

## Regulating energy networks for the future: RPI-X@20

### Delivering outcomes:

### Consumer engagement in the regulatory process

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#### Summary

We want the future regulatory frameworks to encourage networks to focus on the needs of existing and future consumers by facilitating delivery of a sustainable energy sector and providing value for money. We also want the regulatory frameworks of the future to be consistent with the principles of better regulation. In this context we are exploring whether there are better ways to engage consumers, and other parties, in the regulatory process to improve the quality, transparency and legitimacy of our decisions.

We examine the conditions that may facilitate more effective consumer engagement, building on our work on consumer engagement since privatisation, particularly innovative methods used in DPCR5 such as the Consumer Challenge Group. We also consider who is best placed to represent the interests of existing and future (end) consumers in the regulatory process. We describe three potential models: Enhanced engagement - a model where Ofgem makes decisions but these are informed by engagement with consumer representatives, network users and network companies; Embedded decisions - a model which provides consumer representatives with a direct role in decision making alongside Ofgem; and Collaborative decisions - a model that confers decision making powers on part, or all, of the price control to consumer representatives.

Our initial view is that, at least in the near future, the focus should be on engaging effectively with consumers to inform Ofgem decision-making. We therefore intend to focus on working up how the enhanced engagement model would work in practice. Details that we will explore through the course of the review include: determining appropriate ways to engage with consumers; identifying core issues that we should engage consumers on; and considering appropriate timing for engagement. We think that there may be a greater role for consumers in decision-making in the future, particularly if the role of networks changes and they have more interaction with consumers, which allows them to better understand consumer needs and preferences. The experience of using the enhanced engagement approach may also help us to understand the potential for consumers to take a greater role in regulatory decision-making. We welcome views on these 'current thinking' conclusions.

We emphasised in our paper on 'What is efficiency' that we also expect networks to engage with end consumers, network users, and the wider energy industry in delivering the desired outcomes. We will consider further how to encourage networks in this direction.

We are presenting this work at an early stage consistent with the guiding principles to the review of transparency and "no surprises" and to stimulate debate. The ideas set out in the paper may change as our thinking develops. We intend to provide further clarification in our winter 'Emerging Thinking' consultation paper.

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## 1. Introduction

1.1. RPI-X@20 is a “root and branch” review of the RPI-X framework that has been used successfully to regulate Britain’s transmission and distribution gas and electricity networks for the past 20 years. We published our first “Principles, Process and Issues” consultation document in February<sup>1</sup>. We remain in the “visionary” phase of the project, which will culminate in our “Emerging Thinking” consultation paper in the winter. We will provide our recommendations to our governing Board, the Gas and Electricity Markets Authority (GEMA), in summer 2010.

1.2. A guiding principle of RPI-X@20 is to ensure active engagement with stakeholders throughout the review. As part of this, we are publishing a series of ‘current thinking’ working papers on our web forum. In our first working paper<sup>2</sup>, we suggested that future regulatory frameworks should encourage networks to focus on the needs of existing and future consumers by facilitating delivery of a sustainable energy sector and providing value for money. In this context we consider here how best to engage consumers in the regulatory process to ensure the quality, transparency and legitimacy of our decisions.

1.3. We emphasised in our paper on ‘What is efficiency’ that we expect networks to engage with end consumers, network users, and the wider energy industry in delivering the desired outcomes. This is consistent with what we observe in competitive markets, where companies outperform each other by striving to meet the needs of consumers, and therefore with the idea of regulation ‘mimicking’ the competitive market. We will consider further how to encourage networks in this direction throughout the review.

1.4. As a body set up to protect consumer interests, we also have a rationale for engaging directly with consumers. For the avoidance of doubt, our duty relates to existing and future end consumers and it is therefore this group that we are interested in. We are mindful of the need to consider engagement with consumer representative bodies and network users in the context of them representing the interests of end users. We note that there are a number of different types of end users including domestic customers, small and medium enterprises (SMEs) and Industrial & Commercial (I&C) customers. Each of these end user groups has different needs and preferences and therefore it is important that appropriate tools are used to engage with representatives from all of these groups. We also need to consider the case for further engagement with other parties, for example independent networks and government as potential representatives of consumers. We also consider it important that we and networks understand the direct interests of network users (as customers of the network) but we do not discuss this issue here.

1.5. The better we understand the needs of existing and future consumers, the better able we are to tailor the regulatory framework to meet their interests. We do not have complete information on consumer interests, or on the extent to which networks are meeting those interests. We have therefore recognised, since privatisation, the need to engage with consumers, and their representatives, to understand their interests better. Most recently, under DPCR5 we established a dedicated Consumer Challenge Group to represent consumer views and act as a counter-balance to the network companies. We also undertook, as in previous price control, a programme of market research to explore issues such as willingness to pay. Increasing emphasis has also been placed on DNO stakeholder engagement and, under DPCR5, they must demonstrate this in their business

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<sup>1</sup> This paper is available from: <http://www.ofgem.gov.uk/Pages/MoreInformation.aspx?docid=1&refer=Networks/rpix20/publications/CD>

<sup>2</sup> This paper is available from <http://www.ofgem.gov.uk/Pages/MoreInformation.aspx?docid=27&refer=Networks/rpix20/forum>

plans. More generally, Ofgem has taken steps to increase significantly engagement with consumers and understanding of consumer issues as part of the Consumer First initiative.

1.6. Whilst recognising the benefits of consumer engagement undertaken to date, we are using the opportunity of RPI-X@20 to explore whether there may be scope to do more to improve the quality, transparency and legitimacy of our decision-making. A 'root and branch' review focused on the future regulatory regimes allows us to step back and consider a range of models that may more effectively ensure the interests of consumers are represented but which may not be immediately feasible. Our paper relates to work by Littlechild and Cornwall<sup>3</sup>. We are currently developing our thinking on this and intend to publish a paper exploring this issue in the autumn.

1.7. In this paper we consider whether there is a case to change the role of consumers in our decision-making processes in the future.

- We explain why consumer engagement is needed, describe current arrangements, and provide an overview of the debate so far in the context of RPI-X@20.
- We consider what the likely conditions for effective engagement are and, in this context, assess which parties are best placed to represent the interests of consumers.
- We set out three potential models for consumer engagement and consider which is likely to be most effective for regulatory determinations, both in the near future and in the longer term.

1.8. The paper also makes reference to the potential to provide consumers with some form of right to appeal Ofgem regulatory decisions. However, neither the case for implementation of such a mechanism nor the form that such a mechanism may take is explored in detail here. We are currently developing our thinking on this and intend to publish a paper exploring this issue in the autumn.

