



Via email

28th May 2014

Dear Sarah,

The Citizens Advice Service response to Ofgem's consultation on revised enforcement guidelines

This submission was prepared by the Consumer Futures team within the Citizens Advice Service. It has statutory responsibilities to represent the interests of energy consumers in Great Britain. We welcome the opportunity to provide a submission on Ofgem's revised enforcement guidelines. Our response is not confidential and can be published on your website.

The Citizens Advice Service welcomes the revised guidelines focus on ensuring a transparent, consistent and proportionate approach to enforcement. Consumer trust in the sector remains low. The industry will shortly commence the mandated phase of the multi billion pound smart meter roll out, which has the potential to be disrupted or derailed by the poor behaviour of a single supplier. It is essential that Ofgem is doing everything possible to encourage licensees' compliance with their obligations: it is vital that suspected breaches are investigated and any enforcement action taken in a coordinated and timely way. The Citizens Advice Service remains concerned that without an overall owner of the compliance 'function' there is a risk that work in this area may be less effective.

Our predecessor bodies (Consumer Futures and Consumer Focus) contributed to the KPMG review of Ofgem's strategy and responded to the subsequent consultation in May 2013. More recently we have also responded to Ofgem's open letter on compliance. This consultation response should be read in conjunction with those previous responses. Our response to the specific questions asked in this consultation are set out below.

Opening investigations and alternative actions

We welcome the expansion of the section on how the regulator can identify suspected non-compliance and decide whether to open a case. The Citizens Advice Service remains concerned about potential duplication of effort in relation to investigations that we are involved in, and would like to have a more detailed discussion with Ofgem about avoiding duplication of effort between our organisations. This would also provide clarity for market participants when they have worked with us to address issues of detriment that we have identified.

Q.1 Do you agree with the proposed changes to our prioritisation criteria?

The Citizens Advice Service welcomes the expansion of the factors that Ofgem will consider when deciding whether a case is a priority matter. It is essential that factors such as the harm, or potential harm, to consumers are key criteria to opening an investigation, and that a

'watching brief' is maintained even if a company has taken steps to address an issue of concern and the alleged breach has stopped.

The Citizens Advice Service notes that Ofgem has included criteria which make specific reference to whether there have been a series of concerns raised over time (including issues brought to the attention of the Ombudsman) none of which in isolation might be considered serious enough to warrant opening a case. The Citizens Advice Service and its predecessor bodies have over the years made referrals and informally raised concerns and issues about companies to Ofgem based on the Citizens Advice Consumer Service (previously Consumer Direct) contacts and Extra Help Unit (EHU) cases. We recommend that this is amended to include reference to the issues that we bring to the attention of the regulator, as The Citizens Advice Consumer Service is the statutory first tier complaints helpline for energy consumers, and the EHU has a statutory role in providing support to vulnerable consumers and are both parts of the formal consumer journey for energy consumers.

Q.2 Is our approach to the range of alternative actions appropriate?

We welcome the clarity that Ofgem has provided about the range of enforcement tools and actions that it will consider as an alternative to using statutory enforcement powers.

Making cases public

The Citizens Advice Service supports Ofgem's decision in relation to making public and announcing every case it opens except those under the European Regulation on wholesale market integrity and transparency. Combined with the proposals for alternative action we are pleased that this will provide much greater transparency in relation to all types of cases.

Settlement procedures

The Citizens Advice Service would like to see a joined up approach across Ofgem in relation to investigations and decisions. We welcome the changes to the settlement process and hope that these will help to achieve more consistency in decision making. It is important that there is a balance between early resolution and applying a penalty by the regulator that reflects the severity of the breach. We look forward to responding to the proposals set out in the consultation on penalties and consumer redress.

Decision-making process

The Citizens Advice Service welcomes the further clarity that Ofgem has provided in the decision-making for contested cases and supports the establishment of the Enforcement Decision Panel and the new emphasis on the separation between the investigation and decision making functions.

We also welcome the proposals on implementing the decision-making framework and are encouraged by the clear and co-ordinated approach Ofgem is taking to this work.

Accounting for enforcement activities

We welcome the move to make enforcement work more transparent. It will be important that the changes are clearly communicated to the industry. The sharing of provisional timetables and publication of an annual balanced scorecard setting out key enforcement metrics is a welcome step toward making visible not only the process, but the decisions, evidence and rationale for investigations.

It is our understanding that Ofgem does not intend to produce detailed guidance for suppliers about the new Standards of Conduct or other changes being put in place under the RMR. While we accept that it is the responsibility of licensees to ensure compliance with the licence conditions, many of the new requirements are complex and/or represent a new approach for the energy sector. In the supply market, a number of new domestic suppliers have recently launched and it is unclear whether these new suppliers have sufficient understanding of the wide range of obligations the licences place upon them. For instance, many new suppliers are unaware of the need to establish a relationship with The Citizens Advice Service and its Extra Help Unit.

If you have any questions or wish to discuss this response please contact Dhara Vyas on 03000 231 483 or email dhara.vyas@citizensadvice.org.uk

Best regards

Audrey Gallacher

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Director of Energy