake of significant increases in global demand for energy, it is important to recognise that over time UK consumers have benefitted considerably from the competitive market in energy supply which exists in this country. It is also well recognised that there is no other competitive industry which voluntarily gives more direct help to its consumers in need.

Some critics have suggested that the first phase of the EU Emissions Trading Scheme (EU ETS) generated a windfall for energy companies, and that this should be used to fund fuel poverty initiatives. In fact, by restricting CO2 emissions through allocations, the EU ETS has increased power companies' costs, as they try to manage their electricity production against CO2 limits and other constraints, including fuel prices and supply contracts. If they continue producing without exceeding their allowances, they are able to sell unused allowances. However, in order to maintain sufficient electricity production, the UK generating industry has been forced to become a net buyer of EU ETS allowances.

## **5. A leading voice in Europe**

The ERA welcomes Ofgem's continuing support of the European Commission in its drive to achieve a competitive and sustainable energy market. Carefully targeted legislation and regulation that encourages competition in the market will benefit both consumers and energy suppliers, and will

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<sup>4</sup> Members of the Billing Code of Practice are British Gas, EDF Energy, npower, E.ON, and ScottishPower. Scottish and Southern Energy have their own 'Customer Charter'.

ensure the continuing improvement of prices and quality of service. However, it is important to stress that regulation – and any European activities regarding the energy market – should facilitate market improvement and participation rather than stifle competition and impede innovation.

There are a number of areas where European bodies will be developing policy affecting the energy sector – for example, on harmonising arrangements for consumer representation and redress. We welcome Ofgem's intention to ensure that EU-wide proposals are implemented consistently with the framework already in place in Britain, without entailing any additional regulatory burdens.

## **6. Helping to tackle fuel poverty**

Energy suppliers are committed to helping the government achieve its challenging targets to eliminate fuel poverty, in so far as they can. Fuel poverty is a complex issue involving the combination of energy costs, income and property condition. We feel that changes must take place in order to tackle these three issues effectively. For instance, one of the practical challenges facing suppliers is targeting voluntary initiatives to those most in need. We welcome the recent assistance provided to energy suppliers through an exchange of information with the Department of Work and Pensions – even though further discussions are needed to ensure that consumers will gain the maximum benefit of this exchange. Any data sharing activities need to be part of a coherent strategy which proportionately benefits the consumer. We believe that Ofgem should build on this going forward and support Ofgem's proposals to continue to make customers aware of the overall benefits of competition.

Energy suppliers will be spending £375 million over the next three years on voluntary social programmes such as winter rebates, benefits entitlement checks, social tariffs and hardship fund payments. These are also part of a concerted package of practical help to pay fuel bills, over and above other obligations such as CERT.

We have concerns that there is clear evidence that a significant proportion of vulnerable and fuel poor customers are not accessing all of the state benefits they are entitled to. Energy suppliers already carry out benefit checks for their customers to help them supplement their income, as part of their fuel poverty initiatives. However, we would like to see Ofgem put pressure on the government to step up its efforts in this area to ensure that everybody is claiming the correct amount of benefit they are entitled to.

In addition we believe that fuel poverty and energy efficiency/carbon reduction measures should not overlap, and each should be given the attention that they deserve through separate policy instruments. The ERA is currently responding to the Department of Energy and Climate Change on three consultations – on Heat and Energy Saving Strategy (HES); the Community Energy Saving Programme (CESP); and the proposed 20% increase to the Carbon Emission Reduction Target (CERT).

Through EEC and CERT energy suppliers are improving the energy efficiency conditions of households up and down the country. These activities, such as cavity wall and loft insulation will save 1.9 MTC of carbon by 2011. However, there is a disconnect in assisting customers in fuel poverty and reducing the levels of carbon emitted from households in an equitable manner. Previous experience of EEC has shown that such a scheme cannot achieve financial equity. As the Priority Group becomes ever more difficult to reach, and properties remaining are harder to treat, the cost difference between Priority and Non-priority groups is significantly increased.

Suppliers offer a range of measures tailored to each individual customer to support them in the long term. This enables all customers to have a choice of supplier and prevents them being excluded from the competitive market.

Currently there are multiple policy instruments to tackle fuel poverty and energy efficiency, which limits the success of these instruments. Although there are areas which overlap, we need separate, coherent strategies in place to tackle fuel poverty and deliver energy efficiency. In addition, the interest of the devolved administrations makes it a complex framework for suppliers to deliver under.

## 7. Better Regulation

We welcome Ofgem's commitment to policies and processes that are consistent with Better Regulation principles. To that end we would invite Ofgem to establish processes so that in the future it will be possible to perform Impact Assessments on proposed regulation. Impact Assessments, if they are performed rigorously and often, will assist Ofgem and key stakeholders to determine the short- and long term consequences of any intervention as well as to identify those proposals that will successfully achieve the policy objectives without burdening the regulator or the market with disproportionate additional costs or administrative processes.

The industry needs this in order to actively develop the market, give consumers confidence and encourage innovation. It would help Ofgem, Government and industry identify new European regulations and how it contradicts or overlaps with British regulation. It would also help to ensure that any new regulations were proportionate to the scale of any identified issues.

Should you require any more information please do not hesitate to contact me.

Kind regards,

Sofia Gkiousou  
Policy & External Relations Advisor