1.9. The ideas in this paper reflect Ofgem's current thinking and may be subject to change over the course of the review. We intend to consult formally on the issues discussed here in our winter 'Emerging Thinking' consultation paper. This paper is not a consultation or decision paper. The proposals in this paper have been developed for the RPI-X@20 project alone and do not in any way bind or constrain GEMA's flexibility – both now or in the future – when taking decisions and in interpreting its legislative powers and duties. Consistent with the guiding principles of the review, the initial ideas presented will not be applied retrospectively, including in the context of DPCR5.

## **2. Background on the role of consumer engagement**

2.1. In this section we explain why consumer engagement may become more important in the future, describe the current arrangements for consumer engagement, and provide an overview of the debate so far on consumer engagement in RPI-X@20. This sets the scene for the development of our current thinking in the remainder of the paper.

*Why might consumer engagement be more important in the future?*

2.2. Our principal objective is to protect the interests of existing and future consumers. To perform this task effectively it is important that we understand their needs so we can represent their views in regulatory decisions. This applies to all end consumers, including domestic, SME and I&C consumers, given the differences in views and preferences that

<sup>3</sup> <http://www.ofgem.gov.uk/Networks/rpix20/publications/CD/Documents1/User%20participation%20Ofgem%2028%20March%202009%20-%20final.pdf>

these consumers may have. In discussions on RPI-X@20, stakeholders have suggested there is a strong case for increased Ofgem engagement with end consumers to ensure that we have effectively appraised their needs and can protect their interests. The findings of the Consumer First panel also highlighted consumer expectations that a consumer body such as Ofgem should represent their interests in the regulatory regime.

2.3. We do not have full information on the needs of existing and future consumers and we recognise that there are limitations on how far we can go in obtaining this information. For example, the complexity of the regime and the diverse range of domestic and business consumers that we represent can be obstacles to obtaining a clear understanding of consumer views. The constraints are clearly amplified when we consider the needs of future consumers. We should strive to go as far as we reasonably, and effectively, can to obtain and make use of available information.

2.4. Effective engagement with consumers improves our understanding of their needs and informs the development of regulatory policy. If consumers are able to input views and potentially influence outcomes from the regulatory settlement, this should also facilitate greater consumer confidence in the process. In addition, the better informed we are about consumer needs, the better placed we are to assess the extent to which networks are focused on the needs of their consumers.

2.5. Since privatisation, we have placed increasing focus on understanding the needs of consumers as part of the regulatory settlement. Details of the way consumer engagement has evolved are provided below. Despite increasing consumer engagement, there is a rationale for both us and the network companies to do more. This is particularly relevant given the emerging challenges in facilitating the transition to a low carbon energy sector and the associated increase in network charges that consumers will ultimately pay.

2.6. A number of decisions will need to be taken on the direction of network investment required to deliver carbon and renewable targets and consumers may have an interest in contributing to these debates. This contribution may focus on what is needed for a sustainable energy sector, but is also likely to involve a view on how to transition to a low carbon energy system while contributing to the delivery of value for money for consumers. It will be important to recognise the interests of future consumers in this context.

2.7. We note the concerns that have been expressed throughout RPI-X@20 regarding the complexity of the regime and the barrier to participation that this creates. However, increased engagement may also help to improve consumers' knowledge and understanding of the regulatory regime, enabling them to engage more effectively in the future.

#### *What is the current level of engagement?*

2.8. All end consumers and network users have always had the option to engage in discussions on the regulatory settlement through consultation documents and workshops/ bilateral meetings. However, network companies have generally tended to make more use of these forums than other parties. This may be due to the limited resource that consumer representatives have access to and the complexity of the subject matter. Stakeholders have also noted that past engagement has largely been in the form of technical consultation documents, potentially discouraging consumers and their representatives from involvement in this process. In addition, discussions as part of RPI-X@20 have highlighted that some network users do not feel they have opportunities to influence the outcome of regulatory negotiations meaningfully and therefore see limited benefit from engaging.

2.9. There is general recognition that, since privatisation, Ofgem has placed increasing emphasis on engaging with consumers through the price control process. As part of DPCR3 Ofgem took forward specific engagement with domestic consumers when MORI was commissioned to carry out market research on quality of supply. Since then, focus on end consumers in energy network price controls has increased. This is particularly notable in DPCR5 where we:

- Undertook qualitative and quantitative research with domestic and business consumers to understand their views on quality of service and their willingness to pay for improvements;
- Set up a Consumer Challenge Group of six independent consumer experts, representing a range of types of consumers, to act as a 'critical friend' on DPCR5 proposals;
- Developed proposals to encourage good customer service from the networks; and
- Set out an expectation that DNOs should engage with their stakeholders when developing their business plans.

2.10. More generally we have sought to increase focus on consumers through initiatives such as Consumer First and projects such as the governance review. An overview of our recent consumer engagement is provided in Annex 1.

2.11. We have also worked to develop incentives on networks to deliver consumer-focused outputs. For example, in DPCR5 we have developed a broad customer satisfaction measure. Tools like this could highlight concerns with DNO performance and identify those areas where more engagement with consumers may be beneficial.

#### *The debate in RPI-X@20 so far*

2.12. This paper builds on the discussions that have taken place as part of RPI-X@20 on the role of consumer engagement in the regulatory process. Stakeholders generally agree that, in principle, increased engagement with end consumers is a good thing. Beyond this there is no consensus on how to ensure effective consumer engagement.

2.13. Concerns have been raised about the extent to which engagement should impact on decisions relating to a regulatory settlement. A number of parties have emphasised that decision-making should rest with Ofgem, with its legal duty to protect the interests of existing and future consumers. In this context discussions have focused on how Ofgem can ensure that it understands, as far as possible, the interests of existing and future consumers. Others have suggested that networks and consumers, or their representatives, should be in a position to make decisions on some or all of the regulatory settlement, subject to Ofgem having final approval of any agreements.

2.14. A number of practical limitations on effective engagement have been raised. For example, concerns have been expressed about the complexity of the regulatory regime and the difficulties that this creates for engagement with end consumers and consumer representatives. A number of parties have also raised questions about who is best placed to represent consumer interests and queried whether network users, in particular suppliers, could take on this role. There have also been suggestions that understanding amongst consumer representatives and direct network users varies quite significantly. While there are areas of the regulatory framework that parties can engage on even if they do not have

a good understanding, e.g. quality of supply, there are areas where a solid understanding of the arrangements is needed to engage effectively. We consider these issues here.

2.15. As part of RPI-X@20, we have established a working group which has been discussing the role that consumers could take in the regulatory framework and the type of engagement that may be needed to facilitate this<sup>4</sup>. This group has also highlighted the diversity of views on the issue.

