



The Retail Market Review – Final domestic proposals

Citizens Advice's response to Ofgem

April 2013

Introduction

Citizens Advice welcomes the opportunity to respond to Ofgem's consultation on its final Retail Market Review domestic proposals.

The Citizens Advice service provides free, independent, confidential and impartial advice to everyone on their rights and responsibilities. It values diversity, promotes equality and challenges discrimination.

The service aims:

- to provide the advice people need for the problems they face
- to improve the policies and practices that affect people's lives.

The Citizens Advice service is a network of nearly 400 independent advice centres that provide free, impartial advice from more than 3,500 locations in England and Wales, including GPs' surgeries, hospitals, community centres, county courts and magistrates courts, and mobile services both in rural areas and to serve particular dispersed groups.

In 2011/12 the Citizens Advice service in England and Wales advised 2.03 million people on 6.9 million problems. Debt and welfare benefits were the two largest topics on which advice was given. In total we received 136,000 fuel related enquiries in 2011/12 including 97,000 about fuel debt, 2,600 enquiries about complaints and redress and 400 enquiries about selling methods.

General comments

Citizens Advice welcomes Ofgem's decision to move forward with the majority of the proposals set out in the October consultation largely unchanged. We feel that these proposals, if implemented in full, have the potential to make the market simpler and easier to navigate. We are, however, disappointed that Ofgem is now proposing to make the requirements around the provision of information less prescriptive. We believe that the greater level of consistency across communications proposed in the October reforms would have had a greater impact on clarity and consumer engagement and understanding.

As noted in our response to the October consultation, problems in the market identified in the probe in 2008 are continuing to cause detriment to consumers. Consumers have waited long enough for the regulator to intervene and take decisive action to address these issues. We therefore hope that Ofgem will now be able to move forward to implementation in line with the timescales outlined in the document.

We do not propose to repeat the comments made in response to the October consultation and have restricted our comments to the elements which have changed significantly or are newly added.

Implementation and monitoring

Citizens Advice welcomes the additional detail provided on Ofgem's intentions for implementation and monitoring. The outcomes set out within the document are very ambitious and, if achieved, will represent a significant step forward for consumers. We particularly welcome Ofgem's recognition that a high level of switching alone does not constitute an effective market, the quality of switching decisions, amongst other factors, are equally, if not more important. We also welcome Ofgem's stated desire that suppliers will look to become more efficient and pass these savings onto consumers. It is less clear how this can be measured, however, given the complexity and lack of transparency which characterises much of the energy market and supplier structures.

We also welcome the commitment to carry out a full review of the proposals, by 2017 at the latest and that Ofgem have left open the option of reviewing the reforms sooner if they are not considered to have had the 'expected effect'. We would be interested to hear more about what would be considered sufficient to trigger such a review before 2017 and how high the threshold would be set.

Market Cheapest Deal

In our response to the October consultation we welcomed Ofgem's recognition that some groups of consumers need additional prompts and assistance to engage in the market and fined the most simple product for them. We therefore supported Ofgem's intention to investigate the Market Cheapest Deal proposal in more detail while arguing that this needed to be part of a wider program of support, such as the Energy Best Deal program.

We therefore welcome the steps Ofgem has taken to move this work forward by convening a working group to address practical challenges to the Market Best Deal proposal and consider other options. However, the consultation also notes that Ofgem has already written to companies to seek confirmation of their involvement. We take this to mean that Ofgem has written to suppliers only. If this is the case, we are disappointed that Ofgem has not included consumer groups in this work. We believe that our experience of working with and supporting vulnerable groups, including running projects which help consumers to understand the energy market and feel confident enough to make a good switching decisions, would allow us to make a valuable contribution.

Simpler tariff choices

The tariff proposals have not changed significantly since the last consultation and so we have limited our comments to those aspects which have altered or require further clarification.

Tariff cap

While we have some sympathy with the decision to allow a derogation to the tariff cap for the trialling of new innovative tariffs, we do have some concerns. We are particularly

concerned that suppliers may be able to use this option to expand the number of tariffs they are able to offer by portraying them to Ofgem as a 'trial tariff'.

We would like to see strict rules put in place to ensure that this is not allowed to happen. The proposed criteria outlined in the consultation document are insufficiently detailed and inadequate. In our view suppliers should have to present a clear argument as to why they could not trial the new tariff as one of their four permissible core tariffs and be able to demonstrate that the new tariff is substantially different to their existing tariff. Ofgem's current proposal that these tariffs 'should have a degree of differentiation from existing tariffs' is, in our opinion, inappropriate and open to abuse by suppliers seeking to expand their tariff offering by stealth.

In order to prevent the reoccurrence of excessive tariff proliferation we believe that Ofgem should set the bar high for securing a derogation to trial a particular tariff and only grant permission in exceptional cases where there is a clear benefit to consumers. We also believe that Ofgem should consider only allowing each supplier to trial one innovative tariff at any one time, which should again help to prevent tariff proliferation. Ofgem should also consider including a requirement that suppliers consider how vulnerable and sticky consumers will be able, and encouraged, to access and benefit from these innovative new products.

