



Ofgem's proposed corporate strategy and plan 2011 – 2016

Response by E.ON

General remarks

- E.ON welcomes Ofgem's continuing commitment to consultation on its five year strategy. The process is important in helping the industry understand how the Authority intends to interpret its statutory duties in the coming year, and helps to provide a degree of predictability and stability.
- The industry is facing a prolonged period of investment in infrastructure to meet climate change objectives and to deliver security of supply. It is important that the regulatory regime provides a stable and robust environment to give investors the confidence they need to invest in the UK. This is particularly important in the current economic climate, in which even large, international companies are finding constraints on raising capital and the UK is effectively in competition with other countries for the available funds.
- We would like Ofgem to include a section in its annual report each year on the activities it carried out, related back to its published strategy and with an explanation of why planned activities have not taken place, or why activities not planned for were undertaken.
- The European Union is going to have an increasing effect on the British energy market. We believe Ofgem needs to work with the government and the industry to understand the potential impact of European energy regulation and codes in order to ensure that they deliver real benefits at reasonable cost to British customers.
- There is potential to reduce the regulatory burden on the industry by carrying out a review of reporting requirements to Ofgem and to other government bodies to remove overlap and duplication.
- We would like to see a performance measure introduced to ensure Ofgem focuses its activities in those areas where it has demonstrable reason to take action. We would also like indicators to measure the performance of Ofgem's consultation process.
- Both DECC and BIS are currently carrying out reviews of the regulatory framework in the UK. This gives Ofgem an opportunity to consider its own activities and processes, to ensure that they are effective and provide value for consumers and to the UK economy more widely, given the wider pressures on public expenditure and the need for infrastructure investment.



Responses to specific questions

Question 1: Are the proposed themes suitable?

1. The themes proposed by Ofgem seem sensible, and cover the areas we would expect to see.

Question 2: Have we identified the right priorities within each theme?

2. We would like to see the review of the impact on customers of the market arrangements for independent gas transporters (IGTs) and independent distribution network operators (IDNOs) that was originally planned for 2010/11 reinstated as a task for 2011, as we think that the current arrangements often result in a poor experience for customers.
3. Demand side management (DSM) and network reinforcement are both important in the transition to low carbon networks, but whilst the existing incentives on DNOs may deliver reinforcement, they are unlikely to be effective in delivering DSM as well. DSM can bring benefits across the whole of the value chain, so a robust framework that provides appropriate incentives and allocates benefits and costs appropriately will be essential. Current trial models for DSM, where a few major users receive payments direct from a DNO, are not likely to be scalable to the degree needed, and we think it is unlikely that customers will want another point of contact in addition to their supplier. We think that Ofgem has a role to play in encouraging the development of demand side management (DSM).
4. It may be useful to consider whether there is a role for capacity or network utilisation measures for energy networks. The large scale uptake of low carbon technologies will increase the load on distribution networks to a point where traditional reinforcement will not offer value for money for the customer, and as we move to smart networks, the load index output measure may become a less useful indicator. Ofgem should consider whether capacity or network utilisation measures could provide a better alternative.

Question 3: Is Ofgem's approach to the challenges ahead the right one?

5. Ofgem's approach seems reasonable, and we support the development of a clear strategy, in consultation with stakeholders, to help the industry plan for the year ahead and beyond. A stable and predictable regulatory environment is fundamental if the necessary investment in the UK is to take place, and we support Ofgem's transparent planning processes.
6. However, we have some concerns that the published corporate strategy is not always translated into action. For example, in last year's plan, Ofgem said that it would carry out a review of IGTs and IDNOs, and this undertaking was repeated in subsequent consultation documents (for example, in Ofgem's consultation on the review of metering arrangements in July 2010). The review was never carried out, and as we said in our response to question 1, we believe it should be reinstated as we believe the current arrangements often have a detrimental effect on customers.