2.16. We have also explored consumer engagement issues with a representative group of consumers via the Consumer First Panel. This research highlighted that although there were some issues that consumers thought they could input to, in general, they considered the regulatory regime too complex for them to engage on and thought that this role would be better performed by a representative consumer body<sup>5</sup>. We have also discussed our ideas with the Consumer Challenge Group currently working on DPCR5. More generally, we have spoken to a number of consumer representatives to obtain their views on effective consumer engagement in the energy networks.

2.17. We have sought to understand the models used by other regulators to facilitate effective consumer engagement. To this end, we have had discussions with the Civil Aviation Authority (CAA) about their use of constructive engagement and with North American regulators on the use of negotiated settlement. We have also published a paper by Littlechild and Cornwall<sup>6</sup> in March which illustrated the range of existing models, used in GB and abroad, to facilitate increased consumer engagement.

### **3. Who can effectively engage on behalf of existing and future end consumers?**

3.1. In this section we explain what conditions are needed for effective engagement with domestic, SME and I&C consumers as part of the regulatory process. We then consider which parties are best able to represent the interests of these consumers effectively.

#### *What is needed for effective engagement?*

3.2. We recognise the scope for end consumers to have more involvement in the regulatory regime. However, for engagement to be effective a number of preconditions need to be in place.

- *Understanding of consumer needs:* Where parties are engaging on behalf of domestic, SME or I&C consumers, they need to have a solid understanding of the needs and preferences of the consumers that they are representing. This ensures they are able to add value to the process in terms of representing consumer views and providing an insight into their requirements.
- *Understanding of the regulatory regime:* Consumers, or parties engaging on their behalf, need to have a solid understanding of the regulatory framework to engage

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<sup>4</sup> This working group comprises consumer representatives, distribution and transmission network companies and a supply business.

<sup>5</sup> The findings of this research are explored in more detail below in paragraph <http://www.ofgem.gov.uk/Networks/rpix20/publications/CD/Documents1/User%20participation%20Ofgem%2028%20March%202009%20-%20final.pdf>

<sup>6</sup> Potential scope for user participation in the GB energy regulatory framework, with particular reference to the next Transmission Price Control Review, Report to Ofgem, Stephen Littlechild and Nigel Cornwall, 28 March 2009. Available from: <http://www.ofgem.gov.uk/Networks/rpix20/publications/CD/Documents1/User%20participation%20Ofgem%2028%20March%202009%20-%20final.pdf>

effectively. We note the different levels of understanding of consumer representatives, network users, and other parties potentially representing consumers in this area but think steps could be taken to enable those with less expertise to develop their knowledge. Although we note that Consumer Challenge Group members had prior regulatory knowledge, their experience illustrates consumer representatives' ability to engage where time and resource is devoted to developing their understanding.

- *Resources to engage:* The regulatory process can be detailed and lengthy. To be effective, parties need to invest time and effort in the regulatory process. This requires resources (money, expert people and time) and decisions need to be made about the merits of devoting resource to regulatory decisions instead of other areas. We have heard from many parties that the resource available to individual consumers and, importantly, consumer representatives is limited and this constrains their engagement in the regulatory process. For example, in our governance review<sup>7</sup>, we consulted on the establishment of an advocacy panel fund<sup>8</sup>. However, there was limited support for this, with Consumer Focus citing that it would create resource implications, both for them in seeking advice and for the end consumers applying for support. We think there is merit in ensuring that representatives of all types of consumers and network users have access to the resources needed to allow them to engage in regulatory issues. For instance, members of the Consumer Challenge Group are paid as consultants for the time they spend engaging on DPCR5 and other issues.
- *Appreciation of trade-offs:* Parties engaging need to understand the trade-offs associated with decisions taken and the implications that the delivery of certain objectives will have for achieving others. For example, facilitating the delivery of a low carbon energy sector will have implications for network costs, which is counter to the desire to achieve low cost energy supplies in the short term. However, deferring investment to ensure lower costs in the short term means costs may be significantly higher in the long term as the effects of climate change may be more costly to address.
- *Willingness to engage:* Willingness to engage is likely to be higher the greater the impact of decisions on consumers or network users and the more the parties feel they can meaningfully influence these decisions. Varied views are likely to be expressed by different types of consumers and network users during engagement. Therefore, it is important that there is some way to assimilate these views effectively to demonstrate where views have influenced the proposed regulatory settlement and to explain robustly why certain views have not been reflected to avoid discouraging future participation.

*Who is best placed to engage in the regulatory process on behalf of end consumers?*

3.3. In the context of ensuring effective consumer engagement as part of the regulatory process we consider here which parties are best placed to be involved. We focus on specific groups and welcome views on whether there are other parties to consider in this context.

- **End consumers (existing and future):** End consumers include domestic consumers and SMEs who have relatively low energy usage and are likely to be less engaged on these issues. Also included as end consumers are I&C consumers who are relatively

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<sup>7</sup> Initial proposals is available from: <http://www.ofgem.gov.uk/Pages/MoreInformation.aspx?docid=199&refer=Licensing/IndCodes/CGR>

<sup>8</sup> The Advocacy Panel fund would allocate funds, raised from industry, to smaller users (including new entrants) and consumer representatives to enable them to have resources to more effectively engage in the industry code change process. One proposal was for Consumer Focus to administer this fund.

more energy intensive and therefore more likely to be engaged in these issues. There are a range of issues that may be important to these groups with the potential for preferences to vary by grouping, as well as within groups. It is therefore important to have an understanding of the needs of all of these groups.

Our principal objective requires that we protect the interests of existing and future end consumers. It is inevitably more difficult to predict the needs of future consumers, although the move towards a sustainable energy sector is in the interests of existing and future consumers. We recognise that there may be situations where the needs of existing end consumers may not be aligned with those of future consumers and we will need to consider how best to balance these interests in the absence of a clear representative of future consumers.

We need to be realistic about the potential for final consumers to engage meaningfully in regulatory discussions. For example, a recent Consumer First Panel event highlighted the complexity of both price controls and energy networks more generally, which makes it difficult for consumers to understand the issues. In these discussions consumers suggested that it was more appropriate for their views to be represented by a consumer body but they were keen to engage where they would be able to provide consumer insights. In particular, they suggested that they may be able to engage on social issues and quality of supply. Consumers also suggested that there was potential for local community involvement in these types of issues, potentially from local councils and interest groups. This would be similar to the form of consumer representation used in the negotiated settlement approach in North America, where interest groups are established to represent the views of particular users.

