

Maxine Frerk
Partner, Retail Markets
Ofgem
9 Millbank
London
SW1P 3GE

16 May 2014

Dear Maxine,

Consultation on a proposal to make a market investigation reference in respect of the supply and acquisition of energy in Great Britain

Thank you for the invitation to respond to the above consultation. As you are aware, Good Energy is a licensed electricity and gas supplier supplying around 40,000 customers with 100% renewable electricity and around 15,000 customers with gas supporting renewable heat. We also act as FIT Licensee to over 59,000 FIT generators.

Our mission is to fight climate change by offering consumers the option to do so through their choice of energy supplier.

Executive Summary

Good Energy welcomes Ofgem's proposal to refer the industry to the Competition Market Authority (CMA). The industry is in a period of rapid change as it switches to low carbon sources of electricity generation, accompanied with greater involvement in the market by consumers either through their smart meter or by generating their own energy.

The traditional utility based structure of the industry is evolving, although the entrenched positions of the existing dominant players is hindering progress as they tend to dominate discussion and development of any market changes. We therefore feel an objective review of the market will be beneficial provided it recognises this changing structure and seeks to support this natural progress, rather than stick with a slightly modified traditional market structure.

To this end we believe that the terms of reference need amending to "the supply, acquisition and decarbonisation of energy in Great Britain", in recognition of the changes the market has and needs to make over the coming years.

Set out below are some of the key points we wish to raised on your consultation

Weak Customer response

Good Energy has been in the retail market since the year 2000. As with any new market entrant, the fixed cost of operating as a supplier have to be spread across a smaller customer base, and thus competing on price against the incumbent suppliers has always been difficult. Good Energy has traditionally dealt with this by competing on the provenance of its energy rather than price. Since we entered the market, those fixed costs have increased, principally as a result of an increasing regulatory burden and more recently the pace of regulatory change, which impact small suppliers disproportionately as system changes tend to be a fixed cost generally irrespective of size.

These costs impact smaller supplier's ability to compete, either by limiting their ability to price competitively, or by restricting the amount they can spend on customer acquisition. It is ironic, that several of these changes have been aimed at restricting the malpractices of the incumbents, but actually end up putting the new suppliers at a greater disadvantage than those they are aimed at.

That said, smaller suppliers are gaining traction with the public and a period of regulatory stability would further enhance this shift in the market without intervention. If there is intervention, then the impact on new entrants should be specifically considered.

Continued evidence of incumbency advantage

We agree with your conclusion that incumbents still exercise market power over sticky customers, but believe the market power goes further. Many of the recent market changes, particularly those run by Government have had a tendency leave the detailed development to industry. Unfortunately, due to their superior resources, "industry-led" ends up being "big 6-led. The most obvious example is the Smart Metering Programme, where the roll out has been developed based on a utility based model rather than a retail model taking account of different size and resources available to suppliers who are mandated to deliver. A further example exists in the development of EMR, where decentralised generation has been persistently overlooked in policy design as it was not a space occupied in any great depth by incumbent parties.

Evidence of tacit coordination

It is inevitable that where the markets dominant players of similar size practice near identical business models, then tacit coordination will occur. This is clear when those parties come together to deliver "industry led" changes as mentioned above. They entrench the same way of working upon market changes, because they work the same way thus creating an unvirtuous circle.

Additionally, prescriptive regulation has the ability to create an environment which tacit coordination can appear to be present by the way it mandates all suppliers to deliver in a defined manner and prevents degrees of differentiation between suppliers or products.

Vertical integration and barriers to entry

A truly competitive market should be able to support different business models. In this respect the market should be able to support independent suppliers, generators and vertical integrated businesses. The problem is not vertical integration per se, but the fact that the six largest participants practice the same business model. This position perhaps reflects that the market set up favours this model, rather than a level playing field for different business models.

The advent of renewable generation means that the barriers to entering the generation market caused by the need for high capital investment have reduced which should have opened the market for both independent generation and smaller VI businesses. However, market design is still designed around large generators delivering to large suppliers, and a trading mechanism that makes vertical integration the minimal risk model to pursue.

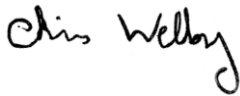
Any investigation has to look at the emerging decentralised generation model based on renewable generation and ensure that the market can support this. If the investigation does not, and leaves the market with yesterday's large thermal generation dominated model, then the UK's obligation to decarbonise its energy market will be increasingly difficult to achieve.

Other issues

In your state of market report accompanying this consultation, a lot of the evidence presented focusses on the big 6 suppliers. Whilst we support referring the market to the CMA, we believe Ofgem should make clearer, that many of the issues it raises, relate to the larger suppliers and not all suppliers. The impact on smaller suppliers should they have to provide evidence to the CMA to the same degree as the larger suppliers could be significant, and often superfluous as they are not involved in, (although may be impacted by) some of the problems identified. It would perhaps be helpful to the CMA if Ofgem makes this clear in its referral.

I hope you find this response useful and can accommodate the issues raised. If you have any questions, please do not hesitate to contact me.

Kind regards,

A handwritten signature in black ink that reads "Chris Welby". The signature is written in a cursive, slightly slanted style.

Chris Welby

Policy & Regulatory Affairs Director