



Campaigning for Warm Homes

The Retail Market Review – Updated domestic proposals

Consultation

Comments from National Energy Action (NEA)

Background

NEA is a national charity working to ensure affordable energy for disadvantaged energy consumers. NEA seeks to promote this objective through a wide range of activities including:

- Policy analysis and development to inform NEA's campaigning work
- Rational and constructive dialogue with decision-makers including regulatory and consumer protection bodies, relevant Government Departments, the energy industry and local government
- Practical initiatives to test and demonstrate the type of energy efficiency programmes required to deliver affordable warmth
- Training and educational initiatives to improve knowledge and understanding of domestic energy efficiency among consumers and to ensure a skilled workforce across the energy efficiency industry.

Since fuel poverty results from a combination of inadequate heating and insulation standards, low household income and high energy costs NEA seeks to advance policy across all of these areas. NEA recognises and values the role of Ofgem in these areas whether through action to eradicate consumer detriment and promote the interests of disadvantaged consumers as appropriate in the competitive market, or in regulatory oversight of Government-mandated policies to improve heating and insulation standards or targeted reductions in energy costs.

However, NEA believes that the authority and influence of the regulator can be used in a much more proactive manner to secure benefits for financially disadvantaged energy consumers and this view will inform our comments in response to this consultation.

Chapter Two

Question 1: Do you agree with our characterisation of the problems in the retail energy market

NEA Comment: Ofgem's review of problems in the retail energy market makes for extremely dispiriting reading. After well over a decade of fully liberalised markets the regulator concedes that fundamental issues remain unresolved. Current engagement in the competitive market is minimal; navigating consumer options within the market is complex and fraught with risk; energy suppliers continue to exploit a 'captive' segment of the market; distrust of energy suppliers is endemic; and the industry is resistant to voluntary change to poor practice. Ofgem's regulatory priorities focus on effective competition and a culture of consumer engagement as drivers of an open and fair market and the regulator's analysis of the current situation shows that we are far removed from achieving this aspiration.

Question 2: Do you agree with the findings of our evidence base?

NEA Comment: Ofgem's analysis is comprehensive and the conclusions in relation to market failures are stark. The evidence base is solid and compelling in terms of identifying and commenting on the on-going failures of the competitive market in terms of serving domestic consumers.

Chapter Three

Question 1: Do you agree with our rationale for the proposed RMR package?

NEA Comment: The proposed RMR package is a response to what appear to be chronic and systemic failures in the operation of the competitive market. These perceived failures represent the rationale or justification for further regulatory intervention and, as such, NEA agrees that further action is essential.

Question 2: What are your views on the proportionality of the proposed RMR package in the light of the evidence we have presented?

NEA Comment: NEA believes that the regulator has presented compelling evidence for significant on-going oversight and prescription relating to the domestic energy market. Clearly the provision of domestic energy services differs from general consumer protection issues in that equitable access to affordable gas and electricity is essential to the health and wellbeing of individual households, and must be subject to additional prescription and intervention.

Question 3: Do you agree with our reasons for not proceeding with the alternative options set out below?

NEA Comment: NEA agrees that the regulator should be open to representations and sufficiently flexible to amend proposals in response to reasoned argument. We accept that there is a case for limited prescription provided all suppliers adhere to good practice in customer relations and follow the high level guidance published by the regulator. However we would not see this Retail Market Review, profound and comprehensive though it is, as the final word in regulatory intervention. Monitoring of the market processes will clearly continue and remain subject to subsequent revision.

Chapter Four

Question 1: Are our rules to reduce the number of tariffs appropriate? Have we set the cap on the core tariffs at the right level? Should a different cap be set for time of use tariffs? What derogations from our tariff cap would be appropriate?

NEA Comment: As indicated above, NEA does not see the recommendations of the Retail Market Review as fixed and permanent. We would see the proposal of four 'core' tariffs as a rational starting point and one that will significantly diminish the complexity of the market. We can see no clear justification for additional options relating to time of use tariffs in the current metering regime and would reserve our position on derogation for innovative niche tariffs in this area.

Question 2: What surcharges should suppliers be able to offer without this counting as an additional core tariff, and why? How could these be defined in a licence?

NEA Comment: We do not see any of the examples of 'surcharges' as intrinsic to the concept of the tariff. The examples cited generally sit outside of the charging regime and in the case of meter relocation or repair we would assume that the former would be subject to a standard charge across all suppliers and payment methods whilst the latter incurred no cost to the consumer. We do not see how this could be otherwise given the undertaking within the Priority Services Register to relocate meters for certain categories of vulnerable consumer. In the case of a late payment surcharge, this should be treated as part of general terms and conditions that do not impinge on the tariff structure.

Question 3: Are our rules to simplify tariff structures and discounts appropriate? Should they only apply to open tariffs or be extended to cover dead tariffs too?

