

David Hunt
Head of Retail Energy Markets
Ofgem
9 Millbank
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Dear David

Consumer Focus welcomes the opportunity to respond to this final consultation stage on the Retail Market Review (RMR) proposals. Our response is not confidential and can be published on your website.

We are hopeful that the RMR package of measures will help give consumers the confidence as well as the necessary information to help them engage in the market. Tackling the current levels of dissatisfaction and distrust in the sector will be extremely difficult. Energy prices remain high and have been continuing to rise, at a time when consumers are facing stagnating or declining household income. Improved information will make it easier for consumers to understand whether they could switch to a better priced tariff, but it is very unclear whether energy consumers' overall perceptions of the value for money provided by energy suppliers will be addressed by these reforms.

Consumer Focus is pleased that the specific concerns we raised in our December 2012 response¹ have been largely addressed in the amended RMR proposals. The revised package of measures is a more proportionate response and should allow for greater flexibility to adapt to changes in the marketplace.

However, the changes envisioned within the RMR package, particularly the draft licence conditions, are both complex and extensive. The new regulatory requirements will require close monitoring by Ofgem to ensure they are delivering the intended effects for consumers and the market. While we agree that a phased approach to implementation makes sense and allows for the significant system changes needed in order to ensure compliance with the new rules, it does make communicating the changes more difficult. Suppliers will face significant challenges in ensuring that their customers are kept well informed of the forthcoming changes to their existing tariffs and contracts.

As a result we think it would be appropriate for Ofgem to play a larger role in providing generic advice and information to consumers about the changes. Consumer Focus supports the creation of a one stop shop for energy consumers.

¹ <http://bit.ly/ZMaGyK>

It should be explored whether this information could be co-hosted on the Citizens Advice / Citizens Advice Scotland adviceguide website so consumers don't need to search several different websites for the information they require.

Consumer Focus looks forward to working closely with Ofgem on related areas of work including the launch of the new vulnerability strategy, smarter markets and liquidity workstreams. These workstreams must tackle the other problems faced by energy consumers. In particular, the smarter markets workstream is an opportunity to tackle:

- remaining consumer concerns about receiving inaccurate or estimated bills
- the lengthy and consumer unfriendly switching process
- the limited innovation and relatively poor customer service in the prepayment meter (PPM) market

Furthermore, we look forward to understanding whether the proposed smoothing of distribution and transmission charging arrangements could provide further opportunities to simplify tariff structures.

We have restricted our comments to the main areas of interest.

Success criteria

We are pleased that Ofgem has now published a comprehensive list of success criteria for the RMR. The criteria are well defined and it would be helpful if Ofgem consults other organisations on how it will be monitoring the progress in achieving these criteria.

Consumer Focus thinks it is important that Ofgem monitors additional information on an ongoing basis in order to understand how the market is delivering for consumers in general and specific sub-groups of consumers including:

- Whether consumers are regularly receiving accurate bills and the proportion of consumers receiving significantly inaccurate bills is decreasing²
- Whether the switching process is functioning effectively and not deterring consumers from future switches³
- Improvements in suppliers' customer service and complaints performance
- Switching levels and tariff offers by payment method
- Switching levels and tariff offers by meter type, with a particular focus on electricity only households
- Collective switching schemes and whether this channel is delivering value for different sub-segments of consumers, particularly PPM users
- Whether the tariff cap has resulted in price convergence and whether this has had a particular impact on certain tariff types or payment method

²As one of the main consumer benefits of smart meters is the ability to produce accurate bills, we think that suppliers should not be able to back bill where they have failed to provide the consumer with an accurate bill and it is not the fault of a consumer.

³Recent Consumer Focus research found that a significant proportion of switches were exceeding the three week switching rules and that the experience of switching supplier was putting consumers off switching again in the future. There is also anecdotal evidence from Consumer Direct/Citizens Advice consumer service that consumers with advanced meters have had problems switching.

<http://bit.ly/Wk7n3K>

Ofgem should consider what further information can be collected from suppliers about the switching process including the number of intra-supplier switches. Consumer Focus has previously spoken to Ofgem about the possibility of publishing more regular information about switching levels and switching timescales. We continue to think this is worthy of further exploration.

Tariff cap

We are comfortable with the proposed derogation for tariffs, including smart tariffs, given that it has been confirmed that there will already be four tariff slots available for smart meters.

