



Response to Ofgem’s Call for Input on the development of a competition framework for the domestic retail market

18th September 2023

About Fair By Design

Fair By Design is dedicated to reshaping essential services such as energy, credit, insurance and payments so that they don’t cost more if you’re poor – also known as the poverty premium. Fair By Design collaborates with regulators, government and industry to design out the poverty premium. Our Venture Fund provides capital/funding to grow new scalable ventures to innovate the market and design out the poverty premium. Ascension manages the Fair By Design Fund. Fair By Design is managed by the Barrow Cadbury Trust on behalf of a group of foundations.

In the context of the energy market, we believe that households on low incomes/living in poverty should not incur a poverty premium based on the way they pay for their energy and should not be penalised for not shopping around.

Please note that we consent to public disclosure of this response.

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Summary

In its May 2022 report into Ofgem’s regulation of the energy market, Oxera recommended that Ofgem (i) put in place a consumer interest framework; (ii) develop a framework for how effective competition is defined and measured; and (iii) when making decisions, that Ofgem use both the consumer interest and effective competition frameworks to make decisions on future market design options.

In this Call for Input Ofgem seeks views on their proposed competition framework for the domestic retail market including the key themes of the framework, the indicators they will use to apply it and the contexts in which it will be applied.

At present, the framework treats consumers as a homogeneous group. Fair By Design would like to see Ofgem explicitly measuring the impact of competition on vulnerable consumers, including consumers on low incomes.

1) Do you agree with the aims and objectives of developing and implementing a competition framework?

Yes. Fair By Design very much agrees with the need for Ofgem to ensure that it strikes the right balance between competition and regulation in the interests of consumers.

We particularly welcome the recognition that Ofgem's promotion of an open and competitive retail market has not always delivered value especially for inactive consumers, and consumers which the market finds less attractive and/or more costly to serve, and that low barriers to entry and large numbers of suppliers going out of business due to rising wholesale prices, have imposed significant costs on consumers.

2) Do you agree with the sources of evidence and measures we are proposing to use in the competition framework. Are there any important evidence sources missing? How should these measures all fit together?

We believe that the consumer interests' framework (fig 1) used as a starting point is too simplistic. Consumers are not a homogeneous group and Ofgem's statutory duties include protecting the interests of consumers, including vