

Citizens Advice response to Ofgem's consultation on the Draft Forward Work Plan 2018-19



Introduction

We welcome the opportunity to comment on Ofgem's Draft Forward Work Plan 2018-19. This response was prepared by Citizens Advice, is entirely non-confidential and can be published by Ofgem.

Over the next year, a number of key changes will have a big impact on the energy sector. We are already seeing unprecedented changes in the number and type of suppliers and intermediaries in the retail market. This creates new issues around conduct and consumer protection. Encouraging meaningful consumer engagement whilst enabling the transition to a more flexible low carbon energy system has never been so important. Our work around Network price controls has identified several issues, primarily around forecasting in RII01 that need to be adequately remedied for RII02. Alongside this, there are also new challenges to face, from an increased uptake of electric vehicles and the creation of the Research Hub to UK's withdrawal from the EU. Overarching this, Ofgem has proposed a significant structural change for the coming year, re-organising itself across three core divisions. The risks of such internal reform processes must be given a suitable level of attention.

All of these developments and challenges could have a significant impact on consumers. Some can bring positive changes for consumers, others bring risks. In each case, Ofgem must be sufficiently resourced and willing to work alongside stakeholders, so that all consumers receive good value and fair services from the energy market. This is not a straightforward task and enacting the proposed Work Plan in the desired timescale will require effective prioritisation of consumer issues by Ofgem as well as careful management of the energy industry.

This consultation response is focused on the areas of Ofgem's Draft Forward Work Plan 2018-19 where we have particular comments. We also set out the aspects of our own work plan that coincide with Ofgem's. Finally, we welcome the meaningful and readable style of this year's draft Work Plan. This gives welcome transparency to Ofgem's work.

Enabling a better functioning retail market

Temporary price protection

Citizens Advice welcomes this focus on price protection for those who are not engaging in the market. We look forward to working with Ofgem as it brings forward its plans in this area.

We will feed in our evidence and analysis to help ensure the measures deliver the right outcomes and that any scaling back or removal of protections does not leave consumers exposed to price rises, particularly where they are in vulnerable circumstances.

We will continue to monitor the consumer response to smart meters and other measures designed to increase engagement and highlight any opportunities for improving their impact.

Appropriate conduct

We are ready to work closely with Ofgem to support this workstream on appropriate conduct. Citizens Advice will continue to share with Ofgem our insights into the experience of the hundreds of thousands of consumers who contact us each year. Our plans for 2018-19 include expanding the information we publish about supplier performance. This will help consumers make effective choices when engaging in the market and incentivise industry to improve their performance.

We will work closely with Ofgem to ensure that there is no overlap in the information that is published about supplier performance. Where appropriate, we will continue to refer matters of concern to the regulator and provide evidence to support subsequent compliance or enforcement action.

We believe that the customer journey for the complaints process (including interactions with third parties such as the Citizens Advice consumer service and Ombudsman Services: Energy) should be reviewed this year. The current process could be improved to help consumers contact the right organisation at the right time, and make their journey more seamless. Energy UK is currently drafting Terms of Reference for a group to look at this. This group should be chaired by either Ofgem or BEIS, as it may make recommendations that require changes to licences or statutory instruments including the complaints handling standards. Ofgem will also need to ensure that this work and its Future Retail Regulation stream on customer communications are aligned.

Supply-side competition

In principle, we support Ofgem's plans to remove barriers to innovation, but this is a process that has to be managed carefully. The current Warm Home Discount scheme is one example where increasing competition has negatively affected consumers in vulnerable circumstances, whereby if a consumer moves to one of the (over 50) suppliers who do not offer the scheme, they stand to lose their £140 rebate. Any removal or reduction in regulatory barriers must be based on evidence that consumers will benefit from the actions. Ofgem must ensure that distributional impacts are adequately understood ahead of such changes to avoid unduly disadvantaging different groups of consumers.

There are ongoing challenges for consumer trust in the energy market, with a knock-on impact on the willingness of consumers to engage with the market. As the supply side of retail markets adapt and evolve, trust will become more important not only for licensed energy suppliers but other key actors in the energy industry, such as third party intermediaries. For example, in the energy market for small business consumers, the poor business practices of some participants has contributed to widespread mistrust. Associated issues can be avoided if market participants are trusted and are seen to be treating consumers fairly.

Consumer engagement

We have worked closely with Ofgem's Switching Programme and will continue to do so as the programme develops regulatory arrangements for the new switching process.

We support Ofgem's work to improve the switching process in advance of the new centralised system being launched in 2020. We have already contributed to work in this area over the past year through:

- our contribution to the Erroneous Transfers Working Group (ETWG)
- our support for improvements to the Energy Switch Guarantee
- publishing switching performance data in our energy supplier rating

We support a 'better data, better switching' project to build on this work and develop more holistic information on switching performance as well as a compensation regime. Our Consumer and Public Services policy team is leading a project on auto-compensation that will complement this work.

