



By email only

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Dear Claire,

Ofgem's proposals for a new Consumer Vulnerability Strategy

Please take the attached as the npower response to the consultation on the above. We are happy for it to be placed on the Ofgem website.

Summary

The Consumer Vulnerability Strategy (CVS) would appear to be a natural evolution of Ofgem's existing social action strategy. As such, it is a foundation; a lot of building work will be needed to make it work. Inevitably, if adopted as set out in the consultation document, this is likely to mean increased costs for suppliers. Much will also depend on how the CVS might be implemented in practice.

Energy suppliers already do a very great deal to support vulnerable customers. Additional obligations should be based on clear evidence that there is a gap or shortcomings in present arrangements. We are not aware of any significant problems but would be keen to review any evidence Ofgem has.

Adopting a risk-based approach and recognising that vulnerability is transient, while it seems sensible in principle, does raise the question of its practicability of application by suppliers and network companies; certainly this will have cost implications operationally. Defining vulnerability in what could be called 'vague terms' needs to be subject to cost benefit

We do have concerns about the BSI Standard 18477 'Inclusive Service Provision' (the Standard). This is all-encompassing and was conceived with a much wider application than for energy supply and distribution. Again, the ramifications of this need to be explored further before more concrete proposals can be decided and applied. As was mentioned at the Ofgem-sponsored workshop on 26 November, flexibility of approach should be key.

All the proposals, including those that may ultimately require material or licence changes, should be backed up by empirical evidence that they are necessary, together with a comprehensive impact assessment and subject to a formalised and impartial consultation process, and allowing time for suppliers to make them.

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The assumption is that the CVS will apply to small suppliers as vulnerability is a universal concern for all – not just for the 6 largest.

Ofgem should also consider how this fits with the work of the EU's Vulnerable Customer Working Group, which is looking at producing a checklist of the causes of vulnerability.

Turning now to the specific questions asked.

QUESTION ONE: Do our proposed Strategy themes provided an accurate reflection of the work Ofgem should be doing to help protect consumers in vulnerable positions?

Ofgem's five themes are:

1. Developing targeted and effective regulatory obligations
2. Promoting best practice
3. Taking account of vulnerability in its [Ofgem's] work and being informed by research and insight
4. Innovating in the provision of advice and support
5. Working with others to inform wider policy making to address vulnerability

The reliance on the themes must not come at the expense of delivering services and support to vulnerable customers.

There are a number of important initiatives or programmes that are being introduced over the coming months, which are having or will have a significant impact on suppliers in their implementation: the Green Deal; ECO; the Electricity Market Review; the Retail Market Review (RMR); and the roll-out of Smart Metering. In addition, there is a new definition of fuel poverty proposed; the creation of Regulated Industries Unit, along with other matters that may flow from the Energy Bill when it is published.

As can be seen from the above, suppliers are already being asked to shoulder a significant burden of responsibility for government policy delivery. As such it needs to be clear that anything new under the CVS: (a) is demonstrably required; (b) is not being considered or implemented elsewhere already; and (c) does not undermine or negatively impact any proposals under (b).

QUESTION TWO: Do you agree with our proposed perspective on vulnerability? Are there other risk factors or features of the energy market that could present issues that we have not covered?

Under theme 1 (Developing targeted and effective regulatory obligations), Ofgem appears to move away from so-called 'static' definitions of what might constitute vulnerability: age; disability; long-term sickness etc and adopt a risk-based approach where vulnerability might include the following factors:

- the characteristics and capacity of the individual. These include:
 - literacy and numeracy skills;
 - health issues

- the circumstances facing the individual;
 - unemployment
 - recent bereavement or relationship breakdown
- the nature of goods or services purchased and how bought
 - contract complexity or, for example, exit fees
- the extent to which the consumer is aware of his/her vulnerability
 - the literal application of this would be that if a customer didn't know they were vulnerable, they could be considered to be vulnerable.

Such an approach does not result in a list of vulnerable customers per se but rather a set of factors that may make someone more (or less) vulnerable at a particular point in time.

Ofgem, in discharging its principal objective of protecting the interests of existing and future customers by the promotion of effective competition where appropriate in performing its duties, has to have regard to the interests of:

- disabled consumers;
- the long-term sick
- pensioner consumers
- low-income consumers
- those living in rural areas

This is enshrined in statute¹. Therefore, regardless of the CVS, Ofgem is still required to take account of the 'static' groupings above in its formulation of policy.

