

# **Citizens Advice response to Ofgem's consultation on the Draft Forward Work Plan 2017-18**



## **Introduction**

This response was prepared on behalf of the Citizens Advice Service. We welcome the opportunity to comment on Ofgem's draft forward work programme 2017/18. The response is entirely non-confidential and can be published by Ofgem.

The past year included a number of events which will impact the energy sector significantly over the medium term. The Competition and Market Authority (CMA) energy market investigation was concluded, and its remedies and recommendations are now in the process of being implemented. The proposal to create a legally separate system operator is another step towards managing rapid change in networks, which need to become more flexible in response to distributed and intermittent generation. Meanwhile the UK's decision to leave the European Union will introduce uncertainty about Great Britain's role in the integrated energy market. Alongside these changes, the regulator is also committed to delivering a number of reforms affecting almost all parts of the industry, including the conclusion of Project Nexus, electricity settlement reform and faster switching. Many of these changes rely on the successful and timely rollout of smart meters.

The challenges of delivering these highly interdependent changes in a short timeframe cannot be underestimated, particularly given the poor track record of the energy industry in delivering large scale change. They will have significant impacts on consumers, carrying both opportunities for better services and lower costs, and some new risks, which will need to be mitigated. In order to manage these changes successfully Ofgem needs to be adequately resourced and work in an agile way with close engagement from stakeholders.

We have responded to those aspects of the forward work programme where we have particular views on Ofgem's priorities over the coming year. We set out how we intend to work with Ofgem in certain areas, and where our and Ofgem's work plans for the next year coincide.

## **Enabling a better functioning retail market**

### ***Supplier conduct***

Over the past year we have worked closely with Ofgem as it has developed new principles based regulations, including helping to develop a broad vulnerability principle. We also support the new principles on informed choices following the removal of certain RMR rules by the CMA. We will continue to engage as the project next focuses on written communications to consumers, which have become increasingly complex over time. We would expect that this work will be informed by trials - both those that are already underway and those that will begin under the new Ofgem-led programme - in order that changes to rules on communications are underpinned by research on consumer behaviour.

We will continue to use our data from local Citizens Advice, the consumer service and Extra Help Unit to identify poor performance and compliance issues. We will work with suppliers to resolve problems and, where appropriate, share data on these with Ofgem and Ombudsman Services: Energy in line with our tripartite working. We support Ofgem's plan to identify and share good practice guidance with suppliers in relation to the experience of vulnerable consumers. This should be developed to complement our own good practice guidance for suppliers.<sup>1</sup>

### ***Supply-side competition***

We support Ofgem's proposal to take a phased approach to the CMA recommendation to remove the Whole of Market (WoM) requirement from the Confidence Code for Price Comparison Websites (PCWs). This approach, to allow a partial view by default, should limit confusion for consumers and continue to allow them to view the WoM on all accredited websites. The impact of these changes on consumers should be reviewed before any further decision is taken to entirely remove the WoM requirement. We are working to ensure that our own PCW retains a truly WoM view as the default for all consumers.

We consider that Ofgem should prioritise a review of the arrangements for new suppliers entering the market, and in some cases review the capability of suppliers who are already in the market and provide guidance where appropriate. The failure of GB Energy in 2016 demonstrated that consumers can be put at risk when newer suppliers in the market do not adopt sustainable business models. While the Supplier of Last Resort (SoLR) process was carried out in a smooth and timely way, this failure did cause inconvenience and worry to many GB Energy consumers. Furthermore, there is a wider risk of such failures to all consumers, on whom the cost of protecting credit balances falls if these need to be protected. While we support Ofgem's safety net for these consumers, it can introduce an element of moral hazard for suppliers, and should only be used where absolutely necessary. Further supplier failures could also reduce consumer confidence to switch to newer suppliers, which would be negative for competition. We are keen to work with Ofgem to strengthen the licensing regime within their current vires, and to develop proposals which would require legislative changes.

