

Jemma Baker  
Retail Market Policy  
Ofgem  
9 Millbank  
London  
SW1P 3GE

13 March 2014

Dear Jemma,

### **Domestic Retail Market Review Evaluation – a proposed way forward**

I write in response to Ofgem's open letter of 31 January outlining proposals to monitor and evaluate the impact of the domestic RMR remedies.

We think that the aim of this work – to understand and assess the impact that the RMR has had on the domestic retail market – is important and the commitment to ongoing evaluation is welcome. Broadly speaking, we think that the framework that Ofgem has set out in its proposal is appropriate and sets out the best approach to assessing the overall impact of the package of measures. We understand why Ofgem has opted for a 'top down' approach for evaluation and we agree that the nature of the RMR changes means that they can't easily be separated into distinct policy areas.

Ofgem is right to recognise the challenges in this activity. In particular, we think it will be difficult to control for other external market factors and to find clear causal links to the specific effects of the RMR policies (as distinct from other causes). It will be important to try to filter out the impacts of media and political sentiment, including the possibility that some political parties may seek to make energy prices an election issue, on consumer opinion. It would also be helpful to take account of any market changes in anticipation of the RMR remedies but before they took effect. Therefore:

- We would encourage Ofgem to consider other sources of independent research, in addition to its own, to inform the baseline. For example consumer groups and academic researchers are likely to have undertaken their own research exercises during the period of the RMR which could help to build Ofgem's baseline and give a broader view of market impacts.
- In addition to using consumer research, Ofgem could consider other ways used by market research agencies to filter out 'external noise' and put trends in context such as media sentiment trackers.
- Ofgem should recognise that the RMR started to influence the market well before the licence conditions took effect. Suppliers were aware of the direction of travel of RMR and this had a significant bearing on their behaviour in the period 2012-2013. Ofgem could consider adding a metric to its evaluation

framework considering the extent to which individual suppliers responded incrementally to the RMR during this period.

Beyond this, we agree fully with the need for the evaluation to involve systematic data collection to build an evidence base for identifying the impacts of the RMR. Ideally we would have liked to see appropriate baseline data being gathered prior to the implementation of the RMR remedies and as close to the early stages of the RMR as possible, to ensure a richer dataset and help identify trends over time. In the absence of such a historical dataset we understand that Ofgem will be looking to make some broad assumptions about the state of the market prior to and during the RMR implementation period. Establishing a secure baseline for assessment will be important and there is a risk that the assumptions made for the purpose of the baseline may not reflect the true impacts of the RMR. We agree that continuity of data is important in setting and measuring the baseline.

We would also ask that Ofgem consider the process needed now to build that data set, if it has not previously been gathered. Specifically, while we understand that Ofgem will now be keen to start gathering such data, and it is useful to start to collect this as soon as possible to move forward with a baseline, it is likely that some significant change will be required to the information that suppliers currently provide. Suppliers will therefore need time to build and test to deliver accurate reports. We would be keen to work closely with Ofgem as this data set develops, to ensure that we are clear on how to translate Ofgem's requirements into an operational data set and also to help manage costs and timescales. We understand that this work is already underway.

Finally, although there is an oblique reference to the costs of implementing the RMR in relation to the potential unintended consequences that have been identified to date, we don't see anywhere in any of the indicators identified by Ofgem that it will seek to assess the implementation costs of the RMR and the impact that this may have had on consumer bills. We think an *ex post* assessment of costs should form part of any thorough evaluation and this is an important indicator that seems to have been omitted from Ofgem's framework.

We have provided some further general comments on the proposals set out in your open letter in Annex 1 to this letter. If you wish to discuss any of the points in our response further, please do not hesitate to contact me.

Yours sincerely,

A handwritten signature in blue ink that reads "Rupert Steele". The signature is written in a cursive style and is positioned above a horizontal line that serves as a separator between the signature and the typed name below.

