



Ms Sarah Price
Clerk to the Select Committee on Regulators
Committee Office
House of Lords
London SW1A 0PW

9 February 2007

Dear Ms Price,

RE: Energy Retail Association response to the House of Lords Select Committee on Regulators - Call for Evidence - UK Economic Regulators.

Thank you for inviting us to comment on the House of Lords' inquiry into Regulators.

This paper has been produced as an industry wide response from the energy suppliers forming the Energy Retail Association (ERA). The Energy Retail Association established in October 2003 is the only dedicated trade association for domestic energy suppliers in Great Britain. All the main energy suppliers operating in the domestic market in the UK are members of the association: British Gas, Scottish & Southern Energy, RWE npower, E.ON Powergen, EDF Energy and ScottishPower.

Some ERA members may also submit additional responses specific to their companies. Therefore our comments are general about the industry's relationship with its regulator.

1. Creating and Sustaining Competition

- a. The Energy Retail Association (ERA) supports Ofgem's objectives for increased competition and less regulation. The ERA works diligently with its members to develop alternative solutions to industry issues. Our success in developing industry-based solutions is evident in the 90% decrease in doorstep sales complaints since the EnergySure Code of Practice for Face-to-Face Marketing of Energy Supply was introduced in 2003.
- b. Similarly, complaints about the transfer process have declined by around 60% as a result of systemic changes as part of the Customer Transfer Programme. The final implementation stage was completed in March 2006.
- c. The ERA has also developed a safety net procedure to prevent the disconnection of vulnerable customers, which has been successfully implemented and maintained across the industry.
- d. The establishment of the ERA three years ago is testament to energy suppliers' commitment to addressing customer concerns with internal solutions rather than external interference. Ofgem is to be applauded for allowing industry-based solutions to be developed in the first instance.
- e. As the Government prepares its long term strategy for the energy industry, Ofgem must begin to prepare for a new market structure that is based on a global economy. Just as British energy suppliers must establish themselves in this market, Ofgem must consider the extent that it intervenes

- f. The ultimate ambition must be the withdrawal of sector specific regulation in the energy retail market at some point in the future. Ofgem has taken some significant steps in this direction with its open approach to the review of suppliers' licence conditions.

2. Monitoring energy markets

- a. At a time of market volatility leading to higher domestic energy prices Ofgem has an increasingly important role in providing information to consumers. At no other time since the market was liberalised have British consumers taken such an interest in their energy supply. This presents an opportunity to educate consumers about how the market operates, how they can exercise choice in buying energy and how they can manage their household energy consumption.
- b. We believe that consumer confidence in the energy market is an essential ingredient of a vibrant and dynamic competitive environment. Too often the pursuit of headlines has led to misinformation and scare stories about all elements of the energy supply business. Often this is supported by weak anecdotal evidence that is used to draw false conclusions about the whole industry and all customer experiences. The regulator has an important role in providing non-partisan information to allow consumers to be active in a competitive market.
- c. It is crucial at this time that customers are not discouraged from taking up suppliers' initiatives and added value services. Lack of consumer support for innovative offers may have a lasting impact for domestic energy efficiency in the future.

3. Customer Disputes, Billing Code and ADR

- a. In 2005 the industry was subject to a super-complaint about billing, which was brought by energywatch to Ofgem. In its judgement published in July 2005 Ofgem concluded that billing does not lead to significant consumer detriment.
- b. However, the industry responded with a commitment to establish an Energy Supply Ombudsman, supported by a robust Code of Practice on billing processes. Energywatch and Ofgem have been consulted on both these measures and the Energy Supply Ombudsman scheme and the Energy Supply Code for Accurate Bills ("the Code") were launched in July 2006.
- c. The Code provides a series of key commitments to customers and is underpinned by a technical specification of standards which its members have committed to meet. The Code provides more transparency about industry billing practice to assist consumer and stakeholder understanding of billing. Members' compliance with the Code is monitored by the Code Manager, and is measured by an independent firm of Code Auditors. KPMG have been appointed to this role and carry out a substantive annual check of member compliance with the Code. Code governance provides for sanctions on members who breach the Code.
- d. The Code is strengthened further by an industry-funded Energy Supply Ombudsman Scheme to adjudicate on unresolved disputes between suppliers and customers. Customers can use the service without charge and suppliers are obliged to accept the findings of the Ombudsman, which can be awards of up to £5,000.
- e. It is our opinion that the use of industry-driven Codes of Practice affords significant consumer protection and, properly administered, can reduce the need for legislative controls on market activity. Codes of Practice incentivise retailers to identify and address poor practice, which leads to a level of professional service and performance which drives customer service improvement. Therefore, we support maintaining legislative and

regulatory measures that form a foundation on which retailers can develop distinct competitive offers and improved customer service.