While the industry has stated that vulnerability should be assessed on a case-by-case basis and therefore the risk-based approach set out by Ofgem would broadly seem consistent with this view, the difficulty arises as to how this is operationalised. Relevant npower staff are trained to identify vulnerability and do not adopt what might be called a 'tick-box' approach that drives the classification of customers using set criteria. Nonetheless, definitions based on physical, health and financial criteria are both easy to use and useful in targeting the services that may be offered to consumers.

Risks like the 'nature of goods and services' and customers' awareness (or not) of their vulnerability add significant complexity to identifying, recording and evidencing it. As such, it makes the definition far more subjective. For example, in extremis, if tariff complexity is a driver of vulnerability, should suppliers be looking to treat everyone as vulnerable? Clearly not in practice, but this could be an unintentional consequence. This creates challenges for suppliers and Ofgem as they look to define, implement and target policy to tackle those consumers who do genuinely need assistance. And it makes it even more important that policy and definitions are based on robust impact assessments and evidence. In addition, reporting and any enforcement activities conducted by Ofgem must be reflective of the increased challenges posed by a more subjective risk-based approach.

¹ Section 3A(1B) and (3) of the Electricity Act 1989; Section 4AA(1B) and (3) of the Gas Act 1986

Also, will this be genuinely a 'risk-based' approach? If Ofgem intends to develop a long list of factors that might be 'risks', the 'risk' approach may not end up being significantly different to the existing static definitions.

Will a risk-based approach catch any extra customers compared to the probable extra bureaucracy which is likely to be borne by all customers (including those who are already struggling with cost increases originating from government and regulatory programmes)? Also, how does this proposal sit with the recently stated view from Ofgem that suppliers should work hard to deliver operating cost savings to the benefit of their customers?

What services will suppliers and others be expected to provide over and above those to non-vulnerable consumers? How will the costs of these be assessed (ie would customers in the north of Scotland or Wales be more vulnerable due to colder weather and more inefficient housing versus someone in, say, the south east of England, other things being equal?)

QUESTION THREE: What is your view on whether the BSI standard on inclusive services could provide a practical approach to adopting our perspective on vulnerability?

There are a number of mandatory and voluntary obligations suppliers abide by that require them to identify and take account of vulnerability in their dealings with customers.

On the mandatory side, there are licence conditions (SLCs 26 (Services for specific Domestic Customer groups – this covers services such as the Priority Services Register); 27 (Payments, Security Deposits, Disconnections and final bills – this sets out, amongst other things, that suppliers should have processes in place to identify and deal with customers in payment difficulty); and 28 (Prepayment Meters – this includes the requirement to assess the whether a prepayment meter remains safe and reasonably practicable for customers)).

On the voluntary side there is the Safety Net for Vulnerable Consumers ('the Safety Net'). This contains, amongst other things, a deliberately wide definition of what constitutes vulnerability in suppliers' dealings with customers when they are experiencing payment difficulty with the aim of preventing the disconnection of any vulnerable domestic customer. There is also The EnergySure Code (which sets out the rules governing how suppliers sell energy to domestic customers, including, for example, the requirement for sales agents '*...not to exploit a person's inexperience, vulnerability, credulity loyalties...in an attempt to restrict their ability to make an informed choice.*' (section 7.7). Both these voluntary initiatives are strictly adhered to by suppliers and each is subject an independent audit.

So, as you can see, there is already in existence a comprehensive approach required by suppliers in identifying and dealing with customers across the customer journey. Therefore it raises the question as to what more the Standard will bring to the identification of vulnerability. Why couldn't the voluntary standards presently extant become a requirement for all suppliers, so as not to lose what already works well?

Interestingly, at the Ofgem workshop on 26 November, a representative from the Financial Ombudsman Service (FOS) (currently the only organisation to have

adopted the Standard), said its adoption was as a result of significant changes to and the expansion of the FOS's areas of responsibility. This meant that it began dealing with significant numbers of consumers who were less able to articulate their complaint than the previous cohort with whom the Service had dealt. New case-handling staff recruited to meet the additional workload comprised mainly recent graduates who, because of their age, it was felt, lacked the necessary 'life skills' needed to deal adequately with these less able consumers.

