

Ofgem
10 South Colonnade
Canary Wharf
London
E14 4PU

20th September 2023

Dear Gavin,

Energy UK strongly supports the development of a competition framework for the domestic retail market.

This should be an important framework in helping Ofgem take effective decisions, however, we are concerned that Ofgem's approach to this call for input has significant issues which could threaten confidence and limit investability in the energy sector. It is also critical for Ofgem to give greater clarity on how this framework will be used in practice.

Key issues with the approach in the call for input:

Ofgem's view of competition is not reflective of the current retail energy market. The call for input fails to set out how competition in energy supply is necessary to provide value to consumers. The document appears to assume that the value of competition only extends to *"customers' ability to effectively react to market signals to an extent that it disciplines the behaviour of suppliers"*.

Similarly, the call for input does not clearly capture that the *"almost entirely homogenous product"* energy is not the full extent of what is provided to the customer by an energy supplier. Our members offer a diverse range of products and services to their customers, including smart tariffs that signal the optimum time to charge EVs, targeted consumer identification programmes that enable better additional support to get to those that need it and decarbonising customers' homes through tailored advice and technology. This diversity of products is a necessary feature of the energy transition and needs to be reflected in the framework if it is to be useful in the future.

Narrow interpretations of the value of competition will fail consumers in an era of high energy costs and increased demand side energy control where consumer value is not just from switching but from better understanding and engaging with how energy use impacts price. Competition is much more than switching suppliers, it should unlock rivalry between suppliers in offering new products and services that help customers save money and decarbonise their lives.

A consumer or their intermediaries' access and response to market signals is not just to "*discipline suppliers*" but to support a mutually constructive understanding between suppliers and customers. Smart devices, low carbon heating uptake and flexible tariffs risk being blunted by this weak interpretation of the significant consumer value of strong market signal cut-through and underestimating the value of consumers understanding and engaging with their energy options. One Energy UK member has found that its actively engaged customers saved £21m by making use of online tools offered by the supplier to better understand energy usage, reduce bills and carbon footprints.

Ofgem is obligated to support the delivery of targets such as carbon reduction and achieving net zero and the welfare of all future consumers, while also having regard to costs on the taxpayer and potentially also a new growth duty. Ofgem's objectives heavily rely on consumer engagement with retailers' products and services.

The benefits of services are accrued through consumer engagement with energy suppliers based on their differentiation either directly or through an intermediary. Whether this is differentiation on cost or service. This means that the value proposition of numerous Government and Ofgem programmes of work and impact assessments are dependent on consumers engaging with suppliers that can deliver consumer benefits such as smart metering, half-hourly settlement, smart flexibility and low carbon options more broadly. The benefit of these products and services will not be realised without an active, competitive energy market.

Ofgem does not recognise the current value of competition to consumers when setting out the use of a new framework. The call for input does not set out an approach to establish a firmer basis for assessing and measuring where competition might not be in consumers' interests. It does not appear to be developing a mechanism that Ofgem can transparently use to establish where the regulator can clearly and more legitimately not pursue competition.

Ofgem appears to wrongly blame competition for failures of market design. By not effectively defining the role and value of competition, the call for input appears to be assigning its functions in unreasonable ways. Demand reduction and services/products that can support customers to react to market signals, provide an important and clear basis for competition. However, there are necessary market design exceptions in this area to ensure that suppliers are offering value and support vs protecting consumers - for example where people are self-disconnecting from their energy supply due to affordability. In this example, it is not a failure of competition but of a market design that has not defined the exception and the necessary protection where the principle of competition over demand reduction does not apply. For example, clearer rules around the provision of additional support credit seek to address the issue through market design. There are multiple opportunities on which suppliers compete and these need to be acknowledged go beyond price.

Ofgem needs to be clear on how the framework will work in practice. A constructive 'anchoring' of competition would be defining a framework that will provide greater clarity on the value and limitations of competition. This would be consistent with the recommendation from the Oxera

report¹ and would support greater confidence in the direction of the retail market. Here are some examples of how the framework could work in practice:

- **Be clear that consumer engagement and service differentiation represent consumer value:** Consumer engagement with energy suppliers is driven by differentiated products and services that meet the needs of consumer groups, and which enable consumers' ability to discriminate between suppliers. This includes diversity in retail service propositions that can support good customer service, the reduction of greenhouse gases and the achievement of the net zero targets.
- **Price regulation:** It should aim to reduce the potential for customer cost premiums where consumers are not able to engage with the market. However, the pursuit of competition should facilitate tariff opportunities that encourage supplier innovation and consumer behaviour change.
- **Set out that alternatives to competition that are likely to apply primarily in two circumstances:** Firstly, in exceptionally volatile market conditions there is a risk that suppliers may not be able to manage external risks. Secondly, where further prescriptive interventions are needed to address specific risks of likely consumer detriment that is not otherwise protected by market design.
- **Competition should be on equal terms:** Price competition should not be achieved through unequal burdens placed on suppliers, for example, levy and service size exemptions.
- **A consistent and communicable approach to enforcement:** Have simple and transparent enforceable standards on all the relevant entities that service a consumer for their energy. This should include brokers and intermediaries.

When considering the impact of market design on the scope for competition Energy UK encourages Ofgem to reflect on key risks that potentially limit consumer value from competition. These checks should consider whether regulatory design includes:

- **Poor regulatory clarity or confidence in regulatory decisions:** A lack of clarity about whether suppliers will recover costs through regulatory allowances will limit their ability to invest, minimise costs and will narrow the scope to innovate.
- **Service proposition restrictions:** Any limitations on suppliers' ability to differentiate their tariff and service propositions.
- **Poor balance of consumer acquisition and retention incentives:** Unequal incentives or disincentives for some suppliers to acquire and retain customers may lead to poor consumer outcomes.

We would welcome the opportunity to discuss further any of the issues discussed in this letter.

Kind regards

¹ Oxera's [*Review of Ofgem's regulation of the energy supply market*](#) for GEMA, July 2023.

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