- f. We believe that any Standards for handling complaints, which may be introduced by the Consumers, Estate Agents and Redress Bill, should not be statutory and would be best served by self-regulation within the energy supply industry. We are keen to work with Ofgem on the creation of an industry-wide self regulation agreement on handling complaints, and feel that the industry's work in other areas, such as setting up the Codes of Practice and the Energy Supply Ombudsman show our commitment to customers and our ability to self regulate.
- g. In line with Ofgem's principles of deregulation, in the future we would wish to see its oversight of Codes redefined within tighter boundaries that restrict its powers of intervention.

4. Supply Licence Review

- a. The ERA is pleased to take part in Ofgem's review of the Supply Licence Conditions. It is clear that developments in the competitive market mean that some Supply Licence Conditions are no longer required and others need to be revised. We welcome Ofgem's approach of seeking to reduce the number of licence conditions where adequate protection is afforded to consumers by existing consumer and competition legislation. This legislation and accompanying licence conditions form the bedrock on which suppliers will build their own distinct processes and customer offers.
- b. In the spirit of better regulation Ofgem should consider the extent to which competition provides adequate consumer protection. The Supply Licence Condition review is setting a framework for future years and must therefore offer flexibility for innovation that may result from unforeseen developments in the market. The industry has already delivered improvements in customer services by establishing a self-regulatory regime where this is the most effective form of checks and measures, and this should be further encouraged. The Supply Licence Review is a useful and significant first step, but its success will be judged by the extent that it produces a substantial reduction in regulation of the sector and drives forward an agenda for complete deregulation.

5. Energy Efficiency Commitment 3

- a. The Energy Efficiency Commitment (EEC) has delivered significant energy savings through the efforts of suppliers. However, as with its predecessor schemes, the emphasis in EEC has been on supplier push and very little customer pull. This means that energy efficiency measures have been delivered at high cost to customers who have not themselves received support.
- b. We should, therefore, consider the options for splitting EEC3 into two funding streams – carbon savings and social welfare programmes. Removal of suppliers' social obligations from their energy savings commitment must not increase the overall cost to suppliers and, by association, consumers. It will, however, lead to a refocused investment to alleviate fuel poverty by more targeted means that address concerns of specific market segments.
- c. Ofgem will need to continue to support suppliers in developing innovative options for EEC accreditation and incentivise creative offers. It should also ensure that assessment and accreditation does not become an administrative burden on suppliers that discourages development in the market. Beyond 2011 suppliers will seek the support of Ofgem to develop a policy instrument that delivers carbon savings but is not expected to double up as a solution to fuel poverty, which is an issue requiring a much wider debate on housing quality and income levels.

- d. In addition Ofgem should seek a role in promoting consumer engagement in energy efficiency. In future suppliers should be rewarded for driving behavioural change.

6. Helping To Tackle Fuel Poverty

- a. The ERA shares Ofgem's opinion that the broad issues of poverty and social exclusion are a matter for Government. Suppliers have demonstrated their support for the Government's social objectives by establishing the Home Heat Helpline as a dedicated service for "hard to reach" customers. Energy suppliers have also demonstrated willingness to enter into partnerships with Government and other businesses to deliver measures to support vulnerable households. The Government has to demonstrate that it is capable of developing policy by working across departments towards a common goal to improve the housing, health and income of the poorest homes using market drivers.
- b. The ERA has proposed that the report on supplier initiatives relating to corporate social responsibility should be a joint project between us and Ofgem.
- c. The energy supply industry recently joined forces to carry out a trial, together with the DWP, led by Ofgem. The aim of this trial was to promote energy efficient measures to a targeted group of 10,000 vulnerable customers, using databases held by the DWP. Offers of free insulation, benefit checks, energy tariff checks and advice on saving energy were also available. The exact success of the trial is still being determined, though the results are hoped to be available soon. If all parties involved deem the trial a success, it may be rolled out to a wider targeted group in winter 2007/8.

7. Deliverables and Performance Indicators

- a. The ERA would be pleased to continue to work with Ofgem in coordinating suppliers' input to Ofgem's activity where there is a common industry position. This would be based on our core principles of promoting competition and protecting consumer choice.

Duncan Sedgwick
Chief Executive