- **Consumer representatives:** Consumer Focus<sup>9</sup> is a statutory body representing the views of domestic consumers on energy and postal issues. Other bodies provide consumer representation on specific issues or for specific groups, e.g. Age Concern and Help the Aged. There are also representatives for SMEs, such as the Federation of Small Businesses (FSB) and the Confederation of British Industry (CBI). These representatives have the opportunity to engage directly with Ofgem via the Small and Medium Users Group (SMUG). There are also routes for I&C consumers to engage directly with us on key issues through forums such as the Large Users Group (LUG). Where I&C consumers do not have the resource or expertise to engage directly, there are dedicated representatives, such as the energy intensive users group and major energy users council, which can engage on their behalf.
- **Network users:** Through RPI-X@20 suggestions have been made that network users, for example suppliers, may be able to represent the views of consumers in discussions on the regulatory regime. The views of these parties may not be aligned with consumer interests in all respects but there may be areas (e.g. local issues) where they have similar views. Network users may also be able to provide consumer representatives with a full understanding of the pros and cons of policy decisions and help to act as a counterbalance to network companies in regulatory negotiations. Where network users are involved in regulatory discussions, this should also improve the alignment of incentives along the energy supply chain. If network users were involved in regulatory discussions, future network users should also be considered to ensure barriers to new

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<sup>9</sup> We note that the Consumer White Paper "A better deal for consumers: Delivering Real Help Now and Change for the Future" is considering whether to establish a Consumer Advocate as part of Consumer Focus. This Advocate would be set up to protect consumers in the financial markets sector and would not be expected to deal with network regulation issues..



entry are not created. We will consider further the extent to which network users may add further value to the process in terms of representing the views of consumers. We need to be mindful of the need for a broad range of network users to be represented to ensure all interests are engaged in the process. Smaller network users may have similar resource and expertise constraints to those discussed above for consumers and consumer representatives. We may also need to consider whether a different role would be appropriate for suppliers that have network interests and those that don't.

We recognise the merits associated with a model for greater consumer engagement which provides a role for network users but our principal objective is to protect the interests of existing and future consumers. If network users had a role in a model to facilitate consumer engagement, this would need to have benefits for consumers.

- **Independent networks:** Similarly to network users, independent network operators may also be able to represent the views of consumers. Arguably, they will have greater motivation to ensure cost reflective charging and outcomes that are in line with the interests of consumers given their role in competing with the incumbent networks. They also have close contact with developers, as large consumers of network services.
- **Government:** While consumer representatives may be able to reflect existing consumer interests in discussions on the regulatory regime, it may prove difficult for them to represent the views of future consumers. Arguably, Government are the elected representatives of consumers and with their focus on sustainability they are actively considering the interests of future consumers. Government may therefore be able to represent the interests of current and existing consumers. We need to consider further how this role sits both in terms of engagement with other parties, and in terms of our role as an independent regulator tasked with ensuring the needs of these consumers are met. There is also a potential role for local government in these discussions given the part they play in promoting sustainable development, including the development of low carbon towns.

3.4. Our current thinking is that engagement with representatives of domestic, SME and I&C consumers is most likely to be effective, but there may be an increasing role for end consumers in the form of consumer groups (e.g. local communities). We also think there is merit in including network users and potentially independent networks in any engagement, both as direct consumers of network services with their own concerns and as parties that may provide additional information on the interests of consumers. We will consider further, within the overall regulatory framework of the future, what the role for government as a party engaging on behalf of existing and future consumers might be. We need to be mindful of the need to consider implications of any decisions on future consumers and consider whether these interests are adequately represented by these groups.

3.5. We also expect networks to engage directly with a number of parties along the supply chain and with consumers. Effective engagement by networks may involve a different range of parties, including potentially more contact with individual consumers or local consumer groups. We will consider engagement by networks with consumers, network users and other parties in the supply chain further throughout the review building on work in DPCR5.

## 4. Potential models to facilitate greater engagement

4.1. There is a range of ways in which engagement within the regulatory settlement can be increased as well as a range of parties that could also be involved in the process, as we have discussed above.

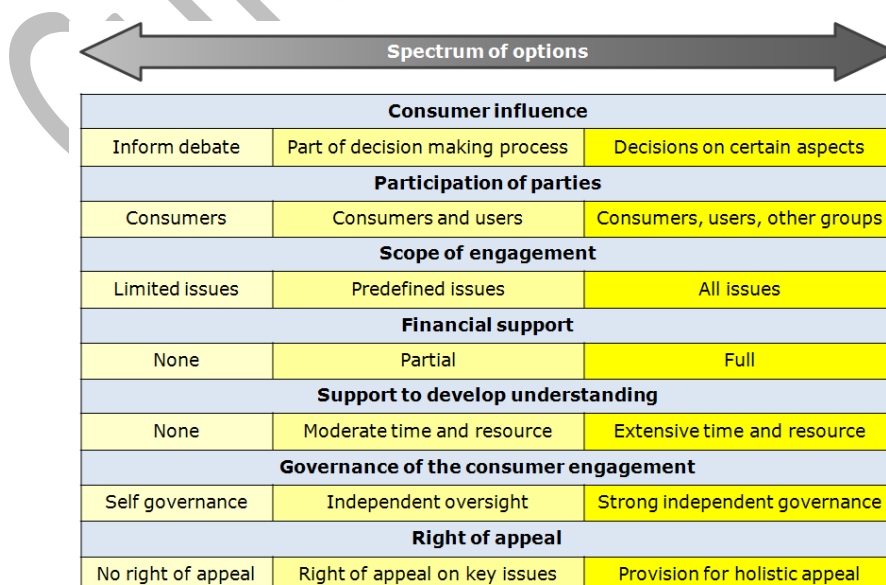
4.2. Littlechild and Cornwall (2009) reviewed the case for introducing models that were used in other countries or sectors for GB transmission. The models considered were:

- The public contest method used in Argentina;
- The constructive engagement approach adopted in the UK by the Civil Aviation Authority;
- Negotiated settlements used in parts of the US and Canada; and
- Negotiated services used in Australia.

4.3. They concluded that a model related to the airports constructive engagement model is likely to be the most promising option for transmission networks. They noted that the public contest model would be difficult to implement without a change in the statutory framework and that it may limit the power of the regulator too much. They also found that the benefits of negotiated settlements may be delivered through a form of constructive engagement model, with an ongoing roll for the regulator as a back-stop or final decision-maker. These conclusions are likely to apply equally to distribution, although we consider further below the extent to which engagement with consumers may vary by sector.

4.4. Building on the work of Littlechild and Cornwall, we have discussed alternative models with a number of different regulators and stakeholders, and we have considered how best to deliver the benefits of these models. Figure 1 below illustrates the spectrum of options related to each feature of a model designed to increase engagement on the regulatory settlement. Across the spectrum we are of the view that there should be a central role for Ofgem in decision-making, including as final sign-off on any aspects that might be agreed between a network and other parties. We are not considering models such as public contest or negotiated settlements, as they have operated in other countries, but we are considering whether there is scope to obtain some of the benefits of these models through engagement within our regulatory process.

