



**Consumer
Focus**
Campaigning for a fair deal

Consumer Focus response to Ofgem's corporate strategy 2010-15

February 2010

Proposed corporate strategy and plan 2010-15

Consumer Focus welcomes the opportunity to comment on the proposed Ofgem corporate strategy 2010-15. We think that the proposed themes are useful, albeit rather broad. More important than any thematic approach chosen is Ofgem continuing to build on its more aggressively pro-consumer approach of the last few years. The Probe work should be considered a starting point rather than an end in itself.

One general point worth raising, as in other years, is the way Ofgem conducts consultations. We would prefer an agreed standard timetable so that situations involving a very short time to respond to multiple consultations do not occur. Consultations should be spread regularly throughout the year.

Our detailed comments based on the main areas we wish to flag up with you follow. We prefer this approach given how our key areas of interest do not necessarily align with the themes in the document.

I hope that our comments are useful, and that if you would like to discuss any issues in more depth you contact me at robert.hammond@consumerfocus.org.uk or 020 7799 7936.

About us

Consumer Focus is the statutory consumer champion for England, Wales, Scotland and (for postal consumers) Northern Ireland. We operate across the whole of the economy, persuading businesses, public services and policy makers to put consumers at the heart of what they do.

Consumer Focus tackles the issues that matter to consumers, and aims to give people a stronger voice.

We don't just draw attention to problems – we work with consumers and with a range of organisations to champion creative solutions that make a difference to consumers' lives.

Detailed response

General approach

We acknowledge that progress has been made by Ofgem on consumer issues in the past year or so. An example of this is Ofgem's adoption of a consumer interest toolkit and formation of a consumer challenge group. However, we are concerned that consumer issues remain something of a marginalised activity at Ofgem. There remains a need to 'mainstream' the importance of consumer issues and Ofgem could do more to reach out to consumer groups. After all, the other areas of work are means to this end.

Furthermore, Ofgem tends to put out consultation documents and await responses and then proceed on the basis of submissions received. Ofgem could think about smarter ways to engage with a wider number of groups who have an interest in fuel issues, even if this is marginal. Examples include roundtable discussions linked to consultations, "teach-ins", more accessible consultation documents and meeting directly with stakeholders.

Ofgem also tends to be fairly reactive and when action is taken it occurs relatively slowly. There is great scope for the regulator to start thinking more about the long-term issues facing consumers and their likely needs as the market and technology develops. Ofgem should try to anticipate issues before they arise and set about integrating solutions to policy development to pre-emptively prevent consumer detriment. An 'early warning system' or long-term planning group are examples of possible solutions to this issue.

Competition and the retail market

Consumer Focus thinks that Ofgem needs to remember that competition is a means to an end and that its promotion is not always appropriate. Consumer Focus welcomes Ofgem's more interventionist approach where market failure has occurred as compared to its more hands-off stance in the past; the Probe and its subsequent remedies are a good example of this.

We hope this will be sustained in 2010-15 as there is still a broad swathe of consumers who have not benefited from liberalisation. A good approach to this would be to review the effectiveness of the undue discrimination licence conditions when they have been in place for 18 months (Q4 of 2010). In addition the quarterly reports on wholesale-retail energy pricing are useful and have advanced the debate in a sensible fashion.

We do however have concerns that the tone of Ofgem's third theme could be seen as quite weak and only amounting to monitoring and reporting. It would be worth, at the very least, considering how Ofgem might respond if retail margins continue their large increase. Active intervention to restore consumer confidence should not be regarded as a non-option in this scenario. This might even necessitate a referral to the Competition Commission; certainly it should not be ruled out.

In terms of small businesses, Ofgem offers an undertaking to monitor the supply market and the reforms introduced following the Probe. Ofgem should ensure that this monitoring is carried out in full in the non-domestic market, including micro-businesses, as well as for the operation of the domestic consumer sector. In addition there needs to be clarification as to the intentions of Ofgem's review of the industry processes.

Ofgem should then clarify and simplify the tariffs made available to micro-businesses. Transparency and openness would be a significant improvement in this area.

Ofgem should remember the effect that the roll-out of smart meters will have on micro-businesses and ensure that the personal information of micro-business owners is protected, and that remote disconnection is no more an option for micro-businesses than it is for domestic consumers.

Wholesale markets

Consumer Focus believes that the functioning of wholesale energy markets should be a top priority for Ofgem over this period. It has become more apparent to us and others that the retail market cannot be considered in isolation and that any accomplishments there are undermined by failures upstream.

