

The future of retail market regulation

Ofgem consultation

Chartered Trading Standards Institute response

March 2016

About The Chartered Trading Standards Institute

The Chartered Trading Standards Institute (CTSI) is a professional membership association founded in 1881. It represents trading standards officers and associated personnel working in the UK and also overseas – in the business and consumer sectors as well as in local and central government.

The Institute aims to promote and protect the success of a modern vibrant economy and to safeguard the health, safety and wellbeing of citizens by empowering consumers, encouraging honest business, and targeting rogue traders.

We provide information, evidence, and policy advice to support local and national stakeholders.

We have also, as part of our recently revised remit, taken over responsibility for business advice and education concerning trading standards and consumer protection legislation. To this end, we have developed the Business Companion website (www.businesscompanion.info).

The CTSI Consumer Codes Approval Scheme was launched in 2013, superseding the OFT scheme (www.tradingstandards.uk/advice/ConsumerCodes.cfm).

CTSI is a member of the Consumer Protection Partnership, set up by central government to bring about better coordination, intelligence sharing and identification of future consumer issues within the consumer protection arena.

We run events for both the trading standards profession and a growing number of external organisations. We also provide accredited courses on regulations and enforcement.

A key concern for CTSI is that of resources. UK local authority trading standards services enforce over 250 pieces of legislation in a wide variety of areas. They have suffered an average reduction of 40% in their budgets since 2010 and staff numbers have fallen by 50% in the same period.

This response has been composed by CTSI Lead Officer Energy, Smart Meters and Climate Change Steve Playle. Should you have any queries or wish to discuss the response please do not hesitate to contact Steve at lodoorstep@tsi.org.uk.

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The Future of Retail Energy Market Regulation – OFGEM Consultation – December 2015

Response by the Chartered Trading Standards Institute – March 2016

The consultation document is very complex and poses 19 questions for respondents to answer. CTSI would not be in a position to provide an answer to some of the questions

so our approach in our response is to provide some overarching and general comments on the retail energy market and how consumers should be protected.

The general tone of the consultation is to move away from reliance on prescriptive rules and move towards general principles. CTSI does not agree that such a shift is the best way to regulate the energy market at present.

The turnover of the retail energy market is something in excess of £30 billion per annum. This assumption is based on an average annual household energy bill being £1000 and there being 30 million households in the UK. In view of this significant household expenditure, a lighter touch 'principles based' approach is inappropriate. If the retail energy market gets things wrong in service delivery, the potential detriment caused to consumers is highly significant and, for this reason, CTSI believes that it is right that the industry is carefully and closely regulated. Such regulation, if properly drafted, applied and enforced, will protect consumers and also ensure there is a level playing field for all providers in the market place. This level playing field applies not only to the 'Big Six' but also to the growing number of smaller suppliers that are now starting to have an effect and make the market more competitive.

The biggest consumer issues in relation to the retail energy market and for which this consultation should have due regard are:

- the cost of energy to households, particularly for those on low incomes;
- customer service and the ability for households to quickly resolve queries and problems;
- easy access to accurate information to make informed switching decisions.

Environmental and sustainability issues are also important but these are not considered in this response. CTSI will be engaging with DECC as part of the Bonfield Review to cover the consumer protection aspects of this area.

The track record of retail energy providers and the way that they treat their customers is not particularly good. OFGEM have conducted many investigations that have resulted in massive fines being imposed. These are a matter of public record but clearly demonstrate the inability of the industry to follow prescriptive rules that are designed

to protect consumers. These have covered the marketing of energy supplies, in particular doorstep selling, but also the inability to provide adequate customer service when things have gone wrong. In relation to the doorstep sale of energy, trading standards was involved in the landmark criminal prosecution of SSE that ultimately contributed to doorstep sales being banned altogether.

Moving away from prescriptive rules towards a system of principles and self-regulation is, in the opinion of CTSI, going to dilute consumer protection even further.

Consumers expect clarity from their energy provider and they expect proper and appropriate regulation. The rules need to be clear and unambiguous and this cannot be achieved through a system of general principles. The consultation states that there will be an onus on suppliers “to work out what’s right and fair for consumers rather than following a list of prescriptions from OFGEM.” General principles can be ambiguous; it could be chaotic if they are applied and interpreted in different ways by different energy suppliers.

CTSI fully understands that prescriptive rules can be a potential burden on businesses and is aware of the latest ‘red tape review’ recently initiated by the Government. However, in view of the sheer value of the retail energy market and the fact that every single consumer is affected by it, the importance of ensuring that there is a level playing field is vital. This will contribute to encouraging consumer switching in order to make the market truly competitive. The key point, however, must be the previous track record of the sector which, in the view of CTSI, means it is important that close regulation remains in place for the immediate future.

Although not specifically referred to in this consultation, CTSI is concerned that moving towards general principles will be seen as an opportunity for the energy industry to return to doorstep sales. Sections 6.5 to 6.11 of the consultation allude to sales and marketing activity and CTSI wishes to make it clear that, at present, it would strongly oppose a return to doorstep sales. Encouraging consumers to switch is something that is very important but this can be facilitated in other ways rather than through face-to-face marketing.

Keeping the number of tariffs to a minimum and providing timely, clear and accurate data on energy consumption are areas where market regulation could have a real benefit. Consumer bills are still highly complex documents and need to be simplified and based on an industry-wide template.

Finally, Dermot Nolan (CEO of OFGEM) refers to smart meters in the foreword to the consultation. With the introduction of smart meters, CTSI is very concerned that tariffs will become highly complex and even more difficult to understand and compare. This will have a negative impact on consumers and, in our view, make it less likely that they will switch.

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