

# Consultation response

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## Proposed Corporate Strategy and Plan 2009-2014

Which? consultation response.

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## Introduction

1. Which? is the largest independent consumer representative organisation in the Europe, with about 700,000 members. Which? offers advice to consumers in the UK and campaigns on their behalf to make consumers as powerful as the organisations they deal with every day.
2. Which? is grateful for the opportunity to respond to Ofgem's proposed corporate strategy and plan. All consumers have a right to a stable and secure energy supply and it is important that Ofgem has input from consumer organisations.

## General Comments

3. It is important that Ofgem is transparent in its approach to delivering energy for consumers now, and in the future. Below we have provided comments on what we feel are overarching themes relevant to many, if not all, aspects of Ofgem's approach to its function. It is difficult for Which? to comment fully on the proposed corporate strategy until Ofgem has provided clarification on these points. We look forward to Ofgem providing clarification on these points in the final strategy, and continuing the transparency in all future publications.
4. We have also provided specific comments on the work themes that we are best placed to comment on: creating and sustaining competition; regulating networks effectively; helping to achieve sustainable development; helping to protect the security of Britain's energy supplies, and better regulation. We believe that these work themes are valid to the role of Ofgem as determined by its statutory obligations.

## Bringing together markets, security of supply and environmental commitments

5. Since the establishment of Ofgem as the regulator of the UK energy markets, Ofgem have been tasked with making these markets work well, ensuring the security of supply giving regard to environmental sustainability, which we recognise is a difficult task.
6. In October of 2008 Ofgem published their initial findings from their investigation into the effectiveness of the UK energy markets<sup>1</sup>. Which? welcomed the robust assessment of the energy markets set out in the report.

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<sup>1</sup> Energy Supply Probe - Initial Findings Report, Ofgem, October 2008.

These included the identification of a number of areas where the market is currently failing consumers. We are generally supportive of the proposed options for reforming the markets, and look forward to Ofgem continuing the work in this area.

7. When delivering a secure and stable energy supply for the UK, that has regard for environmental commitments, it is clear that Ofgem believe that the existing market framework is best placed to deliver this. In the proposed corporate strategy Ofgem also state support for price regulation<sup>2</sup>, for distributed generation<sup>3</sup> where the ability for consumers to switch energy supplier may be affected. We believe that Ofgem need to set out a clear framework for how they imagine a competitive market that encompasses these elements will function.

#### Delivering for consumers

8. We believe that consumers have a right to a secure energy supply at a fair price. Consumers should also be able to take control and manage their energy consumption. However, consumers currently face a supply market in which between 20% and 32% of consumers who switch will unintentionally switch to a tariff that is more expensive<sup>4</sup>. In addition, the loss over the next six to ten years of a substantial proportion (30%) of our electricity generating capacity<sup>5</sup> and the increasing reliance of the UK on importing fuel sources<sup>6</sup>, will make consumers vulnerable to an insecure energy supply at a volatile price. These concerns are clearly illustrated in the findings of the House of Commons Business and Enterprise Select Committee reports on energy<sup>7</sup> and the initial findings of the Ofgem Energy Supply Probe<sup>8</sup>.

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<sup>2</sup> Paragraph 1.6, Proposed Corporate Strategy and Plan 2009-2014, Ofgem, January 2009.

<sup>3</sup> Paragraphs 1.33 and 1.34, Proposed Corporate Strategy and Plan 2009-2014, Ofgem, January 2009.

<sup>4</sup> Paragraph 77, House of Commons Business and Enterprise Committee, First Report of Session 2008-09, Energy policy: future challenges, 10 December 2008, HC

<sup>5</sup> Paragraph 14, House of Commons Business and Enterprise Committee, First Report of Session 2008-09, Energy policy: future challenges, 10 December 2008, HC 32.