We would expect Ofgem to keep the impact of the tariff cap under close review, as the smart tariff market develops over the coming years.

As part of Ofgem's ongoing monitoring efforts, we want the regulator to monitor the number of choices and prices offered to consumers paying by different payment methods, as this will provide insight into the competitiveness of all market segments. Consumer Focus has previously highlighted the much more limited number of offerings made available to consumers paying by PPM or quarterly cash or cheque (QCC).⁴ While the choice of payment method is not perfectly correlated to consumers' socio-economic groups, low income households are more likely to pay by PPMs or quarterly cash/credit/payment card than Direct Debit. It is crucial that the market is able and is seen to be delivering products and services that meet the needs of all energy consumers.⁵

Consumer Focus does not believe that this is happening at the moment given the more limited competition and innovation within certain sub-segments of the market, the prepay market in particular. We are hopeful that the roll out of smart meters will reinvigorate the prepay market but this will require close attention to ensure the opportunities are not missed.⁶

We would appreciate clarification from Ofgem, on whether 'managed credit' will be considered a tariff or a payment method. At present we're not aware of any suppliers offering managed credit tariffs but we're expecting that suppliers may seek to introduce the concept following the roll-out of smart meters.

It would be helpful if Ofgem could provide more detail about the categories of consumers who will need to be transferred from one tariff to another as the rules come into effect. A significant concern would be if consumers are migrated off a 'dead' fixed price tariff onto a variable rate tariff ahead of a price rise taking effect. This would destroy consumers' trust in their supplier.

Discounts

We are pleased that Ofgem has included online account management in the discount category. Consumer Focus has been asking suppliers to broaden the account management options open to non Direct Debit consumers. We want to see industry introduce new and improved online account options for their customers now that the proposals have been confirmed. We agree with the revised definition of termination fees to include loyalty bonuses or staggered discounts.

⁴ Analysis of new tariffs launched between January 2009 and February 2012 showed that only 38 per cent were available to consumers paying by QCC and 3.2 per cent to PPM users. <http://bit.ly/xtA0Pc>

⁵ <http://bit.ly/Zi7388>

⁶ <http://bit.ly/10aHf9s>

White label proposals

We continue to have concerns about the impact of the white label proposals. While we are sympathetic to Ofgem's intentions in this area and welcome the 12 month extension, there remains a significant risk that the decision may drive some of the current innovative companies out of the market. Obviously the ideal situation would be for each supplier to have its own supply licence. However two companies that will be caught by these new rules, Utility Warehouse and Ebico, both offer innovative products and services to energy customers. The former offer bundled utility services and the latter is a non-profit supplier with a social justice focus. The standard definition of a white label product is a product manufactured by one company that is packaged and sold by other companies under varying brand names.

Utility Warehouse sets its own prices, despatches its own bills and operates its own customer contact centres. It is a competitor to Npower. Ebico does have a much closer partnership with SSE, but the loss of its existing pricing structure and company ethos would be a particular disadvantage for the more vulnerable low income customers it supplies.

One compromise could be to draft a set of criteria to distinguish between standard white labels and independent companies which use another company's supply licence eg company must set prices independently, must operate own call centre, must provide own billing, for example. If each of the criteria had to be met, it wouldn't be a quick solution for a company looking to circumvent the tariff cap.

Collective switching

Consumer Focus had a number of concerns around Ofgem's original proposals on collective switching and the unintended consequences that might have arisen. The latest proposals address these concerns and offer a framework within which collective switching can further develop as an alternative route to market for (i) consumers not wishing to engage through conventional means; and (ii) challenger companies who – as we have seen from a number of initiatives already – can benefit from the diminished costs of market entry.

With that framework in place, the challenge now is ensuring that the success of collective switching intermediaries is built on securing beneficial, transparent outcomes for consumers. We therefore look forward to engaging with Ofgem to ensure that is the case once its issues paper on collective switching, third party intermediaries and the Confidence Code is published. Given the rapid growth of the collective switching market in particular, Consumer Focus think it is essential that this work stream is developed and progressed as quickly as possible.

It is Consumer Focus's assumption that any tariffs offered into collective switching schemes must meet the same requirements as other tariffs within the cap with regard to their structure and discounts. The winning tariffs entered into some previous schemes have included a cash back element that brought down the overall price. For example, Sainsbury's Energy has just won the Big London Energy Switch with a fixed term direct debit tariff that includes a large 'bill credit offer' for customers that remain on the tariff for 12 months. The bill credit element makes the tariff prices more competitive.