Fixed term tariffs and dead tariffs

Citizens Advice strongly welcomes the proposed changes to requirements relating to fixed term tariffs. We particularly welcome the proposal to ban the automatic rollover of fixed term contracts and to require suppliers to migrate customers on poor value dead tariffs to the cheapest comparable evergreen tariff.

Collective switching

We welcome the additional detail provided by Ofgem on their vision for the future of collective switching. We also welcome the list of requirements which collective switching process must meet in order for a supplier to enter a tariff into the competition which is not one of their four core tariffs. The requirements seem to us to be appropriate and proportionate. We would, however, like more information on where the burden of responsibility for ascertaining whether a particular collective switching scheme meets these criteria lies, and what action Ofgem would be likely to take should these requirements not be met.

We do, however, have some concerns in this area. The majority of consumers signing up to collective switching schemes are likely to be more engaged, confident consumers, though we do recognise the growing number of local schemes which encourage participation from vulnerable and sticky consumers. We are concerned that suppliers may enter their most competitive tariffs into collective switching schemes which other customers are not able to access, resulting in sticky and vulnerable customers being further penalised.

Clearer information

TCR

Citizens Advice continues to support the introduction of a Tariff Comparison Rate in principle. We see the value of introducing a new metric which provides a mechanism for consumers to compare tariffs at a glance on a like for like basis. In time, if developed and used appropriately, we envisage the TCR being used by consumers in a similar fashion to the way in which APR was intended to be used to compare the likely cost of various products in the financial services market.

We recognise the difficulty of balancing simplicity and accuracy in developing this new metric and the current proposals seem a reasonable compromise. However, Ofgem should closely monitor how the TCR is used and understood by consumers and marketed by suppliers to ensure that the balance reached is the correct one. A funded consumer education program will also be key to the success or failure of the TCR and we would be happy to discuss the form this could take with relevant stakeholders. We would also like to see the usefulness and appropriateness of the TCR reviewed as part of the overall review of the success of the reforms in 2017.

Information requirements

We are disappointed that Ofgem has chosen to water down the level of prescription proposed for supplier communications. In our response to the previous consultation we strongly supported Ofgem's proposal to make the layout and wording of particular communications far more standardised. We are particularly disappointed that Ofgem no longer proposes to prescribe the exact wording of the cheapest tariff message and summary box or to proscribe the layout and content of annual statement.

The justification offered for the watering down of these proposals is Ofgem's belief that better outcomes for consumers could be achieved through "allowing the market, driven by meeting customer needs, to optimise the presentation of the information." We disagree. The market has thus far proved unable to produce communications which consumers are able to understand and willing to engage with. The fact that Ofgem feel compelled to introduce an enforceable standard of contact requiring suppliers to ensure that information is accurate, not misleading and communicated in plain, intelligible language, is indicative of this ongoing market failure.

As well as ensuring that the information provided to consumers through these communications is simple and easy to understand, prescribing language and layout of key pieces of information, such as the tariff information label and supplier cheapest tariff message, would increase the chance of these begin to be recognised and used by consumers. A greater degree of consistency in wording, lay out and messaging can reasonably be expected to make it easier for consumers wishing to switch to establish which tariff they are currently on and compare alternative tariffs offered by their current supplier and other suppliers.

Similarly, the purpose and content of the annual statement are rarely understood by consumers. A high level of prescription in the content and presentation in the annual statement would increase the chance of consumers beginning to recognise the communication and find the information they need irrespective of their current supplier. We recognise that the current proposals still represent a higher level of prescription than is currently in place but do not believe that they go far enough.

If Ofgem does decide to go ahead with the proposed less prescriptive approach, it is important that the implementation of the new requirements and success in terms of consumer engagement are closely monitored on an ongoing basis. If the requirements do not have the desired effect, Ofgem should reconsider introducing more stringent requirements in the near future.

Standards of Conduct

Citizens Advice strongly welcomes Ofgem's continued commitment to making the Standards of Conduct enforceable licence conditions, a step we have called for since the standards were first introduced. We believe that making the standards enforceable is a key element of the essential task of rebuilding consumer trust in suppliers and ensuring that consumers are treated fairly.

We agree that producing a guidance document will provide suppliers with greater clarity and certainty regarding their responsibilities. The draft guidance in the appendix seems clear and is a good starting point. We would be happy to comment on later drafts as they develop.

We recognise that Ofgem will only be looking to take enforcement action in relation to the Standards where there is evidence of a systematic, ongoing breach but it is important that consumers are able to access redress when they fall victim to an unfair practice at the hands of their supplier. We therefore welcome Ofgem's recognition of the important role that the Ombudsman Services will play in ensuring consumers can access redress when their supplier is found to be in breach of the Standards. We also support Ofgem's undertaking to work with the Ombudsman to develop a shared understanding of objectives and expectations in relation to the Standards.

We strongly welcome Ofgem's proposal to oblige suppliers to inform consumers, on an annual basis, how they apply the principles outlined in the Standards to their business. For the Standards to work as effectively as possible in terms of building consumer trust and raising standards across the industry it is important that consumers are aware that they exist and feel confident enough to challenge their supplier when they fall short of the level of service expected. Requiring suppliers to inform their customers of how they are implementing the standards within their business will help to raise consumer awareness of the standards and the level of service they can expect. Consumers will then be able to use this information to hold their supplier to account when the service they receive fails to match up to the supplier's stated standards.