7. We understand that priorities must necessarily change, and of course Ofgem must be flexible enough to meet the challenges of a changing environment. However, we would like to see it publish a review each year of the activities it carried out, related back to its published strategy. This could be included in Ofgem's annual report, and would help stakeholders understand why some activities may not have taken place, and where activities not envisaged in the plan were undertaken, it would be helpful if Ofgem could explain the reasons these activities were carried out, particularly where this might have been at the expense of planned tasks.

Question 4: Are there any areas of regulation that constitute an unnecessary burden that should be removed?

8. The government's National Infrastructure Plan 2010 identified lack of clarity of long term strategy as a key problem with the current regulatory regime. It said that regulators were 'being given insufficient clarity of long term strategic direction and the balance of different objectives by government', and that in turn, regulated companies were 'being provided with limited clarity by regulators around the regulatory outputs against which they are required to deliver'.
9. We agree with this view, and believe that lack of clarity has an adverse impact on the regulated businesses' ability to carry out effective long term planning, and risks the delivery of infrastructure investment. Infrastructure assets often have very long lead times as well as long lives, and if investors are to commit significant funds in the UK, a reasonable degree of stability and predictability in terms of the regulatory mechanisms that will be in place once the assets are operational is essential. We have made this point in response to recent consultations by DECC and BIS on regulation in the UK, and hope that one of the outcomes of their work will be greater clarity from the government that will help Ofgem in turn give greater long term clarity to regulated businesses.
10. Investment decisions are complex, but in principle, greater regulatory certainty could increase investment as it would reduce project risks. The market needs to be confident that the government will maintain a consistent energy policy over time, and that this policy will feed through into a stable regulatory framework without sudden and unexpected changes that could undermine investments. We recognise that flexibility to be able to adapt the regulatory regime to accommodate changes in technology is of course important, but frequent and unnecessary change will undermine investor confidence in the British energy market.
11. The increase in regulation coming from the EU as a result of the third energy package is a potentially significant issue for the British energy market, and could lead to massive change in Britain at substantial cost with little or no benefit to customers. We believe Ofgem should work with the government to protect British customers from bearing the costs of unnecessary alignment. Ofgem needs to work with the energy industry to ensure that the impact of the



European proposals on the British market arrangements is fully understood, and that only those changes that are needed to facilitate cross border trade are implemented.

12. Excessive reporting to government departments, regulators and other bodies can place a significant burden on businesses, with little or no benefit to end customers. There is significant overlap and duplication of reporting in some areas, most notably the energy supply market, with energy suppliers having to provide similar information to fulfil slightly different objectives – for example, suppliers have to provide very similar information on the number of customers and the amount of energy supplied to them for various initiatives, including renewables obligation certificates (ROC) submissions, supplier obligations for the community energy saving programme (CESP) and the carbon emission reduction target (CERT), feed-in tariff levelisation information, customer switching information and market monitoring.
13. We would like to see Ofgem work with government departments to coordinate requests for information so that duplication is minimised, as suggested by the Hampton Review in 2004, principle v: “Businesses should not have to give unnecessary information or give the same piece of information twice”.

Question 5: What performance measures do you believe we should use?

14. One of the most important features of the British regulatory model is that it fosters early engagement and dialogue between market participants and the regulator, through a well established, balanced and open system of consultation and discussion. We would like to see a performance indicator that encourages Ofgem to consult with the industry in a thorough and timely way, and to report openly on its reasons when it rejects stakeholder proposals.
15. If there is a lack of transparency in the decision making process, appeals of regulatory decisions become more likely, which will increase costs to businesses and to the regulator, most of which will ultimately be passed on to customers. DECC’s proposed changes to the collective licence modification process will mean that market participants will instigate appeals in future instead of Ofgem. We hope that Ofgem will continue to work with the industry in an open and transparent manner and that this will mean that the incidence of appeals will not increase.
16. We would like to see Ofgem demonstrating that it is focussing its activities on those areas where there is clear, demonstrable evidence that the market is failing in some way, or where it has explicitly been tasked to do something by the government through stated energy policy. This would give regulated businesses greater confidence in the market and in the regulator itself, in that change would only be instigated where there was a clear reason for it.