

## Response to The Retail Market Review – Findings and initial proposals



Suite 4a  
Ingram House  
227 Ingram Street  
Glasgow G1 1DA  
Tel: 0141-226 3064  
Fax: 0141-221 2788  
Email: [eas@eas.org.uk](mailto:eas@eas.org.uk)  
[www.eas.org.uk](http://www.eas.org.uk)

### Introduction

Energy Action Scotland (EAS) is the Scottish charity with the remit of ending fuel poverty. EAS has been working with this remit since its inception in 1983 and has campaigned on the issue of fuel poverty and delivered many practical and research projects to tackle the problems of cold, damp homes. EAS works with both the Scottish and the UK Governments on energy efficiency programme design and implementation.

EAS welcomes the opportunity to respond to Ofgem's proposals.

### Fuel Poverty in Scotland

The Scottish Government is required by the Housing (Scotland) Act 2001 to end fuel poverty, as far as is practicable, by 2016 and plans to do this are set out in the Scottish Fuel Poverty Statement. The number of Scottish households living in fuel poverty dropped from 756,000 (35.6%) in 1996 to 293,000 (13.4%) in 2002. Half the reduction was due to increases in household income, 35% to reduced fuel prices and 15% to improve energy efficiency of housing<sup>1</sup>. The most recent figures<sup>2</sup> from the Scottish House Condition Survey Key Findings Report show that there were 770,000 households living in fuel poverty in Scotland in 2009, representing 34% of total households.

According to figures produced by the Scottish Government<sup>3</sup> early in 2008, for every 1% rise in fuel prices an estimated 8,000 more households would go into fuel poverty. Based on these figures EAS estimates that there are currently 850,000 households, more than one in three, in fuel poverty in Scotland. This significant increase in fuel poverty is widely accepted to be due to the dramatic increases in domestic fuel prices and EAS is very concerned about the impact on vulnerable customers.

### Summary

Ofgem's principal objective is to protect the interests of consumers. Ofgem seeks to do this by promoting effective competition "wherever appropriate" and the proposals in the RMR are all focused, to large extent, on improving competition or effecting a transition to improved competition.

Given the evidence of high and increasing levels of disengagement amongst consumers (in conjunction with high and increasing levels of fuel poverty), EAS does not believe that it is entirely "appropriate" to rely on proposals that will take a considerable amount of time to impact positively on fuel poor and vulnerable consumers.

In order to encourage "effective consumer activity" (which Ofgem sees as a key driver of competition as well as a stimulant to new entry), EAS believes that immediate focus must be on raising awareness/access for consumers.

**Question 1:** Do stakeholders agree with our findings of the Review in relation to causes of persistent consumer harm and barriers to entry in the energy retail markets. EAS is in general agreement with most of the findings from Ofgem's Retail Market Review (RMR).

<sup>1</sup> Fuel Poverty in Scotland: Further Analysis of the Scottish Housing Condition survey 2002

<sup>2</sup> Revised Scottish House Condition Scotland Key Findings Report 2009

<sup>3</sup> Estimate of Fuel Poverty Households in Scotland: Scottish House Condition Survey March 2009

Actions resulting from the Probe included new and amended Licence Conditions as well as an overarching Standards of Conduct. Despite several consultation respondents expressing concerns about the lack of enforcement attaching to the Standards, Ofgem seems surprised and “disappointed” that suppliers are not, in many cases, “acting in the spirit of the new Licence Conditions or Standards”.

(Stefan Bojanowski, Project Manager of the Review, May 2011)

Persistent consumer harm is likely to continue, however, unless the focus of Ofgem’s interventions are targeted more immediately on actions that support vulnerable consumers rather than focusing on the market within which suppliers operate.

**Question 2:** Do stakeholders consider that Ofgem should take action to reduce the complexity consumers face and enhance engagement with the energy market?

**Question 3:** Do stakeholders agree with our initial proposal for intervention to reduce the complexity consumers face and enhance engagement in the energy market?

**Question 4:** If not, then do stakeholders have alternative suggestions for proposals to reduce the complexity consumers face and enhance engagement in the energy market?

**Question 5:** We are proposing to standardise evergreen contracts across suppliers. Do stakeholders agree with the proposed contents of the standardised charge?

**Question 6:** We are proposing to create a standardised metric to allow consumers to compare evergreen and fixed term contracts across suppliers. Do stakeholders agree with our proposal for a standardised metric?

**Question 7:** Do stakeholders have any comments on the costs and risks of our proposal, or any alternative suggestions that you have put forward, to reduce the complexity consumer face and enhance engagement in the energy market?

Like Ofgem, EAS is disappointed that measures instigated as a result of the Energy Supply Probe have largely failed to improve things for domestic energy users. EAS is particularly concerned that in some respects – volume and complexity of tariffs, for example – the situation for consumers has worsened.

With regard to the standard evergreen tariffs and standard products, Ofgem is aware that this might lead to a two-tiered market and stifled innovation. Ofgem also intends that suppliers will continue to offer an unrestricted number of non-standard tariffs with fixed durations, terms and conditions. Despite the fact that a fixed-term contract might offer a trigger-point for reconsideration by a consumer, EAS believes that there is little in this element of Ofgem’s proposal that would improve consumer understanding, or increase consumer engagement. The number of tariffs has increased since the Probe. Tiered pricing models have been introduced. This unfortunately strengthens the existing barriers, as evidenced by both reduced engagement and a significant number of ‘switchers’ unsure of whether or not they have secured a better deal.

