

Future of retail market regulation - Senior Stakeholder Event

Note from Ofgem's Future of retail market regulation - Senior Stakeholder Event

From
Date and time of Meeting
Location

Edward Tynan
6 October 2016
9 Millbank, London,
SW1P 3GE

1. Overview

- 1.1 On 6 October 2016 we held an event with senior representatives from domestic suppliers, industry bodies, consumer groups and government on delivering the shift towards a greater reliance on principles in regulating the retail energy market.
- 1.2 The event began with an introduction by David Gray (Chairman, GEMA). He emphasised that GEMA is fully committed to this direction of travel. Dermot Nolan (CEO, Ofgem) then provided a general overview of our work and chaired a roundtable discussion.
- 1.3 Our objectives are to reform the way we regulate the retail energy market so as to:
 - a) Promote innovation and competition among suppliers.
 - b) Provide effective protection for consumers in a rapidly changing market.
 - c) Put responsibility firmly on suppliers for achieving good consumer outcomes.
- 1.4 Dermot outlined the reasons for change. Our current licence doesn't deliver effectively for consumers: we still see poor consumer outcomes too often. It is lengthy, cannot keep up with the increasing pace of change, and risks blocking new and disruptive business models from entering the market. We therefore need to adapt our approach. This is not about adopting a light-touch regulatory approach or increasing regulatory burdens, it is about more effective regulation. The CMA has supported our move towards greater reliance on principles as a way of promoting innovation and competition.
- 1.5 Dermot emphasised that Board-level engagement, ownership and accountability in companies will be essential for making a success of this reform agenda. This is why we held this event and attendees were encouraged to feed back to their respective boards. Moving to a greater reliance on principles will also require changes in both how we operate as a regulator and how our stakeholders work and interact with us.
- 1.6 The roundtable discussion focused on three key questions:
 - a) What are the key challenges for suppliers as Ofgem moves to a greater focus on principles in the way we regulate?
 - b) What do suppliers need from Ofgem to make this a success?
 - c) What role can consumer groups and other third sector organisations play?
- 1.7 Attendees were generally supportive of our direction of travel. They felt it represents a more mature relationship between Ofgem, suppliers and other stakeholders. They also noted that it will require more judgement and different ways of thinking.
- 1.8 We agreed to continue to engage actively with our stakeholders, possibly through further roundtable events. We will also seek to engage those suppliers who were unable to participate in this event.
- 1.9 This note captures the key issues raised at the event. **Please note that these are the views of attendees and don't necessarily represent the views of Ofgem.**

2. Expectations of suppliers

- 2.1 A greater reliance on principles will require suppliers to:
- Take ownership for delivering good consumer outcomes and not just following a 'tick box' approach to complying with a list of prescriptive rules.
 - Embrace culture change from board level down by putting consumers at the heart of their businesses.
- 2.2 Attendees identified a number of challenges for suppliers. These can be broken down into the following themes and issues:
- Culture change was identified as a key challenge. This will take effort and everyone needs to embrace it. Culture change needs to be owned and led from board level down. Boards will need to show more insight, think about and resolve issues while focusing on outcomes.
 - Having a more mature and open relationship with Ofgem will take time. This will necessitate the development of new approaches to engagement between suppliers and us. It will also mean suppliers moving away from a 'tick-box' approach to compliance. This approach will be new and some suppliers may be more risk-averse initially.
 - Taking courage and having confidence to innovate within the spirit of the principles. Suppliers will need to use their judgement when developing new products, policies and processes.
 - Considering a bigger role for a strong trade body or bodies, where appropriate, to help suppliers understand their responsibilities and obligations, share best practice and in dealing with sector-wide issues.

3. Expectations of Ofgem

- 3.1 We recognise that Ofgem will need to change how we operate to make a success of our move to greater reliance on principles. As part of this, we are committed to:
- Continue to reform the licence and related guidance to make it more accessible.
 - Make better use of the information we already collect to monitor the market and not unduly increase the regulatory burden on suppliers.
 - Act in a way which is proportionate to the risks we are observing in the market, including through our approach to enforcement.
 - Engage constructively with suppliers, including a stronger role for engagement and compliance activity.
- 3.2 Suppliers should take comfort in our use, to date, of the Standards of Conduct:
- We have focused enforcement action on cases where supplier conduct has resulted in substantial consumer harm, not where there have been technical or minor breaches.
 - Where we have enforced the Treat Customers Fairly principle, it has been where there was clear evidence that the supplier didn't pay enough attention to the consumer experience and this is what caused the consumer harm.
 - There are lots of examples of us working with suppliers to help them move back into compliance (eg where an issue has arisen from factors outside the control of the supplier, and where the supplier has acted promptly to put things right).

Other attendees said suppliers should utilise the learning from these cases to help in the transition towards greater reliance on principles. Several suppliers said that they felt sufficiently reassured to encourage their staff to do the right thing rather than focus solely on following a detailed list of prescriptive rules.

- 3.3 Attendees discussed a number of challenges for Ofgem and areas where they would want support from us. These can be broken down into the following main issues:
- Ensuring we deliver the required culture change internally to make a success of our move to greater reliance on principles. We recognise this challenge and are committed to embracing it - from GEMA down. This includes being more comfortable with suppliers taking different approaches under the principles to deliver good consumer outcomes.
 - Helping suppliers to understand our expectations. This includes providing additional regulatory information relating to our rules and improving its accessibility. Suppliers recommended the development of case studies and drawing our existing regulatory information together into one place. We are already reviewing how we can make the guidance on our website more accessible.
 - Considering how to engage with suppliers to drive culture change. One suggestion was for Ofgem to organise workshops to facilitate the building of trust and confidence among suppliers for the necessary culture change to take place. We will consider this further. We will also continue to highlight good practice in the reports we publish. This will help suppliers to better understand their obligations, including interpreting our principles.
 - Utilising more effective dialogue. We are already changing our approach to engagement. This includes organising a series of meetings to support new entrants. In doing so, we will need to strike the right balance between offering advice and promoting regulatory certainty for suppliers while ensuring that they take responsibility for their decisions. We recognise that our expectations need to be clear and understandable.
 - Managing the transition to ensure that stakeholders are comfortable with our direction of travel. Suppliers in particular were keen to have support in this area as the removal of prescription from the licence could mean that an additional support or 'crutch' was no longer available.
 - Making best use of data to spot issues. We are collaborating more with consumer groups to improve the data we collect for monitoring purposes.
 - Recognising that there is a role for both prescription and principles in the licence. Some detailed rules are important and we will continue to impose them (eg where there is genuinely only one acceptable way of doing something or where consistency is required across the industry). Suppliers commented that the transitional period is particularly difficult where there is a mixture of prescriptive rules and high-level principles. We acknowledge this. But it should not prevent suppliers from focusing on delivering good consumer outcomes. We welcome suppliers coming to us to suggest areas of the licence which may benefit from principles rather than prescription.

4. The role of consumer groups

- 4.1 There was agreement among attendees that consumer groups and the wider third sector have an important role to play. There was strong support among the consumer groups for our move towards greater reliance on principles. Some key observations included:
- The important role of consumer groups and the third sector to support our monitoring through the collection and sharing of data and information. This includes identifying areas where principles may not be delivering the outcomes we want to see for consumers.
 - The ability of consumer groups to act in a "critical-friend" capacity to suppliers and supporting consumers to engage with a supplier's complaints process and facilitate switching.
 - The ability of consumer groups to tackle some wider societal problems that suppliers cannot.