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24 February 2012

Dear Mr Cooper,

Forward Work Programme: draft for consultation

The Energy Retail Association (ERA) works closely with Government, NGOs, charities and other organisations in England, Scotland and Wales to ensure a coordinated approach is taken on the key issues affecting our industry and the British consumer.

All the main energy suppliers, operating in the residential market, in Great Britain are members of the Association – British Gas, EDF Energy, RWE npower, E.ON, ScottishPower, and SSE.

The ERA welcomes the publication of Ofgem's forward work programme for the year 2012-13. This document is the ERA's response to the proposals outlined within the Forward Work Programme and provides our comments on Ofgem's proposals for the year ahead. This is a high level industry response to the programme, however individual members may also submit their own individual responses.

Overview

The ERA has been at the forefront of developing reform which enhances effective customer engagement and leads to more effective competition. The ERA looks forward to continue working with Ofgem to ensure a dynamic and competitive energy market continues in Great Britain. To illustrate this commitment, it is worth noting that over the past year, Ofgem, the ERA and I&C Shippers and Suppliers (ICoSS) Group have worked together to reform the system of backbilling to make improvements for non-domestic customers. We also value the support that Ofgem has given on the Warm Home Discount and carbon reduction obligations such as the Carbon Emissions Reductions Target (CERT) and the Community Energy Saving Programme (CESP).

The Government's commitment to better regulation through the '[Better Regulation Framework](#)' outlined by the Department for Business, Innovation and Skills has provided a template of how

regulation can move away from a ‘tick-box’ culture to a more thoughtful approach. The ERA has noted in response to the RMR, Ofgem needs to bring certainty, predictability and proportionality to regulation, including in the enforcement of suspected breaches.

It is clear that regulation works best when it is working in the interests of customers to improve the energy market. Because of this, it is important to ensure that regulation is enforced fairly and proportionately. Disproportionate enforcement can often reduce the desirability for existing companies to invest in the UK energy market, or for new entrants to break into the market. To truly achieve the best energy market for consumers, Ofgem should continue working hard to ensure that regulation and enforcement is balanced against the need for companies to make the necessary investments and business choices to make the market competitive, for the benefit of customers.

In terms of Ofgem’s regulatory approach, including enforcement, the proposed shift towards principles-based regulations (PBRs) poses some extremely important questions that Ofgem needs to consider. In this regard, the ERA has written a thought-piece in response to the RMR that explains that any Standards of Conduct (SOCs) would need to be accompanied by changes in other areas, particularly a recasting of the relationship between regulator and regulated to build the trust that PBRs require. We attach this document as an appendix.

The ERA notes that Ofgem has included the promotion of “quality and value” for all consumers as one of its four strategic priorities. We recognise the positive principle, but would welcome clarity as to why it is expressed in these terms since value is generally considered to be a function of quality and price. We would suggest that Ofgem adapts its objective to reflect this. Indeed, it may be useful to look at precedents in other regulatory spheres; for example, the Office of Rail Regulation is responsible for having regard to, *inter alia*, the interests of rail passengers “*in respect of: (i) the prices charged for travel by means of those services, and (ii) the quality of the service provided*”¹. Thus, value is clearly seen as a function of the two.

Helping to maintain the security of Britain’s Energy Supply

We welcome Ofgem’s acknowledgement that the UK’s natural energy resources are in decline, and that the regulator is taking steps to ensure that reduce the effect that this change could have on consumers in the coming years. Energy security is vital to the UK’s economic future, and the health and wellbeing of people within the nation. Competitive markets within continental Europe are key to this future, and we are pleased to see that Ofgem will be using its expertise to ensure that EU directives and regulations work to foster a competitive market in all of Europe as well as the UK.

Although representation for electricity generation is currently within the remit of the Association of Electricity Producers (AEP), the ERA feels that it is important that from a retail perspective, the future of energy security is taken into account. It is crucial that reforms to the energy market do not place unnecessary financial or administrative burdens on energy producers who will be forced to pass this cost on to their customers and consumers. In a climate of rising prices it is important that all actors in the industry do all they can to ensure that unnecessary expenditure is kept to a minimum. The same must also be said for increased costs in network charges.

Promoting quality and value for all consumers

The ERA welcomes steps that help to reduce carbon emissions also help reduce fuel poverty and improve the homes of vulnerable customers.