### ***Consumer engagement***

We support Ofgem's approach to implementing the CMA remedies on consumer engagement. The database trials should enable Ofgem to determine the likely effectiveness of this remedy. Lessons from these trials should be used to develop the rules for suppliers seeking to use the database, and if the trials show that the remedy will not be effective then it should not proceed. Further testing in later stages of development should be used to test the database on

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<sup>1</sup> Citizens Advice (2017) [How energy suppliers can signpost and refer vulnerable consumers to the right source of help](#)

Citizens Advice (2016) [How energy suppliers can help and support prepayment customers who self-disconnect](#)

vulnerable consumers, who were excluded from initial tests, in order to determine the impacts on these consumers and ensure their needs are met.

The creation of the new Behavioural Insights team is a welcome development, and we look forward to a range of trials being carried out to test new methods for encouraging consumer engagement. As we set out in our response to the CMA's draft remedy<sup>2</sup>, we remain concerned that the new choices available to consumers with non-Economy 7 restricted meters could mean that some consumers are made worse off. We will develop appropriate advice for these consumers as set out in the CMA remedy, and will seek to work with Ofgem to mitigate the risks to these consumers. We are also creating new monitoring of the impacts of all consumer facing CMA remedies, which will help us to identify issues relating to the changes that will be introduced across the next year. This should complement Ofgem's own monitoring of the effectiveness of these remedies.

We have developed a number of tools to help consumers engage in the market and trust their supplier. In 2016 we launched our new energy supplier rating<sup>3</sup> which gives consumers information on the customer service of suppliers<sup>4</sup>, and this year we will work to expand the scope of this tool to include more suppliers. Earlier this year we also released a complaints league table for non-domestic suppliers, in order to help micro businesses engage.

## **Facilitating the energy transition**

### ***Flexibility work***

We welcome Ofgem's continued focus on flexibility, as a smarter, more flexible energy system promises to deliver efficiency savings, lower consumer bills and opportunities for consumer engagement. We also welcomed the breadth of topics covered in the call for evidence as it showed Ofgem's openness to new technology, new actors in the market and new ways of running the energy system.

We would, however, like to repeat a cautioning comment we made in our response.<sup>5</sup> There is a risk that by narrowly dividing questions into different technologies, actors and policies, the overlaps and conflicts between them may be missed. Furthermore, the challenge Government faces will not be to devise a policy that is good for storage, for example, or which supports aggregators, or accurately prices system costs of intermittent generation. Rather, the challenge is to devise a suite of policies that achieve all these things, combining a multitude of incentives, causes, and possible solutions without picking winners

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<sup>2</sup> [Citizens Advice response to CMA consultation on the Restricted Meters Order](#)

<sup>3</sup> [citizensadvice.org.uk/about-us/how-citizens-advice-works/citizens-advice-consumer-work/supplier-performance/energy-supplier-performance1/compare-energy-suppliers-customer-service/](https://citizensadvice.org.uk/about-us/how-citizens-advice-works/citizens-advice-consumer-work/supplier-performance/energy-supplier-performance1/compare-energy-suppliers-customer-service/)

<sup>4</sup> Currently this covers suppliers with over 150,000 customers.

<sup>5</sup> [Citizens Advice response to Ofgem/BEIS' call for evidence on a smart, flexible energy system](#)

and losers, that can take account of changing tech trends, market conditions and future consumer behaviour, and that keep the cost burden on consumers low. We would expect the plan that will be published in June 2017 to take this into account.

Secondly, the list of topics which are to be included in the plan (listed in the draft work programme on page 11) appears to us rather brief. It excludes crucial topics which were covered in the call for evidence such as consumer engagement in DSR (electric vehicle users in particular), consumer protection including data access and privacy issues, cybersecurity, smart tariffs, and smart appliances. If these topics will not be covered in the June 2017 publication, we would like to know when and in what form Ofgem intend to publish their plans to take these issues forward.

Finally, we want to point out a piece of research we are undertaking and which should be of interest to anyone at Ofgem working on time of use (ToU) tariffs. We have been conducting primary and secondary research to understand what system benefits can be expected from ToU tariffs in GB and how attractive these would be to consumers. We intend to publish the results in the spring but are happy to share draft versions if requested.

