Department for Business, Energy & Industrial Strategy

ofgem
Making a positive difference for energy consumers

Flexible and Responsive Energy Retail Markets - response form

The consultation is available at: https://www.gov.uk/government/consultations/flexible-and-responsive-energy-retail-markets

The closing date for responses is 16 September 2019 at 23.45

As this is a joint review with Ofgem, please return completed form to both email addresses below:

Email to: energyretailmarketsreview@beis.gov.uk **and** futuresupply@ofgem.gov.uk

If preferred, you may submit your full response by post by using the following addresses:

Write to:

Energy Markets and Affordability Team
Department for Business, Energy and Industrial Strategy
3rd Floor, Area Abbey 1
1 Victoria Street
London
SW1H 0ET

AND

Future Retail Market Design Team
Ofgem
Fourth Floor
10 South Colonnade
Canary Wharf
London
E14 4PU

Any enquiries to:

Email: energyretailmarketsreview@beis.gov.uk

Please be aware that we intend to publish all responses to this consultation.

Information provided in response to this consultation, including personal information, may be subject to publication or release to other parties or to disclosure in accordance with the access to information regimes. Please see the consultation document for further information.

If you want information, including personal data, that you provide to be treated as confidential, please explain to us below why you regard the information you have provided as confidential. If we receive a request for disclosure of the information, we shall take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the department.

We will process your personal data in accordance with all applicable data protection laws. See our privacy notice

I want my response to be treated as confidential ☐

Comments: Click here to enter text.

Questions

Organisation (if applicable): Citizens Advice Scotland
Address: Broadside, 2 Powederhall Road, Edinburgh, EH7 4GB

Please check a box from a list of options that best describes you as a respondent. This allows views to be presented by group type.

	Respondent type
☐	Business representative organisation/trade body
☐	Charity or social enterprise
☐	Individual
☐	Large business (over 250 staff)
☐	Local government
☐	Medium business (50 to 250 staff)
☐	Micro business (up to 9 staff)
☐	Small business (10 to 49 staff)
☒	Other (please describe) Citizens Advice Scotland (CAS), our 59 member Citizen Advice Bureaux (CAB) and the Extra Help Unit, form Scotland's largest independent advice network. Advice provided by our service is free, independent, confidential, impartial and available to everyone. Our self-help website Advice for Scotland provides information on rights and helps people solve their problems. The policy teams at CAS use research and evidence to put people at the heart of policy and regulation in the energy, post and water sectors in Scotland. We work with government, regulators and business to put consumers first, designing policy and practice around their needs and aspirations. We aim to represent the views of different consumer groups using evidence of consumer views and supporting research wherever possible. CAS advocates for current and future domestic and microbusiness consumers on matters relating to the retail energy market in Scotland, and although we are separately funded organisations, we work closely with our colleagues at Citizens Advice in this area.

	Respondent type
	In 2017-18 the Citizens Advice Service network helped over 295,100 clients and dealt with almost 800,000 advice issues for clients living in Scotland. With support from the network clients had financial gains of almost £142.2 million and our self-help website Advice in Scotland received approximately 3.2 million page views. On energy consumers issues in particular, we advised on over 41,000 energy-related issues in 2017-18, generating over £1.8m in client financial gain. Our extensive footprint is important in helping us understand how issues impact locally and nationally across the country and the different impacts that policies can have in different areas.

Question 1

Do you agree with our vision for the future of the energy retail market, the outcomes we are seeking to achieve and our characterisation of the key challenges we need to overcome? [Page 17 in document]

Comments: The scale of change required to meet the government's targets for net zero and the pace of change required to achieve that goal must not be underestimated, and it is clear that regulations must evolve to enable that change to take place. It will be essential, however, for OFGEM and the government to strike the right balance between a regulatory environment that allows new and existing participants in the market to innovate at pace and one which ensures that consumer protections are not diluted.

Energy is an essential-for-life service and participation in an industry on which every citizen in the country is increasingly reliant *should* be onerous – just not unduly so. An agile and proportionate approach to the future regulation of the energy industry that places consumer protection at its heart is therefore something that CAS cautiously welcomes.