The ERA has provided a response to Ofgem’s proposals for the Retail Market Review (RMR) following publication last year. As confirmed there, our members are committed to helping build trust between suppliers and their customers, thereby promoting competition.

¹ Railways Act 1993, as amended

Trust is a key part of the energy industry and suppliers are already taking steps to improve this. However, it is important to bear in mind that perceptions of energy companies are shaped by a number of actors, including suppliers, the Government and Ofgem. In order to prevent the unintended consequences of regulation, Ofgem must ensure that its reforms do not damage the customer experience, which would further serve to undermine trust. An example of this could be the removal of tariffs in an effort to make the market simpler. Whilst the ERA welcomes moves to attenuate possible confusion, we must be clear that removing tariffs that customers like or trust may lead to negative customer reactions. Ofgem must ensure that customers are aware of the reasons for this change, and who is leading this approach.

The ERA welcomes Ofgem's proposal to look at the enforcement process, and believes that this is essential in light of the proposed shift towards PBRs through the SOCs. Ofgem must ensure that its approach to investigations and enforcement is appropriate to the suspected breach of the regulation and that the best interests of the customer and the market are borne in mind at all times. Certainty and predictability in terms of what is expected is clearly also of paramount importance.

Ensuring the timely and efficient delivery of Government programmes for a sustainable energy sector

The ERA welcomes Ofgem's comments surrounding building industry trust around the Green Deal and the Energy Company Obligation (ECO). At present, there is concern regarding the implementation of the Green Deal, with some members voicing their concerns that the proposal to make the scheme operational on 1st October may be a significant challenge for them.

The ERA remains concerned that the ECO is inextricably linked with the success or failure of the Green Deal. It is highly uncertain what levels of demand will be from customers for a loan for energy efficiency measures under the Green Deal. If the Green Deal is not a success, the cost of the ECO could double to the detriment of customers, as generally the cost of any obligation will have an impact on energy bills. The ERA is keen to protect customers from unnecessary price rises, and as such is looking to Ofgem to provide leadership in this area.

The ERA is pleased to see Ofgem's acknowledgement of the positive impact on customers of the CERT and CESP programmes. CERT has been a good example of a successful carbon reduction obligation, with co-operation between Ofgem and suppliers and a multitude of opportunities to expand the supply chain, invest in new products and techniques, engage and ultimately benefit customers. CESP suffers from a number of challenges, in terms of policy design, implementation, forced co-operation with specific partners and technical uncertainty. ERA members have welcomed the common working streams with Ofgem to alleviate the impact of those challenges; however this is an example of where a challenging obligation can be rendered even more difficult to meet when the administration is burdensome. We are also keen to continue our discussion with Ofgem on the risks of delivery and what the most pragmatic customer focussed solutions may be.

Budget and Spend

The ERA notes that Ofgem budget forecasts show an increase in spending of around £5m in the coming year in order to fund a contingent spend for both the RMR and DECC projects. The ERA further notes that Ofgem plans to increase its spending by between £1m and £2m each year between the years 2013 and 2017. The ERA notes that these increases are against a background of frozen and reduced budgets in many other parts of the public sector, and budgetary and resource pressures on suppliers, and queries the necessity of these rises.

The ERA feels it is important to note that Ofgem's funds are provided by those it regulates, and that increases in Ofgem's budgets will be met indirectly by energy suppliers, the upshot of which could be

the passing of these costs on to consumers. With this borne in mind, it is important that Ofgem is careful to ensure that only increases that are absolutely necessary should be imposed.

Budget and spend is clearly linked to the resources required for each project. In this regard, we feel that more clarity is necessary on how Ofgem intends to deploy resources, and also further detail on the projects themselves.

Conclusion - key Points

- The ERA is pleased to see that Ofgem is taking energy security seriously, however any moves to protect customers should not be over-burdensome.
- The ERA welcomes Ofgem's pledge to review its enforcement procedures and believes that this is particularly important in light of the proposed shift towards principles-based regulation.
- The ERA welcomes Ofgem's continued support of CERT and CESP, but is concerned about potential issues surrounding the transition from these programmes to the Green Deal/ECO.
- The ERA is cautious about the need to raise Ofgem's expenditure every year until 2017. Against a backdrop of cuts and spending freezes, the ERA would ask more detail in terms of programme delivery that would go further to explaining the necessity of these rises.

If you would like any further information regarding the ERA's position on any of the issues discussed in this paper please contact me.

Yours sincerely,

Alun Rees
Policy & External Relations Manager