<sup>6</sup> Paragraph 18, House of Commons Business and Enterprise Committee, Eleventh Report of Session 2007-08, Energy prices, fuel poverty and Ofgem, 28 July 2008

<sup>7</sup> House of Commons Business and Enterprise Committee, Eleventh Report of Session 2007-08, Energy prices, fuel poverty and Ofgem, 28 July 2008, HC 293, and the First Report of Session 2008-09, Energy policy: future challenges, 10 December 2008, HC 32.

<sup>8</sup> Energy Supply Probe - Initial Findings Report, Ofgem, October 2008.

9. Ofgem must be clear how it expects the market to deliver for consumers and what the incentives the market has to do so are. This should include clarification on:
  - > The incentive for energy supply and generation companies to invest in generation capacity when there is increasing pressure on reducing consumer's levels of energy consumption;
  - > The measures Ofgem will use to assess the effectiveness of the UK energy markets.

#### Strength of voice and action

10. Ofgem should be a strong voice and consistently act with the consumer in mind. This is particularly important if the views of the energy suppliers are not in line with what consumers need, and Ofgem must be willing to implement reforms they see as necessary without seeking agreement from the energy suppliers.
11. We have serious concerns that this is not always the approach taken by Ofgem. For example, Ofgem have stated their desire to increase consumer engagement<sup>9</sup>, which we support. However the proposed action of 'considering requiring suppliers to provide clearer information'<sup>10</sup> clearly falls short.
12. As the regulator, Ofgem must take charge. Ofgem should develop and implement changes that have a clearly reasoned basis and that they feel are required to meet their objectives. They should base this on cost benefit analysis but should be decisive and consult where necessary.

#### Comments on the work themes

##### Creating and sustaining competition, work theme 1

##### Retail markets

13. Ofgem have stated that they wish to build on existing consumer participation by running a sustained customer awareness programme<sup>11</sup>. We are supportive of greater consumer engagement with their energy use and the energy market. For consumers to be able to do this we believe that there are fundamental issues that need to be addressed prior to Ofgem establishing

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<sup>9</sup> Paragraph 1.11, Proposed Corporate Strategy and Plan 2009-2014, Ofgem, January 2009.

<sup>10</sup> Paragraph 1.11, Proposed Corporate Strategy and Plan 2009-2014, Ofgem, January 2009.

<sup>11</sup> Paragraph 1.11, Proposed Corporate Strategy and Plan 2009-2014, Ofgem, January 2009.

and running awareness programmes. We provided details of these changes in our response to the Energy Supply Probe Initial Findings report, in summary they include:

- > Requiring energy suppliers to provide clear and accurate information to customers;
- > The development of a summary box for use on bills and to enable consumers to compare tariff information;
- > The development of minimum standards for tariffs.

14. Without these consumers will continue to be faced with confusing and potentially misleading information and will not be able to determine what energy choices are best for them.

#### Wholesale markets

15. We have some reservations as to the value to consumers of Ofgem monitoring the wholesale markets, in particular the wholesale electricity market. Clearly, if wholesale prices are themselves distorted or subject to weak competitive pressures, there is relatively little comfort to consumers that they are necessarily getting a good deal, even if retail prices are adjusted in line with wholesale price movements. Further, domestic consumers in particular may benefit from a greater level of price stability, therefore, reactive changes to retail price in line with small movements in wholesale prices may not be desirable.
16. We would welcome clarification on how Ofgem proposes to assess the wholesale market (including information sources) in such a way that will benefit consumers.

#### Metering

17. As we stated in our response to the Energy Supply Probe- Initial Findings Report, smart meters present an opportunity for consumers to take greater control of energy use (although this is dependant on the type of smart meter and associated display unit installed). However the potential consumer benefit should not detract from the significant benefits that smart meters will also offer to the energy suppliers. For example, energy suppliers would better be able to balance their daily energy suppliers, minimising distribution and balancing costs. Energy suppliers should therefore pay a fair proportion of the cost of rolling out smart meters; these costs should not fall wholly on consumers. In its advice to DECC, Ofgem must ensure that in rolling smart meters across the UK the full cost does not fall on the consumer. protected

## Distributed energy

18. The development of support for distributed energy sources has the potential to improve the security of the UK's energy supply, by increasing the diversity of energy sources, and it also has the potential to increase the number of market participants. However, there is no information of how Ofgem intends to regulate this and it is important that this is clarified.