Bringing innovations such as auto-switching and demand-side response services under regulatory control will be essential to ensuring good consumer outcomes across the energy industry, but it should not be forgotten that many such innovations will often exclusively benefit those most able to actively engage in the market.

Vulnerable and disengaged consumers are already faced with higher costs and less choice than those more able to meaningfully engage in the retail energy market, and consumer outcomes across a range of metrics are consistently lower for vulnerable consumers despite the concerted efforts of government, regulators and the industry. With the fuel poverty rate in Scotland standing at 24.9% and in all nations of GB remaining stubbornly high, it will also be essential to ensure that the market develops in such a way that vulnerable consumers are not left behind by the energy transition.

Ensuring the existence of genuine, effective and accessible choice and the consistency of standards, price competitiveness, and the sharing of customer care best practice across the industry – not just among suppliers – would help to address some of the harms consumer organisations such as the Citizens Advice service in Scotland see daily in communities across the country.

Question 2

Are there examples of new products, services and business models that would benefit current and future consumers, but are blocked by the current regulatory framework? [Page 26]

Comments: CAS does not take a view on this.

Question 3

Are there current or emerging harms to energy consumers which are currently out of scope of the regulatory framework? Do these differ for domestic and non-domestic consumers? [Page 26]

Comments: CAS represents the interests of current and future domestic consumers and microbusinesses in Scotland in regulated energy markets. We therefore do not take a view on any potential harms that may exist for larger businesses, either now or in the future. In the domestic and non-domestic microbusiness gas and electricity markets, however, there are a number of existing and emerging activities that currently fall outside of OFGEM's regulatory purview which have the potential to generate consumer harm. If regulation is to keep pace with the industry and properly protect consumers, CAS believes that the range of authorised or licensable activities that fall under OFGEM's remit should be kept under active and ongoing review.

The Flexible and Responsive Retail Energy Markets consultation document refers, for example, to energy supply contracts that are bundled with the provision of a high value asset, where the installation and performance of that asset is subject to generic consumer law and the energy supply contract is regulated by licence. Given the emphasis of government on encouraging competition and the need for industry participants to operate at scale to become profitable, CAS is concerned about the potential for significant consumer harm in cases where a supplier exits the market in an uncontrolled manner and issues arise with the proper functioning of the bundled asset(s) as the transfer of liability for any guarantee or servicing currently falls outwith the scope of the SoLR process. Consumers would then be at risk of an absence of suitable redress when things go wrong – a risk that would perhaps be particularly acute where proprietary technology is employed and no buyer is found for the relevant part of the defunct supplier. It is also unclear how the administrators of any defunct supplier would act in relation to a consumer's ongoing rights to their continued use of any bundled product where that supplier has ceased trading before the end of the relevant contractual term.

In addition, the absence of Guaranteed Standards of Performance in respect of issues arising with bundled products has the potential to lead to significant adverse impacts for consumers when things go wrong. This is especiialy true for those in remote rural and island communities, where contractual terms and/or commercial self-interest could result in lengthy lead times and/or high callout charges where rectification work is required.

The activity of Third Party Intermediaries also falls outwith the current scope of regulation, and in the microbusiness market in particular, it is arguable that consumer protection law does not provide sufficiently timely or adequate redress where disputes around contract validity arise, for example. As auto-switching services and aggregators become more popular in the domestic energy supply market, there is a risk that these harms could be replicated more widely.

Demand-side response services also currently fall outside any regulatory oversight, and while such technologies are still nascent they seem destined to form a core part of the future of the energy market. It will therefore be important to ensure that appropriate safeguards are in place to ensure that the interests of consumers are adequately protected, especially where vulnerability exists.

