

Neil Barnes
Ofgem
9 Millbank
London
SW1P 3GE

The Havens
Ransomes Europark
Ipswich IP3 9SJ

T 01473 725943
E info@havenpower.com
W www.havenpower.com

19th February 2009

Dear Mr Barnes,

Consultation Response: Addressing unfair price differentials

We are responding to your consultation on the above subject. It is very disappointing that some 10 years after the introduction of full competition that no new scale player has emerged and that you are now considering a return to price regulation which may destroy the prospects for competition for many years.

Whilst customer protection is a priority for Ofgem so too is the establishment of competition. We are concerned that the measures that you are proposing will finally destroy any prospects of scale new entry to the energy markets. We believe that this is likely to be the outcome because:

1. During 10 years of increasingly liberalised pricing no scale new entry has occurred in domestic energy markets. Your proposals raise the prospect of price controls for scale entrants. Given that we have seen no scale entry without price controls it would be surprising if we saw it with price controls.
2. Ofgem are equating competitive markets with uniform low prices and this simply doesn't happen in practice. In the food sector (a sector even more fundamental to existence than energy) there is a huge variation in price for identical products. The largest players have some of the highest prices and sell virtually identical products (with different presentation) for a range of prices – check out the price range of plain table salt in your supermarket you will see it varies by over 100% depending on presentation and intangible features. This price based focus will put off potential new entrants with powerful brands.
3. You are also considering other changes such as the code change proposals associated with major policy matters. These represent a big increase in regulatory risk for market participants. Prospective scale entrants are all likely to have many other opportunities and increased regulatory risk will inevitable push energy a long way down their business development queues.
4. The price control regimes that existed in domestic electricity and gas after full market opening were set against a background of many more players. At that time we had not seen merger of the ex PESs and these players provided the impetus to kick start competition. The world now looks quite different. We have only six scale players and smaller players account for only a tiny percentage of the market. If price controls are introduced there will be much less competitive pressure as there will be much less headroom to go at for competing suppliers and much less incentive to compete.

5. Your market probe identified a number of barriers to entry. Solving these should be a much higher priority.

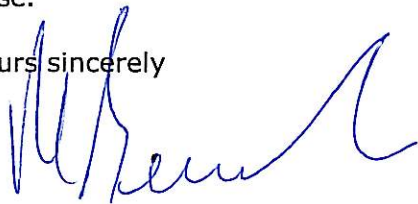
We suggest that rather than reintroduce price regulation, Ofgem should promote competition amongst new entrants and that regulatory changes should be focussed on removing the barriers to entry identified in the market probe. Such promotion could include:

1. the production and communication of a vision for a properly competitive energy market. This should cover both hard (price, margin etc) and soft (brand, choice etc) aspects and would need to paint the energy markets as attractive compared to e.g. insurance, line extension etc. This could be produced in conjunction with potential scale entrants and this would give confidence and drastically reduce the perceived regulatory risks. If of course, the vision was for a vanilla low price market then at least that would be clear and future regulatory decisions could be taken much more strongly on the basis of customer protection rather than competition; and,
2. the establishment of a properly resourced project tasked with achieving scale entry into energy markets. This would need high profile leadership preferably from outside the industry and a remit to define the conditions that would attract scale entry from established brands and then to deliver scale entry. The RPI-X project might provide a model for this but the project would need sponsorship and management at the highest level within Ofgem to attract the right people.

We believe that Ofgem have substantially underestimated the impact of these proposals on potential new entrants.

We do not support the implementation of any form of price regulation however if Ofgem decides to do so we strongly believe that these proposals should not be applied to those suppliers that **only** supply customers that they have **won on a competitive basis** irrespective of the size of the supplier and their customer base.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'P R Bennell', with a stylized, flowing script.

P R Bennell