**Figure 1 Spectrum of options for consumer engagement**



4.5. Building on the spectrum of options illustrated in Figure 1, we describe three models of how Ofgem could increase engagement with consumers, and in some cases, network users. Each of the examples would complement existing mechanisms to facilitate consumer engagement and, where they impact on these tools, this is noted and explained. We remain committed to thorough formal consultation and to using tools, such as consumer surveys, to inform policies on quality of service and willingness to pay given the insights that these provide on consumer preferences. We are also keen to use innovative methods, such as the Consumer First Panel, to understand the views of end consumers. We would welcome views on these options and ideas on alternative models to facilitate consumer engagement.

4.6. In each of the models below, we reference the potential to introduce a mechanism for consumers to appeal certain elements or the entirety of the regulatory settlement where they are dissatisfied with the outcomes reached. This is not an issue that is explored in detail in this paper but we intend to publish a paper looking at these issues in the Autumn.

#### *Model 1: Enhanced engagement*

4.7. The 'enhanced engagement' model would focus on facilitating discussions between network companies, consumer representatives, network users, and potentially other parties with the discussions overseen by Ofgem and the parties receiving an open invitation to participate. We recognise that there are a range of forms that this model could take to facilitate effective engagement with consumers but, for ease of exposition, this section highlights just one such approach.

4.8. The structure of discussions may take a similar form to the constructive engagement model adopted in airport regulation. Under the enhanced engagement model parties affected by the regulatory settlement would get together to discuss key areas of the regime. At an early stage in the review the parties would identify key issues on which they were keen to engage, and this would set the agenda for discussions. A series of interactive meetings would subsequently be held throughout the review to facilitate engagement in these areas, focused on specific proposals brought forward by meeting attendees. We recognise that it will be important for clear and transparent information to be shared during this process. A key difference between this approach and constructive engagement is that the discussions would play a role in informing decisions, rather than providing a forum for parties to reach agreement on a recommended way forward. However, if parties reached agreement on certain proposals these recommendations could be given to GEMA as outcomes of the process. GEMA would then have the discretion to approve/reject these. Ofgem would also attend the discussions and could both govern the process and convey the key messages to GEMA.

4.9. This process may be complemented by existing consumer groups, e.g. SMUG and LUG<sup>10</sup>, which could act as a forum for consumers and their representatives to share views on the issues being discussed. To ensure domestic consumers were also considered in these discussions, the process could be complemented through the use of the Consumer First Panel and deliberative forums. We recognise the valuable role the Consumer Challenge Group has played in DPCR5 and, under this model, the group would be retained to continue its role in acting as a 'critical friend' on the emerging proposals. We note that this may extend the timetable for the review, but think it would be warranted if it facilitates meaningful engagement.

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<sup>10</sup>The Large Users Group (LUG) and Small and Medium Users Group (SMUG) were established when Offer and Ofgas were merged into Ofgem. Alongside informal meetings, these forums are one of the main ways that we engage with business customer representatives.

4.10. The scope of influence for consumer representatives, network users and potentially other parties, would be limited to informing decisions but this model would provide the opportunity to set the direction of discussions and provide ongoing access to Ofgem and the networks to promote consumer views.

4.11. During RPI-X@20 discussions, stakeholders have highlighted concerns regarding the significant volume of materials provided during the process of constructive engagement in the airports sector, which had the effect of swamping those participants seeking to engage. Learning from this experience, arrangements would need to be established to govern the targeted provision of timely, user-friendly information from the networks. Where information allowed consumer representatives and network users to fully appreciate policy trade-offs and implications of policy decisions, this would facilitate an enhanced understanding. To supplement this, Ofgem could also ensure the availability of factsheets and targeted documents on the regulatory framework, complemented by seminars to allow parties to probe areas requiring greater clarity. We could also seek to make documents and associated policy decisions more accessible to all, building upon the experience of DPCR5. The provision of information in this way could facilitate learning over time by consumer representatives and network users. Recognising the limited resources to which consumer representatives have access, and building upon the experience of the Consumer Challenge Group, some financial support may also be made available to consumer representatives to facilitate their ongoing engagement in the process.

4.12. Ofgem would have a role in overseeing and coordinating discussions to ensure that the relevant areas were covered and that all parties had opportunities to contribute. As part of this, it would be important for us and network companies to demonstrate how the views of consumer representatives and network users had been taken into account in developing the final proposed regulatory settlement. Where their views had not been reflected in the final decision, it would be important that robust reasons were given for this.

### *Model 2: Embedded decisions*

4.13. The 'embedded decisions' model would be used as a complement to, or extension of, the 'enhanced engagement' model. The approach would build on the Consumer Challenge Group by providing elevated status to one or more consumer experts in terms of their influence on the regulatory settlement. The Consumer Challenge Group currently informs decision-making processes of senior Ofgem staff and the Authority via meetings with the DPCR5 Authority sub-committee at which they present their views. They also produced an interim report, as part of DPCR5, providing an overview of the key issues they have considered as part of their deliberations<sup>11</sup> and are intending to produce a final report at the end of the process. There may also be lessons to learnt from the Ofcom independent Consumer Panel and its relationship with the Ofcom Board when considering this model.

4.14. Under the embedded decisions model, one or more consumer representatives would be elected to the GEMA sub-committee established to oversee the development of the regulatory settlement, along the same lines as the appointment of other experts to this group. This would allow the consumer representative(s) to contribute to discussions and directly influence decision-making process by providing ongoing access to members of GEMA. To ensure that the representative(s) would be able to add value over and above the non-executive Directors (NEDs) appointed to GEMA with extensive consumer expertise, the consumer representative(s) could be elected from the Consumer Challenge Group. The

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<sup>11</sup> This is available from: <http://www.ofgem.gov.uk/Pages/MoreInformation.aspx?docid=20&refer=Consumers/CF>

elected representative(s) would have a role in attending the meetings taking place under an enhanced engagement approach. The main advantage of such an approach is that the elected representative(s) would be able to provide insights from the Consumer Challenge Group, and potentially wider discussions with consumers, network users and other parties, to GEMA. This would maintain focus on delivering outcomes in the interests of consumers and complement the recent appointment of NEDs to GEMA that have extensive consumer experience.

4.15. The role of the consumer representative(s) would need to be determined at the outset. In particular, a decision should be taken on whether they should participate in all GEMA sub-committee sessions or only in sessions on issues of direct relevance to consumers.