Suppliers, by comparison, because of the fundamental nature of the service they provide, have always interacted with vulnerable customers; as such their processes are geared to dealing with them. This combined with the requirements set out above certainly raises the question of what additional benefits customers will derive from suppliers adopting the Standard.

Implementing the Standard wholesale will have cost and resource implications – it is very broad and would impact upon almost all staff. This could in turn have an impact on consumers' bills. It would also be hard to monitor and enforce; ultimately, compliance at the moment would be subjective as currently there is no certification or accreditation scheme in place to verify operating in accordance with the Standard.

However, if the Standard is not viewed as a one-size-fits-all model and that there are, tangible benefits for suppliers that improve matters for consumers and do not have cost or implementation implications attached to them, then these would be worth exploring with suppliers, probably under the aegis of Energy UK.

That said, a robust impact assessment needs to be conducted by Ofgem before the Standard is put forward as best practice or used as a yardstick to measure suppliers' and DNOs' current performance. This should also include a significant degree of engagement with suppliers and distributors beforehand. Consideration needs to be taken of other areas of work Ofgem is undertaking (for example, the RMR proposal requiring suppliers to treat consumers fairly) to understand what the adoption of the Standard may mean.

QUESTION FOUR: What are your views on other approaches suppliers and distributors could take to adopt our proposed perspective on vulnerability in practice?

The premise behind this question presupposes that the current approach by suppliers and distributors in how they deal with vulnerable customers is not working. However, no evidence has been adduced that this is the case. The initiatives mentioned at the beginning of this response (RMR etc) have yet to be introduced, and so part of the perceived mischief underpinning the rationale for the CVS may be addressed by these measures.

Nonetheless, as an alternative to the Standard, Ofgem should consider whether the Safety Net could be used as a vehicle for developing a common approach to engaging with vulnerable customers, expanding beyond its current focus on vulnerability in relation to debt and disconnection. This retains a self-regulatory approach; a third-party independent audit function so that Ofgem can be assured of suppliers' compliance; and the flexibility to amend it quickly should it be necessary (changing the Standard, as it applies to any consumer-facing service, would require significant consultation and, it is contended, take a long time).

QUESTION FIVE: What are your views on our plans for developing a Consumer Vulnerability Network (CVN) and are there additional organisations that we should engage?

There are a myriad of smaller very locally-focused organisations that may find it more difficult to raise matters of importance at a national level. The CVN could be useful in giving these bodies a voice. Conversely, it could also be a means of Ofgem sounding out proposals. However, this latter aspect should not circumvent the formal consultation process; that must be the means by and through which any new proposal has to be measured.

If there is an actual need for such a network, npower would be supportive of the idea of establishing one. Any reservation is based on the perception that this area is a particularly crowded place and it not being entirely clear what the unique selling point is of the CVN. Similar structures already exist and the concern is that the it could end up overlapping with, for example, Citizens Advice's existing Regional Financial Capability Forums; the Money Advice Liaison Group (MALG); or even FPAG. Clear terms of reference are required. The CVN could be used as means for suppliers and distributors to promote their services and as a means of identifying vulnerable customers eligible for the various programmes and initiatives they offer.

It is interesting to note that Government in its recent document '*Ensuring a better deal for energy consumers*' has asked for comments, separately from Ofgem it seems, on the benefits in establishing a network of voluntary organisations to support vulnerable customers to engage in the energy market. If this is distinct from Ofgem's proposals, it would seem logical to try and link them to avoid duplication and confusion.

QUESTION SIX: What are your views on our proposed annual workplan for 2013/14?

npower's comments on Ofgem's next annual workplan are set out below.

Priority Services Register (PSR)

Ofgem proposes to review the PSR, examining:

- Data sharing and transfer of PSR data in the change of supplier process

Clearly data protection is of paramount importance here, as well as the practicability of sharing data between suppliers and distributor. With the former, the requirement to ensure that personal data is accurate, current and is retained only for so long as it is relevant. Obtaining the ICO's imprimatur in this area will be essential before any substantive work begins on this aspect of a PSR review.

