



Neil Barnes,
Associate Partner
Consumers and Competition,
Ofgem,
9 Millbank,
London,
SW1P 3GE

21st December 2017

Dear Neil,

Future Supply Market Arrangements – Call for evidence

Thank you for the invitation to respond to the above call for evidence. Bristol Energy is an independent supplier of electricity and gas with a business model that has a regional focus on the South West of England, although we supply customers across Great Britain. We have a mission to fight fuel poverty and be a force for social good.

Executive Summary

The energy market is changing rapidly. The old arrangement, whereby a few large utilities provided energy to passive end consumers, is already heading to the pages of history. The introduction of smart metering over the next few years will accelerate this change to a new energy future.

The current licensing arrangements are not fit for purpose, built as they are around the old model and assumption that a single entity will manage the customers' interaction with the market by providing all the required services themselves. We have already seen the demise of the vertically integrated utility, and many suppliers now meet customers' energy needs via a collaboration with other various players; indeed, in some extreme cases, the licensed entity (the supplier) plays more of a coordinator role rather than that of a service provider.

This one size fits all approach to the supply license, and its prescription to one traditional business model is at best hindering innovation and competition. At worse, it runs the risk of customers being unprotected by energy related services provided outside the remit of the licence, for example, demand side services.

We believe the solution is to break the current supply (and shipper) licenses into a set of distinct activities and require operators of these services to be licensed for these activities as appropriate. The activities should also be focused on the outcome for consumers, rather than on prescribing the method of delivery, unless required for interoperability purposes, or for the benefit of the market as a whole.

We have answered your specific questions below, expanding our response where necessary.

Q1. What are your views on the above criteria? Are there other criteria that should guide our assessment of current and possible future market arrangements?

Taking each in turn:

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- **Consumers can access energy supply and energy services however they choose to do so, without undue restriction**

Whilst we support this in principle this does not mean that all suppliers should be all things for all people (subject to criteria 3). New market entrants and disruptive business models are about offering alternatives and will be hindered if they are required to offer “traditional services” alongside, and if all suppliers are then required to offer the new entrants’ unique service.

For example, a number of new suppliers are offering a new tariff arrangement where the price tracks the wholesale market, and in effect the risk of wholesale prices then lands with the customer. Such innovations would be difficult if these suppliers were obliged to offer fixed price products or an SVT, and equally it would not be acceptable if regulations required all suppliers to offer tracker tariffs. This has been the situation in the PPM market, where the obligation for suppliers to offer all reasonable payment methods has deterred PPM specialists. These have only come into the market as a result of smarter meters, a USP which will again be eroded as all suppliers will be required to offer smart PPM as a service.

- **Consumers that do not actively engage in the energy market still receive a good quality of service and pay a reasonable price for their energy**

We believe this should be amended to state “an acceptable quality of service” instead of “a good quality of service”. One of the benefits of competition should be that customers can select the price/service quality ratio that suits them. This works in other markets where a basic service is available at an acceptable price, but customers can choose to opt for an alternative ratio leaning more towards service quality. This is already happening in the energy market where price competitive suppliers are offering a lesser service (such as not offering Freephone contact numbers or curtailed opening hours), whilst other suppliers are rewarding their customers’ loyalty through enhanced service quality. In an increasingly disaggregated market it will not be possible for Ofgem to monitor compliance of so many parties with such a multitude of prescriptive service quality items. Therefore, Ofgem’s focus should be on establishing what the minimum acceptable standards would look like, and taking action where the service is unacceptable.

- **Consumers, including the vulnerable, are adequately protected no matter how they access energy services**

We support this criterion, particularly for vulnerable customers. That said, Ofgem must allow customers to take risks in opting for new business models provided they fully understand the consequences. The key protections should be around ensuring reasonable access to energy services with consumer protection no less than those in other markets.

Adequate protection should not extend to ensuring all customers receive the same level of service, or the same services, nor that all suppliers are required to offer the full suite of services to all customers.

- **Bearing in mind relevant data protection regulations, there are no undue barriers for consumers and wider market participants seeking to share access to their energy system data with other market participants.**

Energy market participants should not be sharing a customer’s energy system data without consent. Market participants should ensure that customers have access to their data in an easy to access format so that they

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can share it with others. It would not be acceptable to require market participants to share energy system data with other market participants in the requester's bespoke format and free of charge.

- **Firms offering intermediary and other services to consumers can compete on an equal basis.**

We support this criterion, on the understanding that such firms will share the costs of the energy system as appropriate.

- **Costs of operating the energy system are recovered in a cost-reflective manner, and risk allocated and managed effectively.**

We support this criterion, but believe something should be added to the effect that firms using the energy system must not create unacceptable risks to the system or other participants.

In addition, we believe there should be a specific criterion about protecting customers in vulnerable circumstances. All participants in the energy market have a duty of care for these customers and it should not fall on particular participants to manage any detriment to vulnerable customers caused by others.