We welcome Ofgem's work to engage consumers in the market and support trials of further interventions that could increase consumer participation. To retain consumer trust, Ofgem must roll out the disengaged customer database in a way which aligns with data privacy rights and makes it easy for consumers to opt out of unwanted communications.

Following the CMA's investigation, significant commitments were made by industry regarding the treatment of micro-business consumers, something that necessitates a high level of transparency. The package of remedies to help these consumers is intended to deliver benefits from early 2019.

Facilitating change in the energy system

Future arrangements

We support the areas that Ofgem has identified as key activities for 2018-19 under this theme. We would like to suggest a further area, which is market entry processes and requirements. We remain concerned that some suppliers entering the market are inadequately prepared. This can result in unacceptably poor service quality and inadequate financial sustainability.

We think Ofgem should prioritise a review of the current approach to licensing suppliers, and the options available to Ofgem for removing unprepared suppliers. This would address some of our concerns about the existing low barriers for entry into the supply market. However, given the size of the proposed Work Plan, we are concerned that Ofgem's licensing team may not have sufficient resource available to address this priority area.

In the specific area of developing the regime for the new Electricity System Operator, we would welcome additional clarity from Ofgem. For example, we would like to see further details on how incentives for building and operating will be efficiently managed under a new framework in which the System Operator and the primary transmission asset owner are decoupled.

We welcome Ofgem and BEIS' commitment to delivering the actions arising from the Smart Systems and Flexibility Plan. Making the GB electricity system smarter, and using flexibility assets more effectively, is crucial to delivering an electricity service to consumers that is more efficient, sustainable and affordable.

We have a concern, however, that the current approach to consumer protection is not sufficient for a smart and flexible energy future. The Flexibility Plan lacks needed ambition on consumer protection, stating that the current approach is "broadly fit for purpose within a smart energy system". We will continue to closely monitor consumer detriment that arises from new and flexible products and services and new market entrants, and will conduct research on this as part of our own work plan.

Network charging and cost-recovery

We will continue to support and engage with Ofgem's Targeted Charging Review, the Charging Futures workstream and Gas Charging Review. We support Ofgem's drive to reduce the time it takes to be connected to the networks and, crucially, ensure that network charges are fair as new technology drives different behaviours from users.

Critical infrastructure and arrangements

We support Ofgem's Significant Code Review on Settlement Reform, as Half Hourly Settlement is needed for a smart and flexible energy system. In particular, we are keen for this reform to consider the impact on consumers' data privacy and on those who will never receive a smart meter (either out of choice or circumstance). We will continue to feed our insights into the Design Working Group and Design Advisory Board and we appreciate the collaboration with Ofgem staff on this reform thus far.

We welcome Ofgem's commitment to its role in regulating the DCC and monitoring the rollout of smart metering. This is crucial in ensuring value for money for consumers. While we recognise the unique function of the DCC, we are concerned about its costs (both external and internal), which have risen significantly¹, and the margin that the DCC is permitted to make. These costs are ultimately paid for by consumers and it is essential that consumers can see the regulator is effectively holding the DCC to account.

Ofgem has a key role to play in scrutinising suppliers' rollout plans and assessing their progress against annual milestones. This will be critical in this coming year. The Smart Meter Implementation Programme is severely delayed and has faced a number of challenges. It is important that the Programme delivers benefits as well as value for money, as consumers are ultimately paying for it. It is a unique opportunity for energy suppliers to engage with nearly every energy consumer in GB. This needs to be effective to achieve a flexible, smart energy system that delivers for consumers in the future.

¹<https://www.citizensadvice.org.uk/about-us/policy/policy-research-topics/energy-policy-research-and-consultation-responses/energy-consultation-responses/dcc-price-control-consultation-regulatory-year-201617/>

Ensuring network companies deliver for consumers in a changing system - RIIO and the wider competitive regime

Regulating monopoly network companies

We continue to be supportive of the RIIO framework. Notwithstanding essential ongoing improvements, as a regulatory approach it is overall fit for purpose. We support efforts by Ofgem to incentivise network companies to engage with their stakeholders in a meaningful and productive way. This is not straightforward and we will continue to work with Ofgem and the network companies to make sure the voice of consumers is heard. A report from us on this topic is forthcoming in March 2018.

In terms of the reputational aspects within the RIIO framework, there are some clear areas for improvement in the future. We expect political and media attention to continue to focus on the profits that network companies can make under the RIIO price controls. Therefore it is critical for public trust that Ofgem and the network companies can clearly and persuasively demonstrate that the performance of companies justifies these returns. This has been lacking to date, and without improved efforts the trust that consumers place in Ofgem and the RIIO process is at risk of erosion, regardless of how well the rest of the RIIO framework performs.