*Model 3: Collaborative decisions*

4.16. This model could be considered an extension to the enhanced engagement model outlined above. It is analogous to CAA’s constructive engagement. As noted by Littlechild and Cornwall (2009), the model could be adapted to deliver some of the benefits of negotiated settlements.

4.17. Consumer representatives, network users, potentially other parties (e.g. independent networks; government) and network companies would have an open invitation to participate. However, the role of the group would not be limited to informing decisions, rather pre-defined issues would be designated for these parties to agree, subject to Ofgem and GEMA approval that any decisions were consistent with its principal objective and statutory duties. If such an approach were adopted, a transition period would be needed. Over this period, Ofgem would need to work up its own position on the areas designated for agreement between the parties to ensure that, in the event of non agreement, a sensible fallback option was available.

4.18. Under this model a strong governance would be needed and, as the independent regulator, we would be best placed to perform this role. We would need to designate the issues for parties to agree between them, potentially drawing on their views in this area. If such an approach were adopted as a successor to enhanced engagement, this may provide insight on the areas of the regime that it would be appropriate for the parties to agree. Learning from the CAA’s experience, it would be important to ensure effective information sharing between the various parties participating in the process throughout the course of the review. This may require strict rules setting out when specific information would be released and the format in which it would be provided, to facilitate understanding of the key issues.

**5. A practical assessment of the shortlisted models**

5.1. There are indicators against which the models for consumer engagement could be assessed which draw on the requirements for effective engagement outlined in paragraph 3.2. These are outlined in Table 1 below, alongside an assessment of each option.

**Table 1: Assessment of each of the examples presented**

<b>Enhanced engagement</b>	<b>Embedded decisions</b>	<b>Collaborative decisions</b>
<i>The extent to which the model delivers outcomes in the interests of consumers</i>		
• Parties participating to	• Significant influence	• Provides most opportunity

<p>represent consumer interests would only be able to inform Ofgem decisions.</p> <ul style="list-style-type: none"> <li>• This could be a powerful tool if these parties can effectively represent consumer views in discussions.</li> <li>•</li> </ul>	<p>conferred to consumer representative elected to the GEMA sub-committee. If a complement to enhanced engagement, may motivate consumer engagement by providing direct access to a GEMA sub-committee member.</p> <ul style="list-style-type: none"> <li>• Consumer representative would need to have a clear understanding of consumer needs.</li> </ul>	<p>to influence but some parties that might be involved could have limited expertise and insufficient resources –undesirable outcomes may result. GEMA may therefore veto decisions negating the impact of engagement.</p> <ul style="list-style-type: none"> <li>• Parties representing interests of consumers would need a full understanding of consumer needs –not clear this is presently the case.</li> </ul>
<i>Expertise of parties and ability to engage</i>		
<ul style="list-style-type: none"> <li>• The process of engagement may facilitate development of expertise on the regime over time.</li> <li>• Involves a lower resource to understand regime and engage – consumer representatives may have the resources to do so.</li> </ul>	<ul style="list-style-type: none"> <li>• Crucial that elected consumer representative has thorough understanding of the regime.</li> </ul>	<ul style="list-style-type: none"> <li>• All parties engaged would need to have a firm understanding of the regime to contribute – not clear this is currently the case.</li> <li>• Not clear that consumer representatives have resources or appetite to engage in this way.</li> </ul>
<i>Regulatory burden</i>		
<p>Increased burden compared with now but limited to the need to understand issues and share views.</p>	<ul style="list-style-type: none"> <li>• Increased burden on the elected representative</li> <li>• Potentially increased burden on GEMA</li> </ul>	<p>Greatest regulatory burden on consumer representatives and network users due to the need to agree aspects of the settlement.</p>

### *Initial view*

5.2. We are keen to understand better the extent to which consumer representatives and network users can add value to the regulatory regime by promoting the view of consumers. We note our increased emphasis on engagement with end consumers in recent years, particularly through the Consumer First initiative. In addition, the number of non-executive Directors on GEMA with specialist consumer experience has increased as result of recent appointments and this will help to focus thinking on the needs of consumers. We think that each of the models set out above would facilitate transparency by encouraging the sharing of information and by allowing both consumer representatives and network users to further develop their understanding of the regulatory regime.

5.1. Our current thinking is that an 'enhanced engagement' model should be adopted to provide an opportunity for consumer representatives, network users and the networks to engage in discussions on the regulatory regime. This would provide a forum to allow consumer representatives to input views into the development of regulatory policy. It should also be complemented with the provision of user friendly information to help

facilitate engagement. Areas for discussion should be agreed early in the process to ensure there is clarity on the scope of engagement and that issues of crucial importance to consumers are discussed. The enhanced engagement approach will also allow parties with less regulatory expertise to develop an understanding of this area. As part of our working toward our emerging thinking document, we will further work up details of the way that this model might work in practise.

5.2. We do not think it is appropriate to delegate responsibility for agreement of network regulatory decisions to consumer representatives, network users or other parties. We have concerns that the interests of these parties are not sufficiently aligned, with those of final consumers (existing and future), to delegate primary responsibility to them to agree regulatory decisions. It is also not clear which body would be able to represent the interests of future consumers. While consumer representatives may be better placed to perform this role, we recognise that it is extremely difficult to develop a sufficiently full understanding of the diversity of consumer needs and interests to represent the entire consumer view accurately to make trade-offs between, what may be, competing views from different groups of customers. As such, consumer representatives may not be able to add value in assuming responsibility for agreement of regulatory decisions over and above the role that we currently play. We also have concerns regarding their current access to resources, the current levels of expertise of all but a very small number of individual consumer representatives and their appetite to engage in this way.

5.3. It may be possible to transition to a collaborative decisions model in the future if knowledge were to develop sufficiently or in the event that parties were to demonstrate an appetite for this type of engagement. Consumer representatives are also likely to become more motivated to engage in this way if consumers' experience rising network costs due to the transition to a low carbon energy sector. It is also possible that changes in the role of the networks in the future may mean that they have more interaction with end consumers. For example, if the networks were to play a large part in the roll-out of smart metering, they would have a greater understanding of the needs and behaviours of consumers. If their understanding was improved, it may be appropriate for them to take responsibility for agreeing regulatory decisions with consumers and network users. In the event of transition to a collaborative decisions approach, the less contentious issues may be designated for agreement first with the ability to broaden the scope over time.

5.4. We also do not think it is appropriate to recommend the appointment of a consumer representative to GEMA sub-committee overseeing the development of regulatory settlements. GEMA has a primary duty to protect the interests of existing and future consumers and this is the driver of all decisions made. The recent appointment of NEDs with extensive consumer experience was intended to ensure a greater focus on the needs of consumers and it is not clear that the embedded decisions approach would add value. It would be possible to ensure that GEMA are made aware of the outcomes of any enhanced engagement without specifically appointing an individual to a sub-committee. If there are no NEDs with consumer experience it may be appropriate to review the case for this model.