Standardised tariff structures

Consumer Focus supports the proposals to simplify tariff structures. While we would ultimately like to see the market move towards even simpler tariff structures eg a single unit rate, the proposed standardisation of a standing charge plus unit rate(s) should deliver overall consumer benefits.

We did not support Ofgem's initial proposals for a regulated standing charge, and we have previously urged Ofgem to develop a set of standardised costs that should be recovered through the standing charge as opposed to the unit rate. These costs should be limited to those costs which are outside of a supplier's control where there is no facility for efficiency savings or contractual negotiations.

Lower standing charges are generally more progressive as consumers pay more, the more units of energy they use. There is broad correlation between income and energy usage, with some exceptions.⁷

Consumer Focus has reviewed suppliers' tariff offerings and there appears to be wide variation between the standing charges levied by suppliers. For example the electricity and gas standing charges varies between:

- £58.32 (electricity) and £89.20 (gas) for customers on British Gas's Clear and Simple tariff
- £99.99 (electricity) and £99.99 (gas) for customers on E.ON's standard tariff
- £68.99 (electricity) and £95.81 (gas) for customers on EDF Energy's standard tariff
- £36 (electricity) and £156 (gas) for typical Npower customers⁸

Given the wide variation among suppliers, not all companies are likely to be collecting the same set of costs through their standing charge for either gas or electricity.

The wide variation will also require consumers to make a much more sophisticated price comparison eg a low gas user is likely to be paying over the odds if they are supplied by Npower.

Consumer Focus is aware that Ofgem is advising consumers that suppliers are able to levy a £0 standing charge. We suspect that many suppliers are unlikely to introduce a £0 standing charge, given the need to collect the fixed costs associated with supplying a home with gas or electricity. We would, of course, be delighted to be proved wrong in this respect, as a low standing charge would benefit certain groups of more vulnerable consumers.

For some low users in particular, the standardisation of tariff structures may have negative implications if they are currently with a supplier that has a higher than average electricity or gas standing charge. We think it is essential that Ofgem publishes consumer factsheets about the changes, including information on how to search for the best value tariff for their circumstances. Offline consumers, in particular, will need accessible information. The regulator should also provide more detailed briefings for organisations such as the Citizens Advice consumer service to ensure they are able to explain the changes and provide advice on the alternative options open to consumers.

⁷ <http://bit.ly/15DWVda>

⁸ Based on tariff sheets provided to Consumer Focus by suppliers. npower's average standing charge is taken from their recent communication to customers about the changes to tariff structures.

Tariff comparison rates

Consumer Focus is pleased that Ofgem has addressed some of the criticisms of its earlier TCR proposals. However we think the tariff comparison rates (TCR) will require careful monitoring to ensure it is being used correctly by consumers, suppliers and third parties.

The TCR should be useful for consumers who use around the 16,500 kWh of gas and 3,300 kWh of electricity (eg medium users) looking for the best tariff. It will be of less use for low users of a particular fuel searching for the best value tariff, which is likely to be one with a smaller standing charge (see our concerns above about the current variation in supplier standing charges).

We remain somewhat sceptical of the benefits of providing time of use (TOU) customers with a TCR given the existing wide variation in the off peak hours by supplier and by region for Economy 7 customers.

In addition, the percentage of electricity that must be used in the off peak period versus the peak period, varies widely by suppliers (from a high of 45 per cent to a low of 15 per cent⁹). The cost savings from switching supplier may depend entirely on how a consumer currently uses electricity in their home.

However, Ofgem's proposal to set up an industry working group to look at this issue in more detail is an appropriate response and we would be like to be involved in the discussions.

Consumer Focus has previously asked suppliers to make it much clearer to consumers when the cheap hours are and how much electricity is currently used in the off peak and peak hours. This will provide them with a clear signal as to whether they should be a) on a different non-TOU tariff, b) whether another supplier's TOU tariff is a better option due to the balance of costs between peak and off peak rates and c) whether they could use electricity differently in order to get additional benefits from their tariff. Our research shows that many consumers on Economy 7 tariffs may not be getting any benefits from these tariffs as they don't use sufficient electricity during the off peak periods.¹⁰

We also proposed that it would be helpful for suppliers and Ofgem to explore whether Economy 7 tariff structures could be standardised to help consumers compare tariff offerings. This would give consumers, in a particular region, the confidence to explore alternative options as the variation between suppliers would be reduced.¹¹

This issue is not addressed in the RMR proposals, but we would like to see suppliers improve the information offered to customers on TOU tariffs. Ensuring that the existing users of these tariffs are well informed and engaged could help ensure the successful introduction of smarter TOU tariffs in the coming years.

