

To Andrew Thomsen, Domestic Consumers Team
Ofgem
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Via: futureretailregulation@ofgem.gov.uk

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Consultation: Standards of Conduct for suppliers in the retail energy market

Octopus Energy is an independent supplier that started supplying gas and electricity to domestic homes and businesses in Great Britain in 2016. We are backed by the Octopus Investments Group, who over the last decade have become the third largest investor into UK renewable generation in the UK and the largest in solar generation.

We believe:

- That the consumer should be given clearer communication about pricing over a longer period, in order that they can be confident in choosing a supplier that is good for them over the long term, not just the fixed term. It should be clear to consumers what is a supplier's 'real' price and then what is their 'deal' price, akin to the way in which mortgages are marketed with introductory rate and long-term rate.
- That long-term good pricing and service can be enabled by some of the same high efficiency approaches as the eCommerce sector – which goes well beyond just trading and hedging, but also focus on speed, transparency and low operating costs, all combined with outstanding customer experience.
- That the barriers to switching due to the slow and complex nature of the switch process should be systematically eliminated to make switching quicker and easier (as online shopping and services have provided in other sectors) – also leading to quicker visibility and resolution of problems.

Overall, we are not highlighting any issues with the consultation. We welcome the approach of managing the sector via Principles Based Regulation and see the Standards of Conduct as central to this.

We would argue that the Standards of Conduct should equally apply to the way suppliers behave with regard to a portfolio of customers as well as any individual customer. In particular, the way suppliers set and operate their tariff strategy should reflect the Standards. We would argue that the current 'tease and squeeze' strategy of limited edition, multiple very low acquisition tariffs, followed by a massive increase in rates to the deemed SVT does not reflect the spirit of the standards laid out here.

Question 1: Do you agree with our proposal to retain a Fairness Test for all the broad principles within the domestic Standards of Conduct?

We are in agreement with the spirit of this approach, but recognise that:

- 1) the removal of the requirement of the detriment to have been "proven to significantly favour the interests of the licensee" requires the implementation to be (as communicated verbally in the workshop) in the areas of systemic failure, rather than ongoing searches for isolated cases.
- 2) The addition of "all relevant circumstances" to have a sense of proportionality (as communicated verbally in the workshop).

Question 2: Do you agree with our proposed wording for a revised Fairness Test: "the licensee or any Representative would not be regarded as treating a Domestic Customer/Micro Business

Consumer Fairly if their actions or omissions give rise to a likelihood of detriment to the Domestic Customer/Micro Business Consumer, unless the detriment would be reasonable in all the relevant circumstances”?

We do not have any issues with this wording.

Question 3: Do you agree that the changes to the Fairness Test should be made to the non-domestic Standards of Conduct at the same time as the domestic Standards of Conduct?

We do not have any issues with this.

Question 4: Do you agree with our proposal to remove the all reasonable steps threshold from the domestic Standards of Conduct?

We are in agreement with the spirit of this approach, but recognise that the removal of the “all reasonable steps” threshold relies on the application of a sense of proportionality, and the commitment (as communicated verbally in the workshop) in the areas of systemic failures, rather than ongoing searches for isolated cases.

Question 5: Do you agree that all reasonable steps should be removed from the non-domestic Standards of Conduct at the same time as the domestic Standards of Conduct?

We have the same view as in the Domestic Code of Conduct:

We are in agreement with the spirit of this approach, but recognise that the removal of the “all reasonable steps” threshold relies on the application of a sense of proportionality, and the commitment (as communicated verbally in the workshop) in the areas of systemic failures, rather than ongoing searches for isolated cases.

Question 6: Do you support our proposal to introduce a broad “informed choices” principle into the domestic Standards of Conduct?

We are supportive of a broad ‘informed choices’ principle in the Domestic Standards of Conduct.

Question 7: Do you agree with the proposed drafting of the broad “informed choices” principle we have set out?

We do not disagree with the wording proposed. We would stress that in our view (as raised in the workshop session), we believe that this broad principle should include an expectation that suppliers actively discourage ‘non choice’ customer behavior by providing information to customers about the longer-term cost of a particular tariff if the customer does not switch straight away after the end of a fixed tariff – a dominant outcome at a portfolio level. Every stage of the ‘tease and squeeze’ journey of low acquisition tariffs into high deemed SVTs should be shown clearly to the consumer and their journey through it be proactively managed with them, rather than them having to find it tucked away in pages of complex messaging.