### ***Reform of network charging***

We support your efforts to reform network charging. As we have [previously argued](#), we believe that (while some level of triad benefit is appropriate) the sub-100MW embedded generation's avoidance of the demand residual charge needs to be addressed and Ofgem should undertake a Significant Code Review to take a wider, holistic look at TNUoS charging. Grandfathering arrangements for specific sets of users should also be avoided, given changing charging arrangements are a legitimate risk that investors face.

### ***Smart meter rollout and Data Communications Company regulation***

We are encouraged by Ofgem's ongoing commitment to ensuring consumer experience in the smart meter rollout is good and enables consumers to benefit, and that active monitoring of obligations in this space will continue. We look forward to working more closely with Ofgem and Ombudsman:Energy on this matter, properly embedding smart metering concerns into our tripartite working arrangement. With the number of smart meter installations set to double this year compared to last, it is crucial that the market is monitored for signs that suppliers are adhering to their requirements and consumers are being treated in the way set out by the energy supply licence, SMICoP and associated governance.

Given this, we would urge Ofgem to be bolder in its approach to compliance on smart metering. It is understandable that in the early stages of the rollout, some space has been given to suppliers to make mistakes and develop their approach. However, in the coming years, when the technology will be rolled out at scale, it is crucial that regulation around things such as customers data choices, entitlement to the offer of an In Home Display and the backbilling principle are

strictly adhered to. If they are not, and suppliers feel able to circumvent the rules, consumer opinion could start to turn against the programme.

Should further regulation of smart metering be required, Ofgem should not show undue favour to a principles based approach. Prescriptive regulation may be better suited to solving short-term issues - by its very nature the rollout is more likely to give rise to these - than a principles-based approach.

### **Code governance reform**

We support Ofgem's work in this important area, and we responded to the recent consultation. Citizens Advice is the consumer representative in the industry code governance framework and we have membership and voting rights on a number of the modification panels and can raise modifications on most codes. We are one of the few organisations to have a holistic view of codes. In our view the codes governance framework needs fundamental reform if it is to be truly fit for purpose in a more dynamic and decentralised energy market. The current codes landscape is complex, and there is an opportunity to simplify this and address the underlying reasons for complexity. We look forward to working closely with Ofgem as this policy develops.

## **Learning from the first RIIO framework and setting RIIO-2 up for success**

### **RIIO-2**

Ofgem's commitment to engaging stakeholders on how the RIIO framework has worked so far and to understand the drivers of risk for network investors, managers and consumers is positive. We welcome that RIIO-2 will recognise that networks are undergoing considerable change and uncertainty.

Building on your recent discussion paper<sup>6</sup> on consumer engagement in the RIIO Price Control process, Ofgem should also consider further how best to engage with consumers and their representatives in the design of the next price control. This paper rightly notes that price control design is often technical. In the year ahead, Ofgem should set out how it will make these technical issues comprehensible, thus reducing barriers to engagement and improving the substantive influence that consumers and their representatives are able to have on the price control agreements.

In the coming year, we will be researching how RIIO has been functioning so far and identifying lessons for the RIIO-2, to improve quality and cost-effectiveness for consumers.

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<sup>6</sup>[ofgem.gov.uk/publications-and-updates/consumer-engagement-riio-price-control-process-paper-maxine-frerk](https://www.ofgem.gov.uk/publications-and-updates/consumer-engagement-riio-price-control-process-paper-maxine-frerk)

## ***RIO accounts***

Ofgem's continued work on developing an accounts framework for RIO is welcome. As we have suggested in our previous collaboration with Ofgem on these issues, the accounts should be presented in a way that is comprehensible to a wide set of stakeholders, not just tailored to the needs of investors. This will be important to help stakeholders understand incentive performance over time.

## **Introducing competition into monopoly areas**

We support Ofgem's programme to introduce competitive processes for the development and operation of new network assets, where this can reduce the costs that consumers will pay for these projects. We will continue to engage with Ofgem on projects currently subject to competition, including the Northwest Coast Connection, and await future competition details.