## **6. In which sectors should engagement take place?**

6.1. Our starting point is that there would be merit in facilitating increased consumer engagement across all of the energy network sectors. We recognise, however, that some of the conditions in individual sectors may make engagement easier or more relevant. Table 2 highlights our early thinking on the characteristics of each of the sectors which may have an impact on the ease of consumer engagement or the relevance.

**Table 2: Characteristics of the energy sectors relevant to increased engagement**

	<b>Electricity</b>	<b>Gas</b>
<b>Transmission</b>	<ul style="list-style-type: none"> <li>• May be more consumer/user interest due to environmental role</li> <li>• Potentially smaller number of users to engage with</li> <li>• Lower portion of bill/limited quality of supply issues – end consumers may be less willing to engage</li> <li>• Interest may increase if costs increase due to transition to low carbon energy sector</li> <li>• Generators and directly connected consumers may want to influence investment decisions</li> <li>• Generators face 27% of overall transmission charges where suppliers face 73% – this may reduce their incentives to engage</li> </ul>	<ul style="list-style-type: none"> <li>• Lower portion of bill/limited quality of supply issues – end consumers may be less willing to engage</li> <li>• Offshore producers, shippers and interconnectors may want to influence investment decisions</li> <li>• Auctions perform this role at the user level</li> <li>• Potentially change in interest due to possible decline – increase in interest if costs increase as a result of decline</li> </ul>
<b>Distribution</b>	<ul style="list-style-type: none"> <li>• Consumers may be more interested as distribution is higher proportion of the bill</li> <li>• Maybe more consumer/user interest due to environmental role</li> <li>• Presence of outputs may make engagement easier</li> <li>• Large number of consumers to engage with</li> </ul>	<ul style="list-style-type: none"> <li>• Presence of outputs may make engagement easier</li> <li>• Potentially change in interest due to possible decline - increase in interest if costs increase as a result of decline</li> <li>• Large number of consumers to engage with</li> </ul>

6.2. Although we recognise that there are certain features of the energy network sectors that may encourage engagement from consumer representatives and network users, and features that may make this more difficult, we think that there is merit in providing the forums to encourage increased engagement in all sectors. This would provide a clear indication of the appetite of various parties for engaging on the regulatory settlement, as well as the issues they are particularly interested in.

6.3. We think that engagement with affected parties in transmission may be easier due to the number of parties involved. We recognise that historically there has not been extensive participation by network users on transmission issues but we think that there is merit in making available the forums to facilitate this. We note that there are also examples of successful engagement on distribution issues, e.g. in the connections steering group. If effective output measures can be developed in transmission and distribution, this could facilitate effective engagement by allowing discussions to take place on tangible regulatory issues. In addition, we will need to consider if the structure of charges in each of the sectors is appropriately defined to make it easier for consumers and network users to determine the implications of certain decisions<sup>12</sup>.

<sup>12</sup> For example, the charging structure in electricity transmission, has a split in revenue recovery between generation and demand which is 27:73. This means that domestic consumers would pick up most of the bill and, as such, it may not be sufficient to rely on effective engagement from generators.



6.4. This assessment represents our early thinking on the applicability of consumer engagement within each of the energy network sectors. We intend to further develop our thinking in this area prior to publication of the emerging thinking consultation document.

## **7. Concluding remarks**

7.1. We think there is a persuasive rationale for more engagement with consumers and network users across all of the network sectors to ensure that consumer interests can be better reflected in the regulatory settlement, in line with our principal objective. While we recognise that certain sectors may be more conducive to increased engagement, we think there is merit in seeking to enhance engagement across all sectors recognising that the issues, and associated debate, will vary.

7.2. Our current thinking is that engagement with consumer representatives, network users and potentially other parties should take the form of an advisory role, building on the success of the Consumer Challenge Group and extending the ability for engagement from further parties. We favour the enhanced engagement model where discussions between consumer representatives, network users, potentially other parties (e.g independent networks, government) and the networks takes place on key issues for two main reasons:

- It will allow parties representing the interests of all types of end consumers to ensure the needs of these consumers are adequately represented in ongoing discussions on the regulatory settlement; and
- The provision of user friendly information to allow enhanced understanding of the issues, should allow parties representing consumer interests to better appreciate the implications of policy decisions and therefore flag up any concerns.

7.3. Discussions would be governed by Ofgem and allow all parties to input their views. Where necessary, additional support would be available to representatives of domestic, SME and I&C consumers, network users and potentially other parties to allow them to develop their expertise. Enhanced engagement led by Ofgem would be complemented by ongoing engagement by the networks themselves with their customers (network users) and end consumers (and their representatives). This will ensure that we, and networks, demonstrate how their views have been taken into account in decision-making.

7.4. We think there may be a future role for consumer representatives, network users and potentially other parties in agreeing decisions on the regulatory regime with network companies. The transition to a model which facilitates this may be appropriate in the event that the networks begin to have greater interactions with consumers due to changes in their role e.g. if they were to play a part in the roll-out of smart metering. In this case, they would develop an improved understanding of consumer needs and preferences and would be better placed to directly engage with them. Such an approach may also become appropriate in the event that parties secure access to the required resource and expertise to engage in this way and to effectively represent the interests of consumers. They would also need to have the appetite to engage in discussions of this nature. At present, we are not convinced that this is the case but we recognise that parties are likely to develop expertise and interest in the process through the enhanced engagement approach.

7.5. We are also considering whether it would be appropriate to allow a right of appeal for all parties affected by the settlement. For example, in situations where parties had engaged and did not feel their concerns had been addressed they would be able to act on this. Where consumers had powers of appeal this may also incentivise effective

engagement from the networks. Conceptually giving parties other than the licensed networks the right to appeal our decisions appears attractive but we recognise that the devil is in the detail on this issue. We are working on what this might look like in practice to inform our views on the benefits.

7.6. We are keen to hear the views of interested parties on our initial views and on any other models that may facilitate effective engagement.