Question 8: What, if any, additional guidance on the domestic and non-domestic Standards of Conduct do you consider would be helpful in light of the changes we are proposing?

No additional comments.

Question 9: Do you consider that the “Treating Customers Fairly” statement has a valuable role to play and should be retained as an obligation in the domestic and non-domestic Standards of Conduct? Please provide an explanation for your answer.

We understand the proposal to say that the Standards of Conduct have treating the customer fairly at their core, and therefore it does not need to be repeated. If this is the proposal - we agree.

Question 10: Do you agree with our proposal to include a broad vulnerability principle in the domestic Standards of Conduct? If not, please explain why with supporting evidence.

We think that having vulnerability in the principles is key. We would just seek to reinforce the conversation at the workshop – that the role of the supplier is to have systems to capture, hold, trigger updates and act

upon vulnerability communicated by the consumer. But that a wholesale diagnostic of every customer's vulnerability is not a suitable or viable action for a supplier.

Hence we would suggest a re-drafting of clause 25C.4(d)(i) from:

“implement, review and update processes which are, and continue to be, fit for the purpose of identifying each Domestic customer in a Vulnerable situation”

to read

“implement, review and update processes and systems which are, and continue to be, fit for the purpose of capturing, holding, updating and acting upon each Domestic customer identified as being in a Vulnerable situation”

Question 11: Do you agree with our proposed definition of ‘Vulnerable Situation’? If not, please explain why with supporting evidence

We agree with this, but do reflect on:

- 1) the significant judgement involved
- 2) the significant systems requirement for both
- 3) the significant process implications of keeping this current over time
- 4) the major data privacy requirements around this.

Question 12: Do you have any comments on the proposal to amend SLC 5?

We are in support of this measure, but we would like to be reassured in addition to the current secure gathering of such information from the supplier to the regulator, that the secure holding, limitation of access rights, ban on downloads and timely destruction of this data are set to high standards that mean a minimum audience on a need-to-know basis – since much of it is highly useful competitive insight that will retain its value for many years.

Question 13: How would your processes change if our proposals are implemented? Can you provide evidence of what costs you think you will incur to a) implement the changes and b) comply with these?

It is not possible to get a sense of this at this time.

Question 14: Can you provide evidence to support any alternatives to our proposals?

We would reflect that other regulated sectors that move to more market monitoring as well as compliance have a supervisory contact and escalation line for each business. This could be a significant help in navigating the many teams and workstreams within Ofgem.

Question 15: Can you provide evidence of how the proposal will benefit your business? As an example, these could include greater efficiency and coordination among internal processes, development of new business models etc.

It is too early to be able to form a judgement at this stage.

Question 16: What wider benefits do you think our proposals could deliver?

We share the hope of creating a more transparent, fast-moving sector where consumers are able to articulate clearly the choices that they have to get value for money, service and wider energy solutions that suit their circumstances.

Question 17: In a year, how much time (in full-time equivalents/month) on average does your business spend responding to requests for information (RFIs) from Ofgem? How does this compare with the time spent responding to other organisations' RFIs (eg from BEIS, CMA)? Please provide evidence and indicate whether this is half the time or less, or twice the time or more.

Over the last 3 months responding to RFIs has involved substantial activity from the most costly 10% of our headcount and perhaps the equivalent of around 0.5-1 FTE during that period.

It is about equal to the combination of the sum of BEIS, CMA, Citizen's Advice, Which and the Ombudsman.

Question 18: Can you provide evidence of any unintended consequences that could arise as result of our proposals?

We foresee that the challenge of applying this level of work, and this level of judgement to issues across the size of the energy sector could increase the cost of regulation (as it requires more people, and more senior, experienced, costly people, who need to stay in role for longer). If this is raised via more charges through the consumer bill – we would have to ask whether the extra protection is sufficient pay-back for the extra charges.

Greg Jackson
Founder and CEO, Octopus Energy