We recognise the importance of interconnectors in providing flexibility to our system and reducing the costs of balancing increasingly intermittent generation. It is vital that we retain regulatory stability for these projects to counterbalance any short term uncertainty related to the decision to leave the European Union.

## **Becoming an authoritative source of quality analysis**

Ofgem is uniquely positioned to provide information on the functioning of the market. This work will be vital to track the impacts of CMA remedies and other industry changes over the medium term. We support the creation of the Office of the Chief Economist and the publication of an annual State of the Market report as important steps to improving Ofgem's analysis. However, we consider that this could go further on price transparency, by providing information on profits and supplier costs in the Supplier Costs Index. Supplier profits were a major public concern before the CMA investigation, and we consider that a more regular view of these will aid consumer understanding of the state and direction of the market.

We also support the CMA recommendation that Ofgem should comment on government policy with substantial implications for the energy sector. There may be a number of opportunities for Ofgem to contribute this year, including decisions on the second CfD allocation and the Emissions Reduction Plan.

Citizens Advice is also an authoritative source of data, and use data from our consumer service and local network, as well as statutory powers to request information from suppliers to inform our work. When preparing these information requests we have worked closely with Ofgem to ensure that we are not duplicating information that is already collected by the regulator in order to minimise the burden of these requests on industry. We will continue to take this

approach in the coming year, where this can jointly meet our organisational priorities.

## **Core business activities**

### ***RIIO-1 price controls***

We look forward to participating in your consultation on whether to hold a Mid-Period Review. Our experience of participating in the analogous exercise for RIIO-T1 and RIIO-GD1 is that it would have been useful for Ofgem to engage earlier on the rationale for including and disregarding certain outputs for potential inclusion in the review. We attended a roundtable with Ofgem colleagues where many of these decisions seemed to have already been made, indicating that the consultation on whether to hold a review was - to at least a small extent - pre-defined.

We are glad that Ofgem are committing to clarifying how you intend to hold companies for outputs in areas where this is not already clear. It is crucial that appropriate penalties are in place for outputs that are either not delivered or delivered late. We also welcome continued commitment to improving RIIO operation and your focus on Network Output Measures.

### ***Network Innovation Competition***

This year we contributed our research<sup>7</sup> to the Poyry and Ricardo review into innovation. We look forward to working with you on the implementation of the Innovation Review to ensure that consumers are getting good value for money from innovation projects.

## **Ofgem E-Serve**

The Government-backed Each Home Counts review sets out a plan to improve customer experience and protection in the energy efficiency and renewables sectors. Ofgem E-serve's administration of schemes such as ECO and FiTs has an important role to play in the success of the review. For example, Ofgem needs to work with the review to make sure there is an effective monitoring regime that does not duplicate effort. We recognise the engagement Ofgem has had in the review so far. We think it would be helpful for ongoing success of the review if the need for continued cooperation on this area was reflected explicitly in the work plan. To support the implementation of the review we are planning to carry out work monitoring consumer experience of renewables and energy efficiency schemes, and we would also welcome the opportunity to cooperate with Ofgem on this given the overlap with the proposed E-Serve work on consumer

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<sup>7</sup> Citizens Advice (2014) [Take a walk on the demand-side](#)

engagement and insight, and scheme performance and consumer satisfaction data.

## **How we operate**

### ***Smarter consultations***

We support Ofgem's plans to improve the way they consult with stakeholders, and particular attention should be paid to technically detailed work programmes, such as switching and settlement reform, which require ongoing engagement as well as one off consultation. These could benefit from the participation of a wider number of parties, particularly from PCWs and Third Party Intermediaries (TPIs), as these businesses may be likely to design services which deliver the benefits of these programmes to consumers.

We provided feedback to Ofgem on the consultation process last year, and welcome new ways to meaningfully engage with stakeholders beyond the traditional consultation process, for example through workshops and other tools. It is important that regardless of the method of consultation, Ofgem retains transparency over the consultation feedback and responds to issues raised by stakeholders in decision documents.