

Consumer Futures

Gareth Atkins
Ofgem
9 Milbank
London
Sample County
SW1P 3GE

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Dear Gareth

Forward Work Programme 2014-15

Consumer Focus is happy to respond to the consultation on Ofgem's Forward Work Programme for 2014/15. This submission is entirely non-confidential and may be published on your website.

We broadly agree with the four main work themes of:

- Promoting value for money
- Promoting security of supply
- Promoting sustainability
- Ensuring efficient delivery of Government's consumer and environmental programmes

We also agree with the proposed budget and deliverables under these four key themes. However, we think that Ofgem should take on some additional projects which would fit within the existing proposed themes.

Consumer Futures has in previous responses to Ofgem's work plans suggested that the regulator consider how it might develop a methodological framework for assessing the distributional impact of major policy proposals on different types of consumers. This could be usefully broken down by income, region, payment type and energy consumption. For instance, this should include distributional analysis of the impact of smart metering and demand response tariffs; paying special focus to understanding the impact on fuel poor customers and those in vulnerable positions.

Low Carbon Networks Fund

Consumer Futures would like Ofgem to report on the consumer experience of relevant aspects of the projects supported by the Low Carbon Networks Fund. Without comparable data, both on consumer experience and the impact on their usage, stakeholders cannot understand the potential social and commercial costs and benefits of different approaches.

Consumer Futures also recommends Ofgem consider the publication of an annual synthesis report and would be happy to support dissemination of this to third parties.

Priority Services Register (PSR) review and vulnerable consumers

London

Victoria House
Southampton Row
London
WC1B 4AD
Tel: 020 7799 7900

Glasgow

Royal Exchange House
100 Queen Street
Glasgow
G1 3DN
Tel: 0141 226 5261

Cardiff

Room 3.90, 3rd Floor,
Companies House
Crown Way
Cardiff, CF14 3UZ
Tel: 029 2078 7100

Belfast

Elizabeth House
116 Hollywood Road
Belfast
BT4 1NY
Tel: 028 9067 4833

Consumer Futures is keen to work closely with Ofgem as it reviews the PSR and considers how suppliers identify and support vulnerable consumers. We are currently working with Ofgem, FCA, Ofwat and Ofcom in carrying out research to compare vulnerability strategies across regulators. There is scope for closer working by sectorial regulators on these issues, and we encourage the regulator to play a key role in sharing and learning from other sectors. Consumer Futures has significant experience in working with Ofgem and industry on these issues and hope to continue to work closely with the regulator in this area.

Our recent researchⁱ found that the cost of energy is a key driver of the poverty premium: Consumer Futures found that those on the lowest incomes paid 10p in the £ more for essential goods and services. This could potentially be a useful indicator for monitoring the impact of the RMR. Consumer Futures is benchmarking the consumer voice bodies against the BSi 18477ⁱⁱ on inclusive services. We will share the results with Ofgem and believe they will prove helpful for the regulator's attempts to encourage industry to use the standard.

In order to support and reach vulnerable consumers, Consumer Futures recommends that Ofgem consider how it can work with Department of Energy and Climate Change (DECC) to consider whether they might be able to explore the potential role of civil society organisations as trusted intermediaries between energy companies and consumers and in the provision of energy efficiency programmes/energy.

Consumer information, advice and redress

As mentioned in previous consultation responses, Consumer Focus would urge Ofgem to carefully consider its plans to publish additional consumer information and advice on its website. There are already multiple 'official' sources of information aimed at energy consumers, which has expanded with the launch of the Green Deal and could expand again with the roll-out of smart meters and support for the domestic RHI. For instance, to help simplify matters, Consumer Focus has transferred its consumer education content to the Citizens Advice Service's adviceguide website.

We would also reiterate our call for Ofgem to look at consumer engagement and redress across the wider energy services market and assess how consumers can be best served given the increasing development of bundled services that often incorporate multiple regulators and redress systems. It is essential that Ofgem defines its role in relation to other regulators and government departments, such as DECC and the Department for Business, Innovation and Skills (BIS), to ensure consumers are adequately protected and engaged in an increasingly complex energy supply and energy services market. Consumer Focus is planning to work with FPAG to explore the implications of creating a 'one stop shop'.

The regulators role in licence compliance

Consumer Futures welcomes the efforts Ofgem has been making to support and enable new entrants to the energy market. We are keen to ensure that there is no unnecessary duplication of effort on respective engagement with industry, or that our actions re: identifying and discussing the consumer issues conflict with Ofgem's work in this area.

Consumer Futures may uncover consumer detriment, or a possible licence breach by a company, through the Extra Help Unit or our general monitoring work. Our normal practice is firstly to establish the seriousness of the issue, raise the matter with the company and request that they take immediate remedial action. And, where appropriate, compensate affected customers. Where we believe the detriment is widespread or any interventions we may make are unlikely to be timely and/or effective, we will refer the matter to Ofgem. In either event we would make Ofgem aware of our concerns.

In general this approach has worked well – not least as it can allow Ofgem to focus its resources on the most serious breaches. It also allows for a quick and cost effective resolution to problems. However, there is a concern that licensees may be putting themselves in a double jeopardy position, whereby they agree a voluntary course of action with Consumer Futures, only for Ofgem to open an investigation into an alleged breach.