Furthermore, issues in the wholesale market, particularly low liquidity and the total lack of transparency over what price energy suppliers pay for their energy, are equally detrimental to consumers' interests as purely retail-based problems. Ofgem's focus in 2010-15 should reflect this, and it should make more effort to involve stakeholders such as ourselves at early and multiple stages. This has been lacking in the Project Discovery work thus far, for example, where it has at times seemed like Ofgem has been setting up a 'done deal' in relation to gas supply and general future price movements.

Company performance

We welcome Ofgem's commitment to encourage suppliers and network companies to pay due regard to the difficulties that consumers (and specifically vulnerable consumers) face. In 2009/10 year we have worked with colleagues from Ofgem on a review which examined suppliers' policies, processes and practice in relation to debt and disconnection. Consumer Focus will continue to monitor suppliers practice in this area in 2010/2011, seeking to understand and mitigate the impact the recession has on consumers in energy debt and developing a better understanding of 'self disconnection' among pre payment meter consumers.

We are keen to continue to work closely with Ofgem and suppliers to ensure that recommendations from the debt and disconnection reviews have been implemented. We will work with Ofgem and suppliers to ensure that suppliers' policies and practices in managing household consumer debt are fit for purpose, and will continue to work with suppliers to ensure there are a range of payment options and methods (particularly for vulnerable consumers).

Fuel poverty

High gas and electricity prices have hit all consumers and concern many people in Britain. The result is that the number of people living in fuel poverty has risen markedly. Given the UK is currently emerging from recession, we believe that it is crucial for Ofgem to take a proactive stance on addressing suppliers' policies on debt and disconnection.

Ofgem acknowledges in the corporate strategy the importance of work in this area. The Government and Ofgem currently rely on voluntary agreements with suppliers to provide social tariffs via supply companies to low income consumers, although the Government has threatened legislation if it considers suppliers are not providing sufficient help.

Consumer Focus argues that the Government should mandate minimum standards for social tariffs, and that Ofgem needs to be absolutely strict in enforcing their use where companies would be mandated to offer them.

These standards should include eligibility criteria, proportionality and a guarantee that the social tariff is the lowest tariff on offer from each supplier regardless of payment method. We recommend that the Fuel Direct system is modernised so that it provides an alternative payment method for low income consumers and potentially provides the same price advantages as direct debit.

Ofgem should consider whether, in the context of alleviating fuel poverty, it should have some kind of regulatory oversight of the domestic fuels market, which currently has no sectoral regulatory protection for consumers.

In relation to complaints handling, we believe that Ofgem would be better placed to help consumers by using the data on disconnections and vulnerable consumers available from Consumer Focus' Extra Help Unit.

Smart metering

Consumer Focus supports the roll out of smart metering to every household in the UK by 2020 and has contributed to the Government's recent consultation regarding the issue. It is evident to us that the roll-out of smart meters will have significant impact on existing industry codes and arrangements. Therefore we recommend that smart meter governance arrangements be highlighted in the corporate strategy as a forthcoming major policy reviews (MPR) as part of its industry code governance review. It would be useful if Ofgem also highlight topics for other possible MPRs that might be being considered.

We believe that a lot of work needs to be undertaken to plan for the roll-out of smart meters. It is pleasing that Ofgem acknowledges this in the re-structure announced earlier this month. In summary the work that needs to be carried out is:

- A comprehensive assessment of the potential consumer risks and opportunities resulting from smart metering
- Outlining steps to protect all consumers from the financial risk and impact of smart meter roll-out, for example self-rationing and self-disconnection, debt and disconnection, tariffs, data protection and barriers to switching
- Consideration of remote demand management

Networks

On networks, there are challenges with regard to investment. The current economic climate will affect the level of investment necessary to ensure climate change targets are met. Increasing costs for consumers to meet these targets is evident in the Government's UK Low Carbon Transition Plan. Consumer Focus is concerned about these costs and thinks that funding for essential climate change prevention measures should come from the taxpayer and industry shareholders, not just through increases to consumer bills. Ofgem should address these concerns as a priority; there should be no blank cheques

However, some of Ofgem's views on the difficulties of financing networks (and elsewhere) seem excessively bleak. Of all investments into regulated monopolies that would seem to be one of the most secure, despite the current issues with the low availability of credit. This broadly negative approach means that Ofgem finds itself, arguably, talking up future retail prices, which is surely the opposite of what the regulator should aim to do.