Current Thinking

## Annex 1: Recent examples of consumer engagement by Ofgem

We intend to introduce a number of measures in DPCR5 to increase the focus on consumer engagement:

- We engaged consultants to undertake a package of qualitative and quantitative research with end consumers. This allowed us to understand what consumers want from their DNOs and their willingness to pay for service improvements<sup>13</sup>. The results of this work informed our proposed changes to the Interruptions Incentive Scheme (IIS) which were intended to reflect better customers' willingness to pay. However, we recognise the limitations of this type of research. In particular, the willingness to pay data relates to a specific point in time and therefore should only be used as a guide in setting incentives for a five year forward looking control.
- We established a Consumer Challenge Group of 6 consumer experts to act as a 'critical friend' and ensure that the perspective of end consumers was considered throughout the DPCR5 process. This has proved successful in helping to ensure we remain focussed on the end consumer perspective and providing valuable insight on developing views in areas that are particularly customer focussed.
- We intend to incorporate incentives to encourage good customer service from the networks. This builds on the discretionary reward scheme implemented under DPCR4 by incorporating, in the scope of reward, the approach that DNOs take to stakeholder consultation. This is also complemented with the proposed implementation of a broad customer satisfaction measure. This includes an end customer satisfaction component (on connections, interruptions and general contact), an objective complaints metric and a measurement of performance in stakeholder engagement.
- We set out an expectation that DNOs should engage with regional stakeholders to inform their business plans<sup>14</sup>. This process has been successful in helping DNOs build relationships and obtain stakeholder views. We intend to work with the DNOs during the DPCR5 period to explore ways of improving stakeholder engagement. This will be complemented by the broad customer satisfaction measure.

In addition, as part of the Gas Distribution Price Control Review, we appointed FDS International to carry out a qualitative and quantitative assessment of consumers' views of the gas distribution networks and the quality of service they provide<sup>15</sup>.

Other example of consumer engagement include:

- Under gas transmission engagement between networks and shippers, as network users, is facilitated through capacity auctions. These arrangements require gas shippers to bid in to primary auctions for capacity on the National Transmission System (NTS). The auctions are intended to provide an indication of the value shippers place on additional capacity and should signal where investment on the network is required. The mechanism therefore allows the views of network users to be considered when planning network investment.

<sup>13</sup> The final report is available from: [http://www.ofgem.gov.uk/Networks/ElecDist/QualofServ/Documents1/1704rep04\\_final.pdf](http://www.ofgem.gov.uk/Networks/ElecDist/QualofServ/Documents1/1704rep04_final.pdf)

<sup>14</sup> Electricity Distribution Price Control Review Initial consultation document, 28 March 2008, available from:

<http://www.ofgem.gov.uk/Networks/ElecDist/PriceCtrls/DPCR5/Documents1/Initial%20consultation%20document.pdf>

<sup>15</sup> Their report is available from: <http://www.ofgem.gov.uk/Pages/MoreInformation.aspx?docid=167&refer=Networks/GasDistr/GDPCR7-13>

- Engagement with consumer representatives and network users also takes place in areas such as the industry codes where there are provisions for consumer representatives to be appointed to code panels and to raise modification proposals. There are proposals to strengthen these provisions as part of the governance review<sup>16</sup>.
- The revised system operator (SO) incentives consultation process also requires National Grid to consult directly with network users on its proposed approach.
- Ofgem has also undertaken a significant amount of direct consumer engagement on various issues including policy areas such as the energy supply probe and the green supply guidelines.

Current Thinking

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<sup>16</sup>Initial proposals are available from: <http://www.ofgem.gov.uk/Pages/MoreInformation.aspx?docid=199&refer=Licensing/IndCodes/CGR>

## **Annex 2: Consumer representation**

### *Statutory consumer representation*

The Gas Consumer Council was established at privatisation under the Gas Act 1986 and its role was to advise the Director General of Gas Supply about matters relating to tariff consumers. Equivalent 'Consumer Committees' were also established in electricity for each of the public electricity supply (PES) areas which were responsible for consulting with suppliers on consumer issues and advising the Director General of Electricity Supply.

The Utilities Act 2000, included provisions for the new regulatory arrangements establishing Ofgem. In line with this, the Gas Consumer Council and Electricity Consumer Committees were abolished and replaced by the Gas and Electricity Consumer Council, known as energywatch. Energywatch was tasked with providing advice and information on consumer matters to public authorities and consumers and representing the views of consumers on such matters.

In October 2008, the National Consumer Council (NCC), energywatch and Postwatch were merged to create Consumer Focus which acts as the voice of the consumer on energy and postal issues. This is complemented by Consumer Direct which provides advice to consumers on energy and post as well as the Energy Ombudsman which settles disputes between energy companies and consumers.

### *Other consumer representation*

We are aware that there are a number of further representatives that represent specific groups of consumers e.g. help the aged, and provide advice to consumers on specific issues e.g. Which? In addition, we are aware that there are representatives for large consumers such as the Energy Intensive Users Group (EIUG) and for Small and Medium Enterprises.

### **Annex 3: Features of a model for increased consumer engagement**

In the main paper, we described the features of a model that could be developed to facilitate increased engagement with consumers. Each of the options relating to these features are discussed in more detail, in turn, below:

- **Influence on decisions:** The aim of the engagement could be to obtain a better understanding of consumer and user views to inform decision-making. Alternatively, the intent of the engagement could be to enable these parties to reach agreement with the networks on certain, or even all, aspects of the regulatory regime;
- **The parties engaged:** Participation in dialogue on the regulatory regime may be limited to final consumers (and their representatives), or could be extended to allow network users to participate. Eligibility could be extended even further to also permit other interest groups to engage in discussions. There may be lessons to learn from the process used to appoint parties with the right to make supercomplaints under the Enterprise Act;
- **The scope of engagement:** It would be important to specify, at the outset, whether engagement was limited to certain aspects of the regulatory regime or if holistic discussions on all aspects of the settlement package would be permitted;
- **Availability of financial support:** There is a rationale for the provision of financial support for consumers, and potentially network users, to facilitate their engagement in these discussions. The level of financial support, from none at all to partial funding to full funding, is an area that would need to be decided in advance of the onset of discussions;
- **Education of consumers:** Engagement could be complemented by an education programme to allow consumers and users to become better informed. Such a programme could be partial, simply making more targeted information available in factsheets, user friendly documents and via the media. A full programme would build on this, including seminars and the provision of an Ofgem contact to provide dedicated support. Education could also relate to the way information is provided to consumers and, in particular, the way that regulatory options are presented;
- **Governance of the process:** At one extreme, the scheme could be self-governed by the parties that are engaged in discussions while, at the other, the scheme could incorporate strong governance from an independent party, such as Ofgem. In between these two extremes is the possibility that an independent party has a role in overseeing the discussions that take place; and
- **Right of appeal:** Where parties engage in discussions and do not feel their views have been adequately taken into account, consideration should be given to the potential to incorporate a right of appeal, similar to the provisions available to the networks. This would provide greater incentives to engage, for both consumers and the networks. It would allow improve consumer understanding which could facilitate an informed appeal at a later stage in the process. The range of options of this feature include no right of appeal, right of appeal on specific aspects of the control or on the entire settlement. We will publish a paper on these issues.