Question 4

Would it be beneficial to allow suppliers to specialise and provide products and services to targeted groups of customers? If so, how can this be delivered while balancing the need for universal service? [Page 26]

Comments: While it might seem attractive to allow licensed suppliers to tailor their products and services for specific groups of consumers, market forces are likely to dictate that this would prove detrimental to the choice that consumers in remote rural and island communities are offered as the lower population densities seen in such communities make operating a specialised service at any sort of scale challenging. Similarly, allowing suppliers to offer their services only to specific demographics of the population is likely to lead to a reduction in meaningful market choice for financially vulnerable and other higher cost-to-serve consumers. While the Universal Service Obligation currently acts as a high bar for entry to new participants, it is difficult to see how the interests of remote rural and high cost-to-serve consumers can be suitably protected from adverse impacts arising from any move away from the status quo.

Question 5

Are incremental changes to regulation sufficient to support the energy transition and protect consumers? Or does this require a more fundamental reform, such as moving to modular regulation? [Page 26]

Comments: The Flexible and Responsive Retail Energy Markets consultation document states that the development and implementation of a modular approach to regulation would require a substantial overhaul of the existing regulatory framework and an expansion of OFGEM's remit. This is arguably also true, however, if the scope of licensable activities is expanded in any scenario,

particularly if OFGEM is given powers over demand-side response and behind-the-meter service providers.

While a modular approach to regulation may encourage a greater variety of innovators to enter the market as independent entities by lessening their regulatory burden, such an approach also brings with it risks associated with how the various regulatory modules align and overlap with each other, in addition to risks arising from industry participant growth into new business areas at the fringes of their existing licence.

In contrast, the creation of new licences for each emerging category of service provider risks adding to the regulatory burden of some industry participants as they grow. However, CAS nevertheless believes that creating separate licences is preferable to the lighter-touch authorisation approach outlined in the Flexible and Responsive Retail Energy Markets consultation document as a means of ensuring consistent standards of consumer protection across providers.

Question 6

Are there any other potential market distortions we should be considering as part of our views? [Page 28]

Comments: The Flexible and Responsive Retail Energy Markets consultation document broadly sets out the principal market distortions that currently exist between obligated and non-obligated suppliers in respect of the additional regulatory and financial burdens that are currently placed upon suppliers once they reach sufficient scale. However, it also states that "in any future market, the necessary policy and system costs will still need to be recovered from customers' bills". CAS believes that this overlooks the significant potential that exists to level the playing field for all suppliers by moving many or all of the costs associated with environmental and social policies from bill payers to tax payers. Such a move would have a significant and positive impact on fuel poverty rates throughout GB. It would also socialise the funding of these policies by taking into consideration an individual's ability to pay. This is explored in further detail in our response to Questions 7, 8, 9 and 10 below.

Question 7

Would removing the thresholds for the Energy Company Obligation and Warm Home Discount help remove imbalances in the retail market, and could this be done without significantly increasing barriers to supplier entry or expansion in the retail market? [Page 30]

Comments: In short, the answer to these questions is 'yes' and 'no', respectively.

The thresholds for Energy Company Obligation and obligatory Warm Home Discount Scheme participation were introduced in recognition of the added administrative burden suppliers face as a result of these policies. While improved data matching will help to remove some of the costs associated with Warm Home Discount Scheme participation, suppliers will continue to face costs

incurred by its delivery and in the administration and funding of the Energy Company Obligation. The current funding mechanism for both of these policies will therefore continue to have a distortive effect in the retail energy market. If the government is genuinely keen to restore a level playing field for all participants in the energy supply market and provide tangible benefits for consumers, CAS therefore believes that serious consideration should be given to the potential benefits that could be derived from removing the burden of Energy Company Obligation and Warm Home Discount Scheme levy funding from consumer bills and transferring these costs to general taxation.

Question 8

How could the delivery burden on suppliers from the Energy Company Obligation be reduced, for example through the introduction of a buyout mechanism? [Page 30]

Comments: As stated in our response to Question 7 above, CAS believes there is merit in exploring whether there are benefits to be had in moving the levy funding for environmental schemes such as the Energy Company Obligation from bill payers to tax payers. This would reduce the regulatory and administrative burden on suppliers and remove the distortive effects of the current thresholds to mandatory participation in such schemes, whilst also reducing consumer bills and fuel poverty rates throughout GB. Were such a move accompanied by changes to how the Energy Company Obligation is delivered – for example by allowing a trusted independent organisation such as the Energy Saving Trust to take on responsibility for the distribution of Energy Company Obligation funding in a similar manner to that which has been successfully employed by the Scottish Government in their Home Energy Efficiency Programmes for Scotland – all Energy Company Obligation-related costs could be removed from suppliers. This would further reduce consumer bills across all Energy Company Obligation participant suppliers.

