



To generators, shippers, suppliers, network companies, consumers and their representatives, the sustainable development community, investors and other interested parties

Promoting choice and value for all gas and electricity customers

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Dear Stakeholders,

Review of Ofgem's Impact Assessment guidance

This consultation letter seeks views on our revised Impact Assessment (IA) guidance.

IAs are a vital part of our policy-making process and provide a valuable framework for assessing the impact of important policy proposals. Ofgem has a statutory duty to undertake and publish IAs where the matter is 'important' – essentially defined as involving a major change or having a significant impact on regulated businesses or consumers – but not so urgent that this would be impractical.

In 2012 we committed in both our Corporate and Simplification Plans to review our IA guidance. In our Forward Work Programme for 2013-14 we said that we would revise the IA guidance to incorporate our conclusions on strategic sustainability considerations, new cross-border European impacts that we must consider (the Third Package) and recent equalities legislation (Equality Act 2010). We also want to take the opportunity to reflect changes in Better Regulation practice and government IA guidance, where appropriate.

We last revised our IA guidance in 2009. For this new version we propose a number of changes, to support the development of IAs that deal appropriately with the full range of impact that our proposals can have. A summary of these changes:

- We have streamlined the structure of the guidance to clarify when and how different forms of IA should be applied, for example in the distinction between proposals that are 'important' within the meaning of section 5A of the Utilities Act 2000 and those outside of the statutory requirement, where an IA would be beneficial to the process of developing and assessing the proposal. We also set out our approach where an IA is required for or would assist consideration of wider issues associated with an industry code or charging methodology modification proposal.
- To ensure consistency with good practice we have also been more explicit that impact assessment will normally be a continuous process, which should inform and be informed by developing policies. We have aimed to make clear that we take a flexible approach to the format of IAs, with an ongoing iteration of assessment proportionate to the proposal and its impacts.
- The most significant revisions appear in chapter 3, where we set out in detail our proposed approach to considering the impacts of proposals. Our aim here is to consider monetised aggregate cost-benefit analysis, distributional effects and long-term, and hard-to-monetise (strategic and sustainability) aspects in a more

integrated manner. This section also includes consideration of our Third Package obligations.

- We have aimed to make clear that cost-benefit analysis, distributional effects and long-term, hard-to-monetise (strategic and sustainability) aspects are underpinned by two key considerations. We will consider the implications of protecting the interests of existing and future consumers and the impacts of competition when making our assessments. Having consumer and competition impacts underpin our assessments supports the iterative approach we propose. In taking this approach, we recognise that competition impacts go beyond market issues and interact with consumer interests and with wider strategic goals. Figure 1 in the proposed guidance illustrates how the refinement of options is informed by the interaction of this broad range of potential impacts.

These revisions are more than presentational. Our intention in the revised guidance is to describe a process that requires options for action to be refined through an iteration involving each of the aspects detailed above, in order to arrive at a preferred option, or an agreed range of options. We believe that this iterative approach, with ongoing consideration of impacts through the whole development of a proposal, linked to flexibility in how IAs are presented, provides a sound basis for assessment consistent with our duties and responsibilities. We also think that this approach will underline our commitment to transparent decision-making and make clear the analysis underpinning our preferred options.

We are consulting on the proposed revised guidance until 10 June 2013. We have decided on a twelve week consultation as the revisions are significant and include a number of important changes in areas likely to be of interest to stakeholders, for example in the emphasis on interactions between elements in the assessment. We want stakeholders to have maximum opportunity to consider any potential implications of our proposed approach.

The specific consultation questions that we are seeking views on are:

Question 1: We are proposing to revise the structure of the guidance to place greater emphasis on Impact Assessment (IA) as a continuous, iterative process. Do you agree with our approach / emphasis?

Question 2: Our proposed approach to assessing impact, costs and benefits is to develop an iteration of options between three aspects. These are: monetised, aggregate cost-benefit analysis; distributional effects; and long-term, hard-to-monetise considerations. These assessments are informed by a consideration of our principal objective to protect consumers (existing and future) and our other statutory and EU duties, including considerations of competition (EU and domestic). Do you agree with our approach to assessing impacts? We welcome any views on this approach, and the specific content within each category.

Question 3: We have interpreted our duty to have regard to sustainable development by considering a mid-term stress and security assessment and a long-term natural asset and greenhouse gas assessment. For more detail on this approach, please see our recent discussion paper "*Strengthening strategic and sustainability considerations in Ofgem decision making*" (June 2012). Do you agree with our approach to considering long-term, complex and hard-to-monetise issues? We welcome any views on this approach.

Question 4: Are there any other substantive changes that we should consider incorporating in the guidance, as appropriate to our statutory duties and functions?

Of course, we also welcome views more widely on the guidance and our approach. All responses should be sent to Mark Wagstaff, Ofgem, 9 Millbank, London SW1P 3GE or by

email to mark.wagstaff@ofgem.gov.uk . Any responses which the respondent does not wish to be published should be marked as confidential.

We also intend to host a stakeholder event during the consultation, to discuss our proposed approach and gather views. This will be in early May. If you would like to attend the event, please contact Mark Wagstaff.

Yours sincerely,

Philip Cullum
Partner, Consumer and Demand-Side Insight