We also note that Ofgem is committed to trying to encourage competition, in this case represented by Independent Distribution Network Operator (IDNOs), as well as Independent Gas Transporter. There is some debate as to whether IDNOs are a fledgling part of the competitive market or part of a poorly devised and inevitably doomed scheme.

Either way, Ofgem needs to ensure that there is proper scrutiny of IDNOs, and this is especially the case if Ofgem believes that the proliferation and scope of IDNOs is likely to expand. At the moment, we remain uncertain as to whether the performance of IDNOs comes under the Guaranteed Standards, as Ofgem does not currently provide us with any indicators of their performance.

Ofgem should consider collecting from DNOs information on the number of goodwill payments made voluntarily in place of payments under the Guaranteed Standards. This would improve the overall picture of how the Guaranteed Standards are implemented. Ofgem might also want to give consideration to establishing a scheme to ensure that the payments made under the Guaranteed Standards take into account both general inflation and any increases in the expected revenue of DNOs. At the moment, Ofgem only increases the compensatory payments in line with RPI.

Ofgem should note that the networks (distribution and transmission) are not the principal instruments to deliver Governmental environmental targets. Consumers are as they underwrite the costs and make usage decisions, whereas the networks (and thus the suppliers) are the infrastructure through which their responses can be enabled.

Dealing with climate change

There are some significant challenges facing the market, such as meeting climate change targets and security of supply. We note that the Government is taking action on these issues, through in some cases with methods which Consumer Focus believes are far from optimal or best for consumers, such as CERT and the like instead of a Pigouvian tax¹ on carbon. However, Ofgem needs to be proactive to ensure a sustainable, secure and affordable energy supply within the politically-determined framework in which it operates. Perhaps most of all, the burden must be borne by all actors in the economy, with particular regard to the needs and protection of vulnerable and low-income energy consumers.

On renewable energy tariffs, Consumer Focus believes feed-in tariffs and renewable heat incentives have the potential to encourage the development of local, sustainable energy generation. The fuel poor will benefit more from renewable heat incentives, as this group of consumers tend to be 'heat poor' rather than 'power poor' and we have welcomed the review of how this incentive will be funded. The administration of these schemes needs to be consumer-orientated to minimise the non-financial barriers to adoption of sustainable energy solution, with administrative costs limited through the use of existing business processes wherever possible.

We welcome Ofgem's investment in its Consumer First programme, and building insight into consumer priorities and concerns regarding sustainable energy solutions. In particular, we welcome the development of advice standards and accreditation by energy solutions industry bodies, but feel that a long-term perspective needs to be taken on the risks and benefits of the proliferation of assurance brands. This is an area where competition does not act in consumers' interest, as they are left confused by competing claims. We also recommend the development of a community aspect to Ofgem's consumer research programme, as energy solutions are often most cost-effective when delivered at small rather than micro-scale.

It is important that Ofgem ensures that the views of all consumers are heard, including those of marginalised and vulnerable consumers. Advice providers and other frontline staff in organisations that work with vulnerable consumers are well placed to give voice to their concerns and needs.

¹ Considered one of the 'traditional' means of bringing a modicum of market forces, and thus better market efficiency, to economic situations where external problems exist.

It is crucial that Ofgem takes these voices into account when forming policies and assessing the potential impact of sustainable energy solutions. Consumer Focus has a programme of work on consumer empowerment, which includes the provision of information and support to advisers and frontline staff. We welcome opportunities to work with Ofgem to engage with this key audience.

Ofgem might also consider a thorough review of the existing delivery of energy efficiency measures – relevant as the Carbon Emission Reduction Target (CERT) is the biggest single part of funding, Community Energy Saving Programme (CESP) is in process, and both will inform the successor – and the extent to which the different arrangements are working for all groups, with an emphasis of their effect on disadvantaged consumers. Furthermore strong consideration should be given of the likely effects on different groups of not just loading increased costs of carbon reduction (CERT, FiTs, the RHI and the like) as a flat rate per consumer.

E-Serve

With Ofgem E-Serve budgeted to cost significantly more than the remaining ‘policy-based’ Ofgem, consumers need to be sure that the costs of the former are efficiently incurred. We have the particularly strong view that no role should as of right be assigned to E-Serve without a competitive tendering process (even if this means sub-contracting, Ofgem having the statutory responsibility); the Feed-in Tariff arrangement sets a worrying precedent in this area.

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