NEA Comment: Ofgem's proposals appear to negate the case for simplification of the structure of dead tariffs since suppliers should be moving consumers on from disadvantageous dead tariffs.

Question 4: What categories of dead tariffs should be derogated from our proposals, if any? Are any other measures required to avoid any consumer harm?

NEA Comment:NEA endorses the proposal to address the issue of expensive 'dead tariffs' through what would in effect be automatic transfer to the best alternative.

Question 5: What would be the implementation issues and costs of our proposals?

NEA Comment:Clearly only energy suppliers will be in a position to comment on this issue. However we note the range of costs quoted by energy suppliers and are astonished at the potential disparities in relation to what we assume are broadly similar processes. The range from less than £1 million to almost £100 million indicates that some suppliers at least have not undertaken a serious analysis of cost implications or that they are answering different questions.

Question 6: Is our proposed timeframe for implementation appropriate?

NEA Comment:We would repeat our view that only suppliers are in a position to comment on the feasibility of timescales. Given the disparity in estimated costs we would not anticipate consensus on this issue. However it seems reasonable that Ofgem should set the proposed two-month timescale and that comparatively poor performance or supplier non-compliance could be subject to a financial penalty.

Chapter Five

Question 1: What are your comments on the degree of prescription proposed, and on the design of the documents and their messaging?

NEA Comment:Significant prescription is essential if perceived best practice is to be adopted across the industry. The greater the convergence in terms of form and content (provided these represent good practice) the greater the benefit to consumers. Since a primary motive of Retail Market Reform is to promote a consumer culture of supplier switching it is rational that there be a significant degree of consistency across supplier documentation.

Question 2: What are your views on the appropriateness of content requirements for each of the communication channels?

NEA Comment:We would anticipate detailed comment from agencies that are more consumer-facing than NEA but would note the absence of Appendix 4 and the communications templates from the consultation document.

Question 3: Should Ofgem explore further ways in which suppliers might increase the effectiveness of online/paperless communications?

NEA Comment:As Ofgem notes in this consultation paper some 5 million households (c. 20% of consumers) lack internet access. Since a disproportionate number of these households are financially or otherwise disadvantaged this issue is of limited relevance to many of the most vulnerable households. However, more generally, we would agree that increased use of paperless and online communications is inevitable and of benefit to many energy consumers.

Question 4:Should Ofgem consider making further recommendations, or issuing best practice for enhancing the impact of Annual Statements by looking at messaging and co-branding of envelopes?

NEA Comment:NEA supports the case for significant prescription in relation to best practice relating to consumer communications.

Question 5: Do you agree with the view additional contractual information can be included on an additional page on the Annual Statement?

NEA Comment:In principle, NEA agrees that important ancillary information should be included with the Annual Energy Statement and would see the merits of the statement being considered in a manner analogous to that of a P60 document for permanent retention.

Question 6: What are your views on the classification of dual fuel for the purposes of the template designs?

NEA Comment:The real value of template designs based on hypotheses and focus group evidence will be tested in real-life situations. We assume that the effectiveness of communications templates will be subject to further evaluation in consumer surveys.

Question 7: What are your views regarding including energy efficiency advice in Annual Statements?

NEA Comment:NEA would endorse all attempts to encourage energy consumers to improve heating and insulation standards in their dwelling. However the energy efficiency landscape is extremely complex with different programmes aimed at different socio-economic and tenure groups. In these circumstances it is difficult to see how information could cover much more than a general exhortation to contact a helpline or advice service. We assume that all communications will reference the Energy Saving Advice Service number.

Chapter Six

Question 1: Do you agree with our view that the cheapest tariff message should include both supplier's cheapest tariff for their payment method, consumption and meter type, and the cheapest overall tariff from their supplier irrespective of their current circumstances, personalised by consumption?

NEA Comment: NEA agrees that information on the cheapest tariff should relate both to the consumer's existing circumstances and to the optimal arrangements if the customer is in a position to benefit from such arrangements.

Question 2: Do you agree with the approach to tariff eligibility criteria proposed for supplier's cheapest tariff?

NEA Comment: In general we would support the principles that access to the cheapest tariff offer should not be constrained by factors such as limited availability or application. However we find the wording of this section confusing implying as it does that 'niche' offerings might still undercut the cheapest tariff option albeit not on a universally available basis.

Question 3: We seek views from stakeholders on whether consumers with smart meters and any relevant time-of-use tariffs that the supplier is offering require separate consideration in relation to this policy proposal.

NEA Comment: Customers with smart meters will require additional information specific to their circumstances where time-of-use is a factor in identifying the cheapest tariff.

Question 4: Do you have any suggestions regarding additional rules which they consider relevant for the construction of the cheapest tariff messaging?