## Regulating networks effectively, work theme 2

### Network of last resort arrangements<sup>12</sup>

19. Consumers have a right to a stable and secure supply of energy; therefore it is vital that there are arrangements in place to ensure that should there be a significant threat to the security of an energy supply consumers will not be affected. Arrangements should include provisions to ensure that the cost of salvaging a network company in deteriorating financial health does not fall to the consumer.

## Helping to achieve sustainable development, work theme 3

20. For the purpose of our response we have defined 'sustainable development' as the use of resources that meets the needs of the present without compromising the ability of future generations to meet their own needs. There is a significant amount of confusion around many 'green' terms. In order to not exacerbate this we would strongly recommend that in all, related, future publications that Ofgem clearly define what they mean by sustainable development.
21. In detailing what work will be undertaken to achieve sustainable development, it is important that Ofgem is transparent. We believe that they should stipulate what work they are legally required to undertake and what additional work they are undertaking.

## Sustainable development at the heart of Ofgem policy

22. As stated above we believe that if sustainable development is truly to be at the heart of Ofgem policy<sup>13</sup> Ofgem could go further than 'encourage companies to invest in new, innovative and effective ways of delivering a

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<sup>12</sup> *Network of last resort arrangements*, Chapter 2 Regulating Networks Effectively, Proposed Corporate Strategy and Plan 2009-2014, Ofgem, January 2009.

<sup>13</sup> 'Sustainable development is at the heart of our policy and decision-making process' paragraph 3.5, Proposed Corporate Strategy and Plan 2009-2014, Ofgem, January 2009.

more sustainable energy system'<sup>14</sup> and 'trying to persuade the relevant parties to make the changes that would ease the transition to a low carbon energy sector in a cost-effective way'<sup>15</sup> by setting out clear expectations and penalties for failure.

23. In addition, Ofgem state that they will use 'an appropriate cost of carbon'<sup>16</sup> when making policy decisions. Ofgem should provide clarification on how they determined the appropriate cost of carbon and in what policy decisions this is an influencing factor.

#### Sustainable energy markets

24. In the final strategy report we would like Ofgem to provide further information on what products they expect suppliers to provide to their customers to help them manage their energy use and consumption<sup>17</sup>, and the incentives for suppliers to do so.

25. With the publication of the green tariff guidelines<sup>18</sup> we believe that Ofgem have missed a significant opportunity to boost investment in renewable energy sources. Given that the majority of consumers said that they would value green tariffs that are 100% renewable<sup>19</sup> this is particularly disappointing. We would like to see the development of a strategy for how this can be achieved.

#### Sustainable energy networks

26. Which? is supportive of Ofgem's approval of 'unprecedented investment in the electricity networks'<sup>20</sup>.

27. Which? welcomes proposals to increased access to the National Grid for new generators<sup>21</sup>. This has the potential to help improve the liquidity of the

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<sup>14</sup> Paragraph 3.5, Proposed Corporate Strategy and Plan 2009-2014, Ofgem, January 2009.

<sup>15</sup> Paragraph 3.6, Proposed Corporate Strategy and Plan 2009-2014, Ofgem, January 2009.

<sup>16</sup> Chapter summary, Chapter 3. Helping to achieve sustainable development, Proposed Corporate Strategy and Plan 2009-2014, Ofgem, January 2009.

<sup>17</sup> Paragraph 3.8, Chapter 3. Helping to achieve sustainable development, Proposed Corporate Strategy and Plan 2009-2014, Ofgem, January 2009.

<sup>18</sup> Green supply guidelines, Ofgem, February 2009.

<sup>19</sup> An Ipsos MORI poll commissioned by Ofgem revealed consumers strongly support green tariffs using 100% renewable energy, "84% of participants feel that "all electricity derived from renewable sources" is very valuable - by far the most valuable feature of those listed which could make up a green tariff.