The 2011 Vulnerable Customer Research (FDS International for Ofgem) pointed out the fact that some vulnerable customers ..... struggled to grasp the different propositions highlights the fact that initiatives such as insisting on a common charging structure will only make a difference if people understand what is happening and what it means.

The same report found that Ofgem’s proposal to “control” some of the tariffs prompted the response that “If Ofgem controls it but the bills were difficult to decipher anyway that wouldn’t make a difference because it’s the simplicity of being able to understand what you’re looking at on a bill which makes it easier ..... to think about switching company”.

EAS believes that whilst tariffs need to be better understood/simplified, there is first a fundamental requirement to provide better-targeted support and information for consumers to facilitate understanding and engagement. A set of standard variable tariffs might seem like a straightforward option, but standing charges would create a disproportionate disadvantage for those already limiting their energy use (i.e. self-regulated use of fuel by low income households). Also standing charges may incorporate environmental levies. EAS believes this to be a form of regressive pricing that penalises the fuel poor and/or low income households. These same households will not all benefit from the energy efficiency and fuel poverty schemes funded by the levies.

**Question 8:** Do stakeholders consider that low electricity market liquidity constitutes a barrier to entry in the domestic retail supply market?

**Question 9:** Do stakeholders consider that our two proposed interventions (the MA and the MMM) could improve the ability of the wholesale electricity market to meet independent participants' needs, and will ultimately improve the likelihood of retail supply market entry?

No Response

**Question 10:** Subject to the results of our further wholesale market assessment, do stakeholders consider that both interventions could be necessary to meet the objectives stated in questions 8 and 9?

**Question 11:** Do stakeholders consider that there are other intervention options we should be developing?

**Question 12:** On the basis that we could decide to take forward these interventions, do stakeholders have comments on the indicative design choices we have made, as set out in Appendix 2. In particular, views are welcome regarding our initial position on each of the following:

- Volume requirements

- Product requirements

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- Frequency

- Governance arrangements

- Participation

- Platform

**Question 13:** Do stakeholders have any comments on the costs and risks of our proposal, or any alternative suggestions that you have put forward, to take action to improve wholesale electricity market liquidity?

No Response

**Question 14:** Do stakeholders consider that Ofgem should strengthen licence conditions around suppliers' communications and interactions with their customers, to give suppliers less freedom in how they interpret these obligations?

**Question 15:** Do stakeholders consider that Ofgem should increase its monitoring and enforcement activity to enhance suppliers' compliance with licence conditions?

**Question 16:** Would stakeholders welcome the extension of some elements of the Standards of Conduct into domestic supply licence conditions?

**Question 17:** Do stakeholders agree that more needs to be done to improve consumer trust and use of switching sites?

**Question 18:** Do stakeholders have any comments on the costs and risks of any of our suggested policies under Proposal 3?

Despite recommendations made during previous consultations Ofgem's decisions not to apply appropriate enforcement has effectively delayed a credible compliance regime. Accordingly EAS agrees that Ofgem should take appropriate steps in terms of monitoring and enforcement to ensure supplier compliance in future.

One of the Ofgem actions proposed is that Ofgem should "Directly provide consumers with information/advice regarding the switching process". There are already trust and understanding issues as well as limited consumer awareness of Ofgem and its role. EAS feels that Ofgem is perhaps not best placed to be taking on board this consumer-facing role.

**Question 19:** Do stakeholders consider that Ofgem should strengthen licence conditions to prevent unfair contracting practices in the non-domestic sector?

**Question 20:** In particular, would stakeholders welcome additional licence conditions surrounding the objections procedure?

**Question 21:** Would stakeholders welcome the extension of some elements of the Standards of Conduct into non-domestic supply licence conditions?

**Question 22:** Do stakeholders agree with our position, at this stage, not to extend our proposals on tariff simplification into the non-domestic sector?

**Question 23:** Do stakeholders agree that Ofgem needs to look further at the role of third party intermediaries (TPIs) in the non-domestic market?

**Question 24:** Do stakeholders have any comments on the costs and risks of any of our suggested policies under Proposal 4?

No response

**Question 25:** Do stakeholders agree with Ofgem's proposal to appoint a leading firm of accountants to review the transfer pricing and hedge accounting practices of the vertically integrated suppliers?

**Question 26:** Do stakeholders have views on how Ofgem could improve segmental reporting in future years?

No response

## **Conclusion**

EAS understands the need for greater clarity, particularly with regard to tariffs. However, supplementing a set of evergreen standard tariffs with an unrestricted number of alternative tariffs is not the answer. Ofgem points out that their consumer research has suggested that consumers would welcome simpler tariffs and/or ways of making tariffs more comparable. EAS would point out that the same consumer research also includes the following findings and comments:

- “I don't understand how it all works out to be honest. I just pay the bills”.
- Some vulnerable customers in a focus group struggled to grasp the different propositions ..... highlights the fact that initiatives such as insisting on a common charging structure will only make a difference if people understand what is happening and what it means.
- Not all vulnerable customers grasped that although the unit price would be the same regardless of usage it could still be varied by the supplier and hence go up.
- Lack of clarity over what exactly a 'unit' was and what a 'kwh' was – and whether they were the same or different (and how many of one makes up the other) – seen as a key part of understanding tariffs.

EAS believes that there are more fundamental actions to be initiated by Ofgem and that these actions centre on improving consumer understanding – not necessarily making use of changes to tariffs as a starting point, nor making changes to Licence Conditions.