Question 9

What effect does the range of Energy and Climate Change Policy Levies have on the retail market? [Page 30]

Comments: The way in which the government's environmental and social levies are currently funded has a distortive effect on the retail energy market as smaller suppliers are able to compete for customers on unequal terms with larger, more established suppliers. While there are many reasons why these thresholds exist and a myriad factors contribute to overall pricing, it is notable how seldom many of the Medium and Large suppliers are able to consistently compete on price with those with less than 250,000 domestic consumers.

For those eligible for the assistance provided by the Warm Home Discount Scheme, the current thresholds also often act as a barrier to more effective market engagement. Vulnerable consumers may be unsure of whether they will continue to receive this assistance in the event that they move supplier and may be better off overall on a more expensive tariff with a Warm Home Discount rebate than on the cheapest tariff with a small supplier. This has a negative effect on

consumer trust in the retail energy market and discourages more active engagement in that market.

Question 10

What actions could government take to reduce any negative impact of Energy and Climate Change Policy Levies? [Page 30]

Comments: OFGEM's latest statistics show that 20.44% of a typical dual fuel electricity bill for an average user is currently attributed to the funding of environmental and social levies. However, as this is an average across all GB electricity suppliers, the average cost to a typical duel fuel electricity customer of a supplier that is obligated to participate in each of the government's environmental and social schemes is likely to be higher than this figure. In addition, the way in which many of these levies are calculated means that this burden is higher still for those reliant on electricity for space and hot water heating, with our research showing that off-gas consumers in the North of Scotland are more likely than those in any other area of GB to rely on electricity for such purposes. It is therefore of little surprise that the rates of both fuel poverty and extreme fuel poverty in the North of Scotland are considerably higher than elsewhere.

The regressive nature of the way in which these levies are currently funded has a sizeable and negative impact on consumer bills throughout GB. It is a driver of both fuel poverty and extreme fuel poverty, particularly in remote rural and island communities that are not connected to mains gas, and takes no account of an individual bill payer's ability to pay.

Moving the burden of environmental and social levy funding from bill payers and tax payers would retain the benefits of the respective schemes but reduce the regulatory and administrative burden on energy suppliers, allowing cost savings to be passed onto consumers and a renewed focus on their core business functions. It would also allow the Warm Home Discount Scheme to be opened up to customers of all licensed energy suppliers, boosting the confidence of vulnerable consumers in the retail energy market and encouraging greater engagement.

Transferring suppliers' responsibility for the delivery of the Energy Company Obligation to a trusted independent third party would further reduce the costs incurred by both suppliers and consumers, further benefiting fuel poverty rates while also removing supplier mistrust as a factor in Energy Company Obligation uptake rates.

Question 11

Do you agree that now is not the time to make further changes on system and network cost recovery, metering and access to data as part of this retail market review? [Page 32]

Comments: Given the various programmes currently ongoing in these areas, as highlighted in the Flexible and Responsive Retail Energy Markets consultation document, CAS agrees that it would be inappropriate to fundamentally alter the manner and extent to which data is shared between

industry participants, and the way in which costs are recovered from consumers or suppliers in respect of metering, the transmission system and the distribution networks, at the present time.

Question 12

What total costs do suppliers face with regards to bad debt? [Page 33]

Comments: CAS does not take a view on this.