<sup>20</sup> Paragraph 3.12, Chapter 3. Helping to achieve sustainable development, Proposed Corporate Strategy and Plan 2009-2014, Ofgem, January 2009.

wholesale market and to improve diversity of UK energy sources. However, we feel that it is important that Ofgem clarifies what will happen if the proposals are not accepted, what the implications will be and what alternative options there are.

#### Helping to protect the security of Britain's energy supplies, work theme 4

##### Removing barriers to security of supply

28. We believe that where Ofgem have the remit and powers to remove barriers to security of supply<sup>22</sup>, and are able to present a clear and reasoned basis for removal of these barriers they, should do so. We do not see the necessity of Ofgem to 'seek' to remove the barriers.

##### Options for managing difficulties due to insecure supply

29. We look forward to learning more about the options that market participants have to 'manage the difficulties created by high and volatile prices during periods of tighter supply'<sup>23</sup>.

##### Additional issues to be addressed

30. In addition to the proposals as they are set out we believe that Ofgem must provide information on:

- > What the rate of 'erosion of excess generating capacity'<sup>24</sup> is expected to be and the provisions should the rate of erosion exceed this predicted rate.
- > What provisions are being developed to address the short falls in gas storage, ranging from the 10% should all the proposed projects be completed<sup>25</sup> to the worst case scenario?

#### Better regulation, work theme 7

##### Self regulation

31. This papers outlines the potential of moving toward self-regulation of the UK energy markets, with particular reference to its potential use in the competitive retail markets. The findings presented in the Energy Supply Prove Initial Findings Report clearly indicated that Ofgem do not believe that

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<sup>21</sup> Paragraph 3.16, Chapter 3. Helping to achieve sustainable development, Proposed Corporate Strategy and Plan 2009-2014, Ofgem, January 2009.

<sup>22</sup> Paragraph 4.11, Proposed Corporate Strategy and Plan 2009-2014, Ofgem, January 2009.

<sup>23</sup> Paragraph 4.12, Proposed Corporate Strategy and Plan 2009-2014, Ofgem, January 2009.

<sup>24</sup> Paragraph 4.5, Proposed Corporate Strategy and Plan 2009-2014, Ofgem, January 2009.

<sup>25</sup> Paragraph 4.8, Proposed Corporate Strategy and Plan 2009-2014, Ofgem, January 2009.



the UK markets are truly competitive. We would welcome clarification as to when Ofgem would envisage self-regulation would be appropriate, including what measure of competitiveness would the retail market need to reach. In addition, we believe that it is important that Ofgem details how they imagine the self-regulation framework would be arranged in order to better protect the interests of the consumer, including provisions for enforcement.

*Consumer First* initiative- Greater engagement with consumer organisations

32. Which? welcomes Ofgem's recognition of the need to establish more effective working relationships with consumer representative organisations<sup>26</sup>. This is especially important given that Ofgem's first priority is protecting consumers. In order to achieve this we strongly recommend that Ofgem gives more consideration to the limited resource that many consumer organisations have and that consequently it can be exceedingly difficult, if not impossible, to respond to consultation with very tight timeframes such as the 10 working days given to respond to the debt-blocking consultation and the 65 working day consultation.

Retail markets

33. The recognition of the lack of a competitive fringe in the retail markets is welcomed and is further evidence of the stagnant nature the competitive UK energy markets. We are supportive of reforms that would encourage and support new entrants and the development of the competitive fringe. Given the current economic climate we will be very interested to see how Ofgem will look to do this.

Improving Ofgem's accessibility and transparency

34. Which? strongly believe that to truly improve access and transparency Ofgem need to ensure that they:

- > Provide a clear and strong rationale for all decisions;
- > Provide clear timetables for their actions;
- > Give consideration to the implications of issuing numerous consultations with overly tight timelines.

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<sup>26</sup> Paragraph 7.11, Proposed Corporate Strategy and Plan 2009-2014, Ofgem, January 2009.