NEA Comment: NEA has reservations about the relevance and potential benefit of time-of-use tariffs to many vulnerable households. These concerns relate to their incapacity to revise their consumption patterns and also to the comparative complexity of the message on cost. We recognise the potential unintended consequences resulting from information that is not fully understood but do not see how this possibility could justify failing to communicate such information to consumers.

Chapter Seven

Question 1: Do you agree with our proposal to introduce a price comparison tool?

NEA Comment: This is a fundamental prerequisite of the stated ambitions to simplify tariff information and increase engagement with the competitive market.

Question 2:What is your view about the terminology we are proposing for the two price comparison metrics? Are they clear and easy for consumers to understand?

NEA Comment:Neither Tariff Comparison Rates nor Personal Projections will be immediately understood. Both terms are typical of industry jargon but consumers will have to familiarise themselves with the concepts and the illustrations are reasonably clear.

Question 3:In your view, does our proposal for the TCR strike an appropriate balance between different trade-offs in terms of simplicity, accuracy, confusion and saliency? Please explain the reasons for your view?

NEA Comment:Inevitably there are trade-offs to be made in communicating comparatively complex information in a form that is user-friendly and comprehensible to the lay person. We recognise the difficulties inherent in achieving an effective compromise in this area and believe that Ofgem has developed a good working model; however it remains to be seen how this will work in practice.

Question 4: Do you agree with our proposal for the different features of the Tariff Comparison Rate, and our related proposal on the personal projection? Do you have any thoughts on whether and how time of use tariffs should be accommodated in the TCR and personal projection? Please explain the reasons for your view.

NEA Comment:As indicated above we think that the proposed formats are constructive attempts to simplify fairly complex information. Clearly consumers utilising time-of-use tariffs present an additional challenge in terms of the accuracy of that information but we cannot comment on how this problem might be resolved.

Question 5: In your view, should suppliers be required to make available up to date information on TCRs for their tariffs? What is your view on the barriers to the publication of best buy tables, and how could we better facilitate publication by third parties?

NEA Comment:Tariff Comparison Rates must always be current if they are to serve any real purpose. Provided they comply with the requirements of the Confidence Code and are consistent we would see no real barriers to third party publication of comparative pricing. Consumer Focus collated and published this information in a straightforward and user-friendly format that could be adapted in other material.

Question 6: Do you have any concerns regarding the implementation of this proposal? How long after a decision has been made would you take to implement this proposal? What drives those timescales?

NEA Comment:NEA is not well-placed to comment on timescales but, subject to the need to communicate proposed changes to energy consumers and any essential trials, we would expect to see the whole process expedited.

Chapter Eight

Question 1: Do you agree that the revised Standards of Conduct (SOC) will help achieve our objectives?

NEA Comment:It should be considered extraordinary that a comparatively mature privatised competitive market should persist in unfair treatment of consumers to any meaningful extent. However, we note the regulator's comments on the low level of trust placed by consumers in their energy supplier(s). We recognise that consumer choice and switching can act as controls on supplier behaviour but would express concern that the industry is seemingly still failing so many of its customers that this, rather than corporate responsibility and a culture of customer care, is seen as the main driver of acceptable conduct. We cannot speculate on whether the revised SOC will achieve regulatory objectives but would emphasise that the implication that suppliers have not treated customers in an 'honest, transparent, appropriate and professional' manner does not reflect well on any part of the industry.

Question 2: Is there a different name for the SOC that will have more meaning to consumers and can be used by stakeholders across the industry?

NEA Comment:Clearly terminology is a distant second to the actual adoption and implementation of good practice across all supplier relations with consumers. However we believe that Standards of Conduct is an appropriate term that should clearly convey what is required of energy suppliers in principle.

Question 3: Does our approach to enforcement mitigate stakeholder concerns about clarity and regulatory risk?

NEA Comment:NEA is not convinced by Ofgem's advocacy of a 'principles-based approach to regulation' as more effective than detailed prescription. The regulator observes that this approach will allow flexibility and innovation in compliance with the requirements of Standards of Conduct, but we are unclear as to what degree of discretion there can be in adopting and following principles of best practice. We recognise Ofgem's concerns that prescription can never be fully comprehensive but believe that significant prescription is also necessary to provide direction and a degree of certainty.

In this context we note Ofgem's discussion of a mandatory cap on tariff numbers where a 'principles based rule' to prevent tariff proliferation is rejected on the grounds that:

'clear rules are easier for suppliers to act upon and design systems around.' We find this aspect of the regulatory approach to be contradictory and confusing.

The consultation suggests that suppliers will in future focus on what consumers need rather than on interpreting and following regulatory prescription. We find this rather confusing since, ultimately, whether suppliers comply with Standards of Conduct or not will surely be determined by the regulator.

Question 4: Do you have any information regarding potential costs this may impose on suppliers?