Q2. What are the most significant barriers to disruptive new business models operating in the retail market? Please draw a distinction between regulatory barriers and commercial barriers (eg. There may not be enough potential consumer demand to justify market entry)

One of the key barriers is the complexity of the regulations within the energy market, in particular, the supply licence. Most of these regulations are based on the traditional premise of large energy company supplying a passive consumer. The impact of this is twofold. Firstly, all suppliers are subject to the same regulations irrespective of their business model, consumer make-up or size. Moreover, most of these regulations were designed based on market made up of 15 equally sized energy suppliers, not 70+ ranging in size from millions of customers to several thousand (or fewer, when a new supplier enters the market).

The second issue is that it creates a high fixed cost of being a supplier, which means suppliers need to grow to a certain size in order to be viable. This makes it very hard to enter the market with a niche product which will only appeal to a small market segment.

As a practical example, a number of solar installers looked at entering the supply market targeting customers with solar panels. However, the cost of being a supplier meant it was very difficult to supply such a niche market, especially when all suppliers over a certain size are mandated to act as FIT licensees, thus negating one of the key USPs that these firms could deliver.

We welcome Ofgem's work on moving to principle based regulation, although we would like to see faster progress (the supply licence is now over 10% longer than it was when the proposal to slim it was announced!). However, this approach still appears to be based around allowing traditional business models flexibility on how they deliver, rather than supporting new disruptive models. The root cause of this is Ofgem's "safety first" approach, a lack of trust that suppliers will do the right thing, or Ofgem's lack of faith in its ability to regulate in a principle based environment.

Q3. What other supply market arrangements would provide a better default for disengaged consumers, whereby they are protected adequately and are able to access the benefits of competition?

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In order to address this, Ofgem must begin by recognising that there are two types of “disengaged” customers. Firstly, there are those who are genuinely disengaged from the market and are left on poor value default rates. The second type is the satisfied customer who is happy with their default arrangements. These may be people with a supplier who only offers an SVT tariff, or, following Ofgem’s relaxation of rules around default tariffs, customers who are happy that their supplier will default them onto their best available rate at the time of their contract renewal.

The latter of these should be left in peace, and Ofgem should recognise that a customer who accepts the default option can, in fact, be an engaged customer who has positively decided to take no action.

With regard to the former, we must accept that this type of customer is not unique to the energy market. Many customers are on default tariffs in Mobile services, Broadband contract, bank accounts, car insurance etc. The difference is that, in these markets, the failure to engage, whilst making the customer worse off financially, does not cause them harm. In the energy market, this may also be also true for a majority of disengaged customers, but the key issue is around a significant proportion of customers to whom this does cause harm as they are unable to heat their property adequately, or quickly find themselves in significant debt.

We do not believe it is Ofgem’s role, nor that of society at large, to protect customers who are able to engage with the market, but decide not to bother. However, we do believe that we all have a role to play to better protect vulnerable households from fuel poverty, and that only by focussing on these households it will be possible to make a meaningful difference.

One way would be to improve data sharing between Government and energy suppliers so customers in fuel poverty can be more easily and effectively identified. This information should be shared with a number of trusted third-party intermediaries who will make a more sustained effort to help them engage with the market, or engage on their behalf. This would also help market participants identify households that could benefit from energy efficiency measures.

Q4. How big an issue is it that we do not currently regulate intermediaries in the energy market? Is there a case for doing so? If so, how would we best do it? We are especially interested in the frameworks that enable a wider variety and increased number of market participants to provide supply.

Intermediaries play an important role in the UK energy market, not just as price comparison web sites, but as white label providers and, increasingly, companies offering services connected to energy supply. The current licencing arrangement assumes the traditional model where the relationship between a supplier and the customer is direct. This is frequently not the case and it creates a dysfunctional situation where energy suppliers are accountable for the actions of intermediaries they may have no control over.

We believe that the prescriptive nature of the supply licence to the traditional business model is holding back innovation and is either constraining customers to the traditional supplier offering, or worse still, enter into supply arrangements where they are unprotected by the regulatory framework. The solution is to strip back the supply licence to a set of principles, which are sufficiently flexible to protect the customer whatever business model they engage with, and whoever carries out the various functions. This means a number of licensed entities could be working together to deliver to the customer and Ofgem would be able to regulate the whole chain.

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For example, currently a customer could sign-up with a white label provider, backed by a fully licensed supplier, who in turn uses an outsourced contact centre, and has contract with a third party to source and deliver power, whilst gas is sourced via an independent licensed shipper. In this model, only two entities are licensed.

A better approach would be for all these activities to be licensed activities, with Ofgem providing a pick & mix supply license approach. In addition, the party contracting with the customer would take on the obligation of lead supplier, with responsibility to ensure the full supply chain is made up of licensed entities.

As other new services are developed, such as Demand side aggregation, then Ofgem can add it, if it deems it appropriate in order to protect consumers, to the list of licensable activities.

This approach would also encourage new entrants as they could start as a “white label” and, over time, take on other activities as growth permits. It could equally create a market where certain providers specialise in a certain aspect of the supply chain (e.g. Customer contact) without the need to be able to deliver the complete customer journey itself.

I hope you find this response useful. If you have any queries, please do not hesitate to contact me.

Kind regards,

A handwritten signature in black ink that reads "Chris Welby". The signature is written in a cursive, slightly slanted style.

Chris Welby
Head of Regulation

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