As well, transferring data between suppliers usually entails using industry dataflows; the process for changing these or introducing new ones tends to take time. Additional to this are the system changes that individual suppliers will have to introduce to deal with them. This will not be a 'quick fix'

- common branding of PSRs; and additional eligibility and services offered beyond those required by licence

npower's PSR is branded as the Warm Response Service. In principle, if a common brand raises the profile of the PSR, then it would be seen as worthwhile. However, this should not prevent suppliers and distributors developing other services that are linked to the PSR, but additional to it; that is to ensure a common-branding approach to PSRs doesn't stifle innovation, nor impact upon suppliers' ability to make commercial decisions in this area.

- knowledge of, attitude to, and the services required by, the PSR, with this being informed by consumer research.

Care must be taken to ensure that the PSR remains as a means and is used only to deliver essential services to those most in need. It is important to remember the purpose of the PSR; it should not become a catch-all set of services for customers with potential vulnerability. Expanding the PSR too far will impact upon suppliers' ability to deliver services to those most in need and will have cost implications for all consumers' bills.

In addition, one of the main frustrations that suppliers face when trying to attract customers onto the PSR, is the requirement that their permission needs to be sought before they are placed on it. Understandably, the reason for inclusion is because the information gathered is considered personally sensitive data and why consent is required. Against this, is the fact that there is no obvious detriment to being on the PSR; it is beneficial both in providing access to the services directly related to it, and that inclusion may also act as a gateway for other services that suppliers offer. Perhaps, one way to address this point is to make the PSR an opt-out as opposed to an opt-in service.

Other matters that Ofgem proposes to review are:

Debt Assignment Protocol (DAP)

The voluntary agreement only took effect on 1 November 2012 and the changes must be given a chance to work. Indeed, the changes to the MAP and SPAA processes that underpin the DAP, are unlikely to be completed in 2013/14.

It should be noted that the debt objection procedures are in place for a reason. Relaxing these will have an impact on consumers' bills. It seems sensible, therefore, to monitor them, but to avoid making further changes in the foreseeable future.

Compliance with social obligations

Again, as the new reporting requirements for debt and disconnection have only just been implemented, then it seems sensible just to monitor these. Significant IT work was required to make the latest reporting changes; it is hoped that these are sufficiently well 'future-proofed' for significant period going forward. Further changes, if necessary, should be only on the basis of research and robust impact assessment.

Energy Best Deal (EBD)

What suppliers may already do under their own initiatives of a related nature for assisting vulnerable customers (for example, npower's Heath through Warmth initiative), should not be crowded out. In line with Ofgem's Warm

Home Discount guidance, suppliers are ultimately responsible for the delivery of the EBD programme. The present campaign will run until September 2013. We note, though, that in *'Ensuring a better deal for energy consumers'*, Government appears to be placing considerable store on the EBD as a vehicle to promulgate the benefits of changing supplier. This should not mean, however, that the EBD becomes a 'mandated voluntary requirement'.

Best practice in identifying vulnerability

There is no single definition of vulnerability that runs through all policies or programmes from Ofgem or Government. Under the Safety Net, the definition of vulnerability is widely drafted, but it contains core elements while allowing suppliers the latitude to develop approaches over and above these. For example, npower defines a child as any person under the age of 16 in our application of the Safety Net's provisions

We would recommend, therefore, that Ofgem examines both the policy and approach set out in the Safety Net, together with the framework within which it operates as a paradigm for assessing vulnerability best practice.

Conclusion

Ofgem's proposed CVS is both ambitious and potentially far reaching in its impact, not least if one element of this is that it helps to rebuild trust between suppliers (and distributors) and their customers.

To minimise or avoid increased costs, the CVS should build on existing good relevant self-regulatory practice that is already being utilised by suppliers and DNOs under voluntary initiatives.

We agree that some elements of the Strategy should be allowed to develop given the recent changes to them (for, example the DAP), and that others warrant a review (the PSR), while recognising changes will take time for any implementation. Other proposals (for example, the adoption of the BSI Standard) need to be considered in more detail before they are adopted.

Questions remain as to how the CVS sits within other work being undertaken by Ofgem and Government (for example, under the RMR and through the Energy Bill). Ofgem should ensure that it avoids duplicating work already being carried out or proposed by suppliers, Consumer Focus, Citizens Advice, others or, indeed, itself.

Yours sincerely

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