We are encouraged that the Work Plan states Ofgem's intention to focus on and assess company financial performance against outputs under RIIO. In our report *Energy Consumer's Missing Billions*² we identified £7.5bn that consumers had overpaid in RIIO1, and we are keen to see the root causes of this addressed in RIIO2. In addition to evaluating the impact that adjusting allowed expenditures may have on outputs, it would be prudent to do the same for the potential impact on consumers' confidence in the process (as well as their bills). This would help Ofgem's express intention of maintaining the right balance between consumer and investor interests. We look forward to continuing to work with Ofgem on the framework for RIIO2.

There are a number competing priorities in Ofgem's Work Plan, and we are concerned that this could impact on Ofgem's ability to fully resource and deliver the most effective RIIO2 settlement. With the right resourcing, we are confident

²<https://www.citizensadvice.org.uk/about-us/policy/policy-research-topics/energy-policy-research-and-consultation-responses/energy-policy-research/energy-consumers-missing-billions/>

that RII02 can deliver the functional and reputational framework that Ofgem seeks in its Work Plan, despite the tight timelines that are in place. However, it is critical that the next round of price controls continues to deliver positive outcomes for consumers and that lessons from RII01, including the unfair levels of returns, are appropriately addressed in RII02.

Driving competition where suitable

We welcome Ofgem's work in this area and recognise the value for consumers that has been delivered through increased competition so far. Competition has been very effective in delivering value for consumers especially around lower cost, but value also involves the quality and stability of a service. We urge Ofgem to be mindful of recent high-profile events with government contractors, to ensure that the services it procures are deliverable as well as providing value for money.

Identifying opportunities and managing long-term risk on behalf of consumers

Proactively engaging, monitoring and managing markets

Where appropriate, Citizens Advice will continue to work closely with Ofgem to support this workstream. In the consultation document, Ofgem highlights that new priorities which may emerge in 2018-19 include regulation of heat networks and adapting to accommodate greater uptake of electric vehicles. These are both areas that Citizens Advice is keen to work closely with Ofgem on in the coming year.

On heat, the CMA has recently launched a market study on heat networks. The Government is working towards significant expansion of heat networks to help with energy decarbonisation. If this is to manifest, it is essential to ensure that consumers on heat networks are protected. Home energy use, including heat, is an essential service. It should be affordable, safe, accessible and fair for all. Regulation of heat networks could help overcome competition issues with heat networks. Ofgem is ideally-placed to take on this role. It already has a number of tools, like consumer protection and governance of unfair contract terms, that, along with competition law, could be used to address the problems endemic to heat networks.

On electric vehicles (EVs), we recognise that they have the potential to help the decarbonisation of transport and become a flexibility asset that consumers can use to lower their energy bills. Electricity distribution networks tell us that a greater uptake of EVs could trigger large scale network reinforcement, as well as being a source of flexibility that could help balance the network. Some of these are positive opportunities, but there are a variety of consumer issues that could arise from them all. For example, we are concerned about the level of control that electricity distribution network operators could have over EV charging levels; about data protection surrounding the sale of flexibility from EV batteries; and questions of fairness around who pays for network reinforcement triggered by EV owners. We will be considering these various potential impacts on consumers and will work with Ofgem as we scope this work in 2018-19.

Maintaining and enhancing our industry-specialist skills and capabilities

We are generally in agreement with these plans and consider them to be important for Ofgem in its delivery of essential services at affordable prices. We recognise that Ofgem has lost corporate knowledge recently and that if they want to recruit more technical expertise, especially regarding renewables and sustainable energy, then they should. The Centre of Excellence seems a sensible method of achieving this.

Continuing to provide an authoritative source of analysis and thought leadership

We look forward to working with Ofgem on its plans to build on the consumer insights and horizon scanning work. We see the proposed Research Hub as an opportunity for the wider sector to build helpful links with Ofgem, supporting Ofgem's research and bringing together views from different disciplines. We await further details from Ofgem regarding how the Hub will be resourced and managed. The detail of how it will support energy innovation is essential in assessing any associated consumer protection risks. Without this detail, it is difficult to comment further.

Withdrawal from the European Union

We welcome Ofgem's work to ensure energy market frameworks are updated to accommodate UK's future status outside the EU. However, we are concerned by

indications in the Work Plan that the joint programme will be limited to a dialogue with BEIS and industry. The European framework is interwoven with the day-to-day operations of our electricity and gas markets, from GB Network Codes up to national legislation addressing climate targets, network security and the transparency of investments. The potential impact on the costs and quality of supply is significant. We would welcome a wider stakeholder consultation on this.

It remains unclear whether any aspects of EU retail market rules will remain relevant in the GB market after our departure from the EU. The current revision of the EU legislative framework, to drive the transition to a smarter, low carbon and more flexible electricity supply, expressly seeks to engage all customers with the market. Ofgem's leadership within European bodies such as ACER (the Agency for Cooperation between Energy Regulators) and CEER (the Council of European Energy Regulators) has helped promote the interests of GB consumers in this context, and we hope that it will continue.



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