Question 13

How could any potential distortions related to high cost-to-serve customers be addressed, for example by the provision of additional support services for customers struggling to afford their energy? [Page 13]

Comments: We welcome the continuation of programmes such as the Warm Home Discount and the Energy Company Obligation in providing support to customers who struggle to pay their bills. However as noted to our response to question 10 CAS believes that the funding mechanism of these support services and other environmental levies should be reviewed to explore the merits of moving the funding to general taxation. In this scenario the cost of electricity could be reduced, while support services can be retained and funded through other means. We think this would help to address at least two of the drivers of fuel poverty (energy bills and income – the others being energy efficiency and energy behaviours). As proposed by Commission for Customers in Vulnerable Circumstances in their 2019 report, we also believe that social tariffs should be considered as an option to support low income households who struggle to heat their homes.

Question 14

Would addressing market distortions (for example size-based obligation thresholds for some policy schemes, supporting those who are struggling to afford their energy bills) help reduce incentives for suppliers to adopt pricing strategies that lead to excessive prices for loyal consumers? If so, to what extent (providing quantitative evidence, where possible)? [Page 39]

Comments:

Question 15

What are your views on the measures being considered to address loyalty penalties in different markets? What approach or – combination of approaches – would be most effective in the energy retail market? [Page 39]

Comments: Click here to enter text.

Question 16

What other approaches could be adopted to ensure loyalty penalties do not re-emerge? [Page 39]

Comments: We note with interest that there is no mention of encouraging loyalty bonuses for consumers who have remained with their supplier for more than 12 months, or the full duration of one fixed term contract, within the Flexible and Responsive Retail Energy Markets consultation document. This is something that has been trialled on a limited opt-in basis by at least one Large Supplier in or about 2018, where a bespoke range of tariffs for existing customers only was offered for a limited period. These have now been discontinued, however.

More widely, there seems to have been very little appetite among industry participants to offer such discounts beyond a limited number of reward schemes offering money off non-fuel items through supplier partners, despite the tariff limitations arising from the Retail Market Review which would have prevented such discounts having been removed in 2017. This is particularly surprising given the ongoing focus on 'sticky customers' and the relatively modest success of OFGEM's attempts to encourage greater engagement by such customers in the retail energy market to date.

Question 17

What protections or support may be required to engage consumers in vulnerable situations in the future market? [Page 39]

Comments: Many vulnerable consumers already struggle to engage with the retail energy market and despite regulatory interventions, for some consumers with restricted electricity meters, genuine and effective competition still appears to exist almost in name only. As services become more complex – whether through bundled supply contracts or innovations such as auto-switching or demand-side response services – and increasingly automated, the barriers to engagement that many vulnerable consumers face are likely to increase still further. Recent research by the Oxford Internet Institute, for example, shows that 18% of Britons do not use the internet, and as participants in the energy industry seek to reduce costs through the digitisation of their service offering such consumers risk being left unable to benefit from innovations in the market. While innovation is to be encouraged, genuine multi-platform customer service and a focus on vulnerability and consumers' lived experience of fuel poverty will continue to be key asks of industry participants by vulnerable consumers. The needs of those in fuel poverty, those who are not connected to mains gas, and those who make use of restricted electricity meters, all of whom are more likely to be vulnerable than the wider population, also need to be considered with equal importance to the needs and desires of prosumers and industry innovators.

The government also needs to set in place and communicate policies designed to deliver net zero in a clear, consistent and joined-up manner. The consumer benefits of the smart meter roll out, for example, have not been fully realised due to a combination of poor communication and sub-optimal delivery, while the Green Deal failed in part because it was overly complex and poorly implemented. Demonstrable consumer detriment has arisen in both cases. If disenfranchised

consumers are to be encouraged to more actively participate in the route to net zero, lessons must therefore be learned as to why previous policy ideas have failed to engage with vulnerable consumers, and trust in the energy supply industry as a whole needs to improve.

Do you have any other comments that might aid the consultation process as a whole?

Please use this space for any general comments that you may have, comments on the layout of this consultation would also be welcomed.

Click here to enter text.

Thank you for taking the time to let us have your views. We do not intend to acknowledge receipt of individual responses unless you tick the box below.

Please acknowledge this reply ☒

At BEIS we carry out our research on many different topics and consultations. As your views are valuable to us, would it be okay if we were to contact you again from time to time either for research or to send through consultation documents?

☒Yes ☐No