

Jemma Baker
Retail Market Policy
Ofgem
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Sent via e-mail: retailmarket.review@ofgem.gov.uk

28 February 2014

Dear Jemma,

Domestic Retail Market Review Evaluation – a proposed way forward

Energy UK is the trade association for the energy industry. Energy UK has over 80 companies as members that together cover the broad range of energy providers and supplies and include companies of all sizes working in all forms of gas and electricity supply and energy networks. Energy UK members generate more than 90% of UK electricity, provide light and heat to some 26 million homes and last year invested £10billion in the British economy.

Energy UK is pleased to respond to Ofgem's open letter describing how it will monitor the impact of the new RMR rules on the domestic retail market.

Energy UK warmly welcomes Ofgem's commitment to evaluate the impact of RMR. Overall, we believe that the proposed approach is sensible and well-reasoned. For instance, it is pragmatic in that it recognises the challenges, such as the difficulty in attributing a particular change to a particular policy. It is also balanced, in that it recognises that the RMR may bring unintended harms as well as intended benefits.

Given that Energy UK supports much of what is contained in the document, we feel that it would be most useful if we limit our comments to areas where we believe that improvements could be made. These are listed below.

1. More clarity and detail is required on process, milestones and timescales.

Whilst the open letter is informative with respect to the high level framework that Ofgem intends to use to evaluate RMR, it is relatively silent on process and precisely how the indicators will be measured.

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For instance, there are different ways of measuring trust, there has been no visibility of the questions that will be asked of consumers, nor have the sources for the other data been provided. Overall, we are concerned that the plan contains insufficient detail for respondents to assess the adequacy of the way forward, and we would ask that Ofgem provides the corresponding information. It is important for all stakeholders, including consumer groups and industry, to see and be able to comment at this level of detail. In absence of such consultation, there is a risk that there will not be consensus on what the results mean with respect to the success of the reforms.

With respect to process, Energy UK would ask that Ofgem sets out when the consumer research and other data collection will start, when it will end, when Ofgem expects to report and what potential next steps might be after the report.

2. Benchmarking external influences: more should be done to understand the social, political, economic and media context in which the market and RMR reforms are operating.

There are a range of factors that influence consumers' perceptions and behaviours in the market. In order to understand the true impact of RMR reforms, it is necessary to also understand the impact (or likely impact) of factors other than the RMR reforms. For instance, an upturn in customers switching suppliers may be attributable to a price event.

Whilst Ofgem has rightly acknowledged that it is not possible to create a "control" group, the methodology should be devised in such a way as to separate the impact of RMR from other factors as far as possible. At the very least, it should be possible to monitor external influences and then compare those influences when comparing future indicators against the baseline currently being created.

3. The impact of changes that took place in the period leading up to RMR decision and licence condition implementation should be given greater consideration.

Whilst most of the RMR licence conditions have come or are coming into force either side of Q1 2014, many suppliers made changes in the spirit of the rules far earlier in response to consumer preferences. Whilst it is unfortunate that the baseline research could not have been done earlier, there may still be opportunities to explore potential links between observable changes that were made by suppliers and observable behaviours and perceptions of consumers at the time or afterwards. Doing so may also shed further light on the impact of externalities. Having said this, Ofgem should remain cautious in trying to directly compare baseline data with previous market data, given the likely discrepancies in sophistication.

4. Ofgem should state more clearly about when it expects to see change, and to what degree.

Whilst Energy UK hopes that the RMR reforms will have a major impact immediately, there are a number of reasons why it is unrealistic to expect such a result. For instance, suppliers have for many years been trying to attract customers through a variety of attractive offers, there are many who have not engaged. The Standards of Conduct are a good example of a reform that, whilst likely to result in positive change from suppliers in the short term, the filtering through of these changes to results in consumer surveys may take some time.

Energy UK believes that it would be prudent for Ofgem to explain in its evaluation framework the scale of change that it would expect to see, so that the results can be set in this context.

5. If possible, baseline RMR evaluation results should feed into the Ofgem/OFT/CMA competition assessment process.

Based on current timescales, the Ofgem/OFT/CMA competition assessment should be published before the RMR consumer survey results are available. Nevertheless, any opportunities to feed any RMR research findings into the competition assessment process (including consideration of next steps subsequent to report publication) should be taken advantage of, since they can only help provide a richer understanding of what is going on in the market.

6. The list of potential unintended consequences is currently incomplete.

Commentators¹ have suggested that the tariff cap could lead to reduced price differentials, ultimately resulting in reduced consumer engagement owing to the reduced incentive to switch supplier or tariff. Ofgem has also stated that that “we might see some convergence of prices”². Energy UK therefore believes that this potential unintended consequence should be added to the list in Table 5.

Energy UK has previously highlighted the risk that the tariff cap combines with the cheapest tariff reforms to give consumers the impression that engagement is not worthwhile because they believe they are already getting a decent deal, and there is little to be gained in the way of savings, choice or innovation. We would ask that Ofgem adds this potential unintended consequence to the list in Table 5.

Table 5 includes a potential unintended consequence of RMR that relates to the costs of implementation. It should look to combine this with complexity of regulation which, in combination with costs, may increase barriers to entry into the market.

With respect to unintended consequences that may occur to the detriment of consumers, Energy UK would like Ofgem to consider what action they may take if they are observed. Whilst Energy UK supports the principle that RMR reforms should be given a chance to work (i.e. produce positive change) with a review in 2017, Ofgem should nonetheless revisit regulatory requirements if they are demonstrably proving counterproductive to the consumer interest.

7. More clarity is required on the indicators being used to measure potential unintended consequences, and why.

Table 6 in the open letter provides an illustrative list of indicators for time-series monitoring. It is concerning that the list of indicators is only “illustrative”. Energy UK believes that these should be fleshed out and that more clarity should be provided, particularly on how to measure whether “genuine tariff innovation” is being restricted.

Energy UK is also concerned that an indicator relating to the costs of regulation (an unintended consequence listed in Table 5) appears to be absent from Table 6. This omission should be rectified.

Energy UK hopes that these comments are useful, and we reiterate our strong support for Ofgem undertaking this project. We look forward to continued constructive dialogue as results emerge, and would like to opportunity to be able to discuss what they might show in terms of impact at an early stage.

¹ Stephen Littlechild, Ofgem and the Philosopher’s Stone, 20 November 2012

² IA, p. 71, para 7.48

In the meantime, if you have any questions, please do not hesitate to contact me on 020 7747 2962 or alun.rees@energy-uk.org.uk

Yours sincerely

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