**Rupert Steele**  
Director of Regulation

**DOMESTIC RETAIL MARKET REVIEW EVALUATION – A PROPOSED WAY FORWARD**  
**SCOTTISHPOWER COMMENTS ON PROPOSED FRAMEWORK**

**1) The importance of establishing a baseline**

Establishing a robust baseline is a vital aspect of the evaluation framework. If the baseline is not robust, it is likely to impact the resulting analysis and may underestimate the true impact of the RMR changes. It is therefore important that the baseline is carefully considered.

Ideally we would have liked to see the appropriate baseline data being gathered prior to the implementation of the RMR remedies and as close to the early stages of the RMR as possible, to ensure a richer data set and to help to identify trends over time. In the absence of such a historical dataset we understand that Ofgem will be looking to make some broad assumptions about the state of the market prior to and during the RMR implementation period.

We think that it will be difficult to control for other external market factors and for Ofgem to find clear causal links to the specific effects of the RMR policies, as distinct from other causes. It will be important to filter out the impacts of media and political sentiment on consumer opinion, and it would be helpful to take account of any market changes in anticipation of the RMR remedies but before they took effect. Therefore:

- We would encourage Ofgem to consider other sources of independent research, in addition to its own, to inform the baseline. For example consumer groups and academic researchers are likely to have undertaken their own research exercises during the period of the RMR which could help to build Ofgem's baseline and give a broader view of market impacts.
- In addition to using consumer research, Ofgem could consider other ways used by market research agencies to filter out 'external noise' and put trends in context such as media sentiment trackers.
- Ofgem should recognise that the RMR started to influence the market well before the licence conditions took effect. Suppliers were aware of the direction of travel of RMR and this had a significant bearing on their behaviour in the period 2012-2013. Ofgem could consider adding a metric to its evaluation framework considering the extent to which individual suppliers responded incrementally to the RMR during this period.

We would also note that the Retail Market Review commenced in 2010, with the Licence Conditions being confirmed in 2013 and taking effect from the end of 2013 and early 2014. We would therefore be keen to understand Ofgem's vision for the baseline and in particular, how and if Ofgem proposes to use this 4 year period for the baseline. Alternatively, if Ofgem is going to take the baseline to be a particular point in time, we would be keen to understand the rationale and approach behind that decision.

A particular difficulty arises from the fact that some political parties may intend to make energy prices a key issue in the forthcoming General Election. This could heighten media coverage of the issues and may cause particular points of view to be given strong prominence without necessarily being backed up by detailed evidence. These factors could distort measurements of consumer attitudes.

## **2) Continuity of data**

We agree fully with the need for the evaluation to involve systematic data collection to build an evidence base for identifying the impact of the RMR. Ideally we would have liked to see the appropriate baseline data being gathered prior to the implementation of the RMR remedies and as close to the early stages of the RMR as possible, to ensure a richer dataset and to help to identify trends over time. In the absence of such a historical dataset we understand that Ofgem will be looking to make some broad assumptions about the state of the market prior to and during the RMR implementation period.

We think that there would be value for the Retail Markets Review team to work with other teams within Ofgem and with other, independent stakeholders, to assess what data is already available and understand how this can be used to inform the baseline. It will also be important to ensure that any ongoing data gathering aligns to this analysis. Where appropriate data has not previously been gathered, we would ask Ofgem to give careful consideration to the need, and the likely costs, before asking for more data directly from suppliers and to allow sufficient time for new reports to be developed and tested, to ensure they are accurate.

## **3) Consumer Research**

We support Ofgem's approach to using consumer research to support its contribution analysis. However stakeholders have traditionally had little visibility of Ofgem's consumer research programmes while they are being developed, with only the outcomes of the research being widely available. The way that consumer research is framed or shaped can have a strong bearing on its openness to challenge and limitations. In order to ensure stakeholder confidence in consumer research, we think it would be beneficial to give stakeholders greater visibility, including clarity on the proposed process, timelines and questions. Without this, it is difficult to comment on the suitability of the research outcomes for the purposes of Ofgem's assessment.