Information remedies

While Consumer Focus is pleased that Ofgem has allowed for greater flexibility in a number of key areas, the draft licence conditions do remain extremely prescriptive. We do have concerns, from a better regulation perspective, whether the current level of detail in the draft licence conditions will provide enough flexibility for adapting to future developments.

⁹ Based on an information request by Consumer Focus in 2012 <http://bit.ly/QrrTLZ>

¹⁰ <http://bit.ly/QrrTLZ>

¹¹ Ibid

However the revised bills and annual statements are an improvement over the previous versions and we are pleased that Ofgem has stepped back from directly prescribing the required wording and positioning in a number of key areas.

We continue to have concerns about the placement of the generic TCR close to the consumer's unit rate within the Tariff Information Label. While we agree that consumers are likely to get more familiar with the TCR concept over time, it is likely to cause ongoing issues for consumers who have not engaged with the TCR in other media. The stand alone box for the TCR on the bill template is better since it separates it out.

Ofgem should keep the development of new tools and feedback mechanisms under close review to understand how they are interacting with the key communications sent out by suppliers.

Standards of Conduct

We remain supportive of Ofgem's proposals in this area. We note that Ofgem envisions a role for Ombudsman Services: Energy (OSE) in applying the Standards of Conduct (SOC) when dealing with individual cases. When the standards come into effect, we think it would be useful if there was an industry working group established to enable OSE to discuss its decision making process with suppliers, Ofgem and consumer groups.

The SOC are a different approach for this industry and the group should act as a forum for sharing best practice. For example, there is already an informal group, coordinated by Energy UK, which meets regularly to discuss billing complaints handled by OSE. Ofgem and Consumer Focus are able to input into the group discussions and provide feedback.

If suppliers are to be required to regularly mail out information to customers about the SOC, we think it would be helpful to understand how this will fit in with the other communication requirements on suppliers. As such, we think the Consumer Bills and Communications Working Group would be an appropriate forum for further discussion.

Fixed term offers

We are supportive of Ofgem's proposals and welcome the clarification that consumers will default onto cheapest evergreen tariff for their meter type.

Market cheapest deal

It is unclear how much of an impact the wider information remedies and/or market cheapest deal will have on the switching behaviour of low income households. It depends on whether their supplier or the wider market will provide competitively priced tariffs that meet their needs. The market cheapest deal will only have an impact if the targeted consumers are offered suitable tariffs that meet their needs eg offering a sufficient saving over their current tariff using their payment method of choice, continued entitlement to existing benefits such as the Warm Home Discount or access to the Energy Company Obligation (ECO) and a reasonable level of customer service, etc.

As stated in our previous response, Consumer Focus would be interested in participating in the working group that has been set up by Ofgem.

Research commissioned by Consumer Focus, on behalf of the FPAG tariff reform working group, has established that there are particular groups of consumers who are going to be significantly and negatively affected by Government energy and climate change policies,

including those proposed in the current Energy Bill. The starkest impacts will be on low income households who are reliant on electric heating. The research has uncovered that consumers with electric heating represent 10 per cent of all heating consumers, yet pay 20 per cent of the costs of policies, but only receive 7 per cent of the benefits.¹²

While some consumers may be able to save money by switching regularly for a better deal, installing energy efficiency or microgeneration measures or will benefit from the Warm Homes Discount, many won't. For example, consumers on non Economy 7 tariffs, eg three rate or dynamic teleswitching tariffs (DTS) tariffs, are not normally able to switch to a different supplier on the same tariff terms. Normally any consumer with a specialist three rate meter that wants to switch to another supplier will be billed using Economy 7 rates. Furthermore, low income consumers will not be able to afford the up-front costs of microgeneration measures, those living in flats often cannot benefit from insulation measures and many will not receive the Warm Home Discount. This suggests that low income households with electric heating may need some additional support over and above the benefits obtained by switching supplier.

Best regards



Gillian Cooper
Head of Energy Retail

¹² Forthcoming report by CSE for Consumer Focus; commissioned on behalf of the FPAG Tariff Reform Working Group.