NEA Comment:As in other areas where market reform imposes costs on energy suppliers we have no particular intelligence on the level of such costs. Nor are we convinced that any costs are actually imposed on suppliers since they will eventually be passed through to consumers. However we would in any case see the provision of effective and equitable consumer services as an issue where value is more important than price.

Chapter Nine

Question 1:Do you agree with our proposal for rules to be applied to fixed term offers in the domestic retail market?

NEA Comment:NEA agrees with removal of an automatic rollover on fixed term offers, the default option of the cheapest 'evergreen' tariff and no variation in pricing during the switching process.

Question 2: Do you agree with our proposed strategies to mitigate concerns regarding increases in network charges?

NEA Comment:We recognise that consumers signing up to a fixed-term tariff would reasonably expect to see no adverse price movement during the full period of the agreement. We would also assume that the offer of fixed term charges should be binding during that period and that potential changes in wholesale or network costs are at least to some extent built in to any fixed-term tariff. However we also recognise the possibility of 'exceptional circumstances' and it is difficult to see how a major financial burden should be exclusively imposed on consumers on a variable tariff arrangement. We believe that the option to switch from a fixed term to a variable tariff offers an appropriate level of consumer protection.

Question 3: Is 30 days the appropriate notification period for mutual variations? Should there be any exceptions to our proposals for mutual variations (e.g. direct debit amount variations)?

NEA Comment:A 30-day notification period appears reasonable.

Question 4: Are there any expected implementation issues or costs associated with this proposal?

NEA Comment:NEA is not well-placed to comment on these issues.

Question 5: Do you agree with our proposed timetable for implementation of our proposal?

NEA Comment:Given the interminable nature of this process, and the proposal to consult further in spring 2013, summer 2013 would appear to be the earliest possible date for implementation.

Chapter Ten

Question 1: Do you agree that we should trial a Market Cheapest Deal initiative?

NEA Comment:Yes. NEA would see this as a potentially significant development in engaging an essentially passive or otherwise disadvantaged segment of the domestic energy market. However we would not assume that the benefits of a 'cheapest deal' offer should be focused too closely on non-switching consumers. We know from previous research that a high proportion of households to have switched supplier have switched on disadvantageous terms. As we briefly discuss below, our main priority is to secure lowest cost terms for low-income households whether through engagement with the market or through a 'social tariff' approach.

Question 2: Do you consider there are other approaches we should consider to address the particular issues with engaging sticky and/or vulnerable consumers? If so, what are they?

NEA Comment:The description of the Market Cheapest Deal appears similar to the model alluded to in the Prime Minister's comments when he stated: 'We have encouraged people to switch, which is one of the best ways to get energy bills down. I can announce, which I am sure the hon. Gentleman will welcome, that we will be legislating so that energy companies have to give the lowest tariff to their customers.'¹

¹ House of Commons Hansard, October 17 2012, Col. 316

The fundamental difference, of course, is that the Prime Minister did not distinguish between categories of consumer whereas the Market Cheapest Deal is intended to benefit vulnerable and financially disadvantaged households. In this context, NEA would see merit in the Prime Minister's proposed model albeit with some basic modifications.

Rather than collating data from all energy suppliers on the basis of both the Supplier Cheapest Deal (for their current circumstances) and the 'wide definition' option (in absolute terms), it would seem more rational to offer what is in effect a universal social tariff to households meeting the pre-defined eligibility criteria.

Clearly this would have the opposite effect of encouraging engagement of 'sticky' customers with the competitive market, but it could deliver significant social benefits in terms of lower energy costs to the most vulnerable and financially disadvantaged households. Data-sharing would still be required but this would now take the form of a simple passport process rather than the multiple data-sharing activities that would otherwise be required.

Effective data-sharing could be supplemented by independent, expert and comprehensive advice services. We note Ofgem's brief discussion of a one-stop-shop approach and believe that this has the potential to provide advice and guidance on a wide range of fuel poverty-related issues including: money and debt advice; benefit entitlement checks; and information and guidance on energy efficiency measures and financial support.

DECC's current Discussion Document² considers how to build on initiatives such as the Energy Best Deal to develop an improved network of related advice provision. NEA would see this as an ideal opportunity to advocate and promote the benefits of a national advice service providing, information, support and guidance across all domestic energy concerns. Clearly additional resources would be required to create such a national network and NEA would envisage joint funding through central Government support augmented by funding from energy suppliers through the Industry Initiatives element of the Warm Home Discount scheme. In relation to industry support we believe that suppliers and consumers would also stand to benefit significantly from reduced search costs associated with the Affordable Warmth component of the Energy Company Obligation.

Question 3: Would you be willing to work with us in conducting the trial?

² Ensuring a better deal for energy consumers, DECC, 2012.

NEA Comment:NEA would be willing to have some involvement in developing and testing a Market Best Deal model.