We think it would also be helpful for Ofgem to ensure that its research plan, and the conclusions drawn as an outcome of this, recognise the longer-term benefits of RMR and in particular that full transformational change is likely to take some time to be realised. It is important that the research sets a realistic expectation of when benefits are likely to be realised.

Finally we would welcome some further detail on Ofgem's proposed methodology for the research, including the proposed frequency and timescales of publication. For example, we assume that Ofgem proposes to publish an annual review of consumer research in the period 2014 to 2017, but this is not explicit in the document.

## **4) Methodology / Indicators**

As a general point, we note that the indicators are expressed as high level indicators, with the implication that further development work is still needed on both the indicators and their links to the underlying methodology. It is also not clear whether a given indicator is seeking to measure:

- a) consumer perceptions or experiences of market features; or
- b) the reality of those market features.

There may be times when (a) and (b) could differ, for example consumers not being aware that they have received an annual statement when in fact it has been sent to them. In most cases, it will be useful to measure both aspects, but we do not see this being pulled out in the descriptions of the indicators. We look forward to receiving more information about the detailed indicators.

With that in mind, we have a few specific comments on some indicators within the draft:

- On Measuring Trust, we think that it is important to find a way to separate the issue of trust in suppliers from trust in the industry in general. For example, a consumer may have a general distrust in the industry but have a higher level of trust in a particular supplier, making them more likely to stay as a customer of that supplier. We think it would be helpful to consider this as part of the Measuring Trust indicator. This could be explored through consumer research, by asking whether the respondent trusts their supplier more than others, and if so, why?
- It should also be noted that the Measuring Trust indicator is particularly susceptible to distortion should political parties decide to emphasise perceived problems here as part of an election strategy.
- In the 'Improving Understanding' assessment, Ofgem suggests that a key indicator will be consumer awareness of the savings available by switching supplier. As per our point above, we are not clear whether this is a measure of:
  - i. whether consumers have a perception that savings are available; or
  - ii. whether those perceptions are correct;

though in practice we think that Ofgem should re-position this indicator to cover both aspects.

- In relation to the Building Trust objective, Ofgem suggests that an outcome of enforceable Standards of Conduct (SoC) is that consumer complaints categories will change. We consider this to be a slightly odd way to capture an outcome here. We are not sure whether Ofgem intends that suppliers will start to record complaints differently in the light of SoC, or whether the inference is that as the SoC are embedded across the industry, the nature of consumer issues might start to change as consumers are treated more fairly. Either way, we think that this might not be the best measurement.

## **5) Potential unintended consequences**

Ofgem is right to consider both the desired outcomes of its policy changes and the potential for unintended consequences, and to test for both of these in its evaluation framework. We understand that the unintended consequences listed in the open letter are those which have been identified so far and that this will continue to develop through the evaluation. We support this approach.

We would welcome further clarity over how these unintended consequences will be measured and how new potential consequences will be captured as they arise during the review. It is not clear how, and if, these link to the indicators set out later in the document, or whether different indicators will be needed to measure the unintended consequences.

One further potential unintended consequence which is not noted in the document is the potential for the rules to present a barrier to entry or a barrier to growth of new entrants. We can understand why this may not have been captured, as it would be difficult to assess the number of market entrants had the policy changes not been in place. However, we think that 'barrier to growth' is a closely linked unintended consequence and it should be possible to consider and assess the impacts of the policy changes on different types of potential new players in the market.

Finally, we would be keen to understand Ofgem's proposed action in the event that they identify any areas where the policy changes are not working as intended. We can see two potential options here. Ofgem could:

- defer all licence condition changes until a complete evaluation has been conducted for the 2017 review; or
- make incremental adjustments to the RMR licence conditions as particular issues are identified.

While the former option provides more certainty for suppliers (and avoids the risk of costly system developments having to be changed again within a short period), it does not allow for flexibility to make changes where the unintended consequences are likely to have a serious impact on consumers. We would therefore support a more flexible approach, with a general assurance that further changes won't be sought until the 2017 review, unless the scale of the issue for consumers merited it (and the proposed action in response was proportionate to that change).

ScottishPower  
13 March 2014