It is not our intention to interfere in Ofgem's statutory role, or the decision making process as to its investigative priorities. However Consumer Futures does want to explore whether there is scope to agree some principles between our two organisations about how such situations could be handled. This would give all parties involved the confidence to reach the best outcome for consumers.

New entrants to the market and the licencing process

Consumer Futures' understanding of Ofgem's current licensing process is that all potential licensees go through the same assessment, regardless of whether they want to access industry systems, intend to supply a single building or plan to actively compete for new customers. It appears that it is largely a formality, as there are very limited grounds to deny a licence to an applicant.

The existing process is appropriate for applicants that do not intend to enter the market. However, for those licence applicants who intend to compete for additional customers, the current licensing process appears to give no active consideration to the applicant's proposed business model or competency. Consumer Futures and Ofgem have recently had an exchange of letters on this topic, and you will be aware of our concerns and the potential impact on confidence in the market. Consumer Futures recommends that a clear priority for Ofgem should be to establish a compliance unit.

Poorly prepared suppliers can cause significant consumer detriment if their knowledge of the energy supply market, or business processes and procedures, are inadequate. Over the past 12 months, Consumer Futures has had extensive dealings with several newer entrants who have either chosen to specialise in the prepay market or have sought to acquire significant numbers of prepay customers.

Ofgem's decision not to engage more closely with new suppliers in the run up to their launch and in their first months of operation, has allowed some poorly prepared companies to cause significant harm to some of the more vulnerable households in the country.

Consumer Futures has spoken to other regulators, including Ofcom and the OFT, to understand the licensing process across sectors. These discussions have highlighted areas where we believe Ofgem's current processes could be strengthened, which we

shared with you in October 2013. We understand that the regulator will have considered many of these issues as part of the enforcement review, and is considering the many different options around monitoring and enforcing licence compliance. Consumer Futures is happy to share our experiences and keen to work closely with Ofgem on this.

Supporting all licensees

Another issue we've raised in a previous consultation response is that Consumer Futures is keen to see a visible shift in focus by Ofgem to place more emphasis, as well as allocating more resources, to help support licensees in ensuring they remain compliant with the licence obligations.

Consumer Futures regularly receives feedback from large and small suppliers that they have asked Ofgem for guidance or feedback on whether their policies or processes are compliant with the licence obligations, and that the regulator has declined to provide this. While appreciating that Ofgem would not want to fetter its discretion, we would be keen to explore whether more guidance could be provided.

Consumer Futures and our predecessors have made numerous requests for the publication of additional guidance. The complexity of the licence obligations on suppliers have increased in number and complexity since the Probe (and will do so again as a result of the Retail Market Review). There is a risk that the licence obligations may act as a barrier to entry – particularly if the regulator appears unwilling to discuss licensees' obligations around them. While we realise that Ofgem does not have unlimited resources, it would be helpful to understand whether it could offer additional on-going support to licensees, as this should lead to better outcomes for consumers.

Consumer Futures has significant concerns about the potential risks associated with the £11bn smart meter rollout. Great Britain is the first country to attempt a supplier-led rollout, which presents additional challenges. Consumer confidence in the wider programme could be harmed by the poor behaviour or practices of a single supplier. This could result in the worst case scenario of the programme being aborted or simply resulting in increased rollout costs, thus negating or lessening the expected consumer benefits associated with the programme.

Smart meter rollouts elsewhere in the world have attracted controversy and it is essential that all parties are able to work together to quickly respond to and address any emerging concerns that arise. If Ofgem is required to take enforcement action against a company it may already be too late to maintain consumer confidence in the rollout. We would therefore like to see Ofgem actively working to help ensure compliance, rather than focus on enforcement.

Third Party Intermediaries

Consumer Futures is pleased that Ofgem will be launching a review of the wider regulatory framework for Third Party Intermediaries. We have long been concerned about the existing TPI market in both the domestic and non-domestic sector and has carried out research looking at both the detriment to consumers and options for greater regulation in this area.

Work by Consumer Futures on next generation intermediary services suggests that in the near-medium term we are set to see a range of innovative services that bring much

greater convenience to consumer engagement with the energy market. A key challenge for Ofgem will be to develop a regulatory framework that both anticipates these developments, is flexible enough to respond to them and can ensure that the right consumer protections are in place.

Consumer Futures would like to see an Ofgem-run accreditation scheme for TPIs accompanied by a new licence requirement on suppliers requiring them to only deal with accredited providers. Our key objective is to ensure that no matter how energy consumers, domestic or non-domestic, choose to purchase energy or energy services they are able to access to the same rights of redress and protections as consumers that purchase the same services directly from a licensed supplier.

In a rapidly developing market, adequate consumer protections are necessary not only to guard against consumer detriment but to promote consumer confidence in engaging in the market, which includes using TPIs. We look forward to working closely with Ofgem in this area.

If you have any further comments or questions about this response please do not hesitate to get in contact.

Yours,



Audrey Gallacher
Director of Energy
Consumer Futures

ⁱ <http://www.consumerfutures.org.uk/reports/addressing-the-poverty-premium-approaches-to-regulation>

ⁱⁱ Inclusive service provision. Requirements for identifying and responding to consumer vulnerability: <http://shop.bsigroup.com/en/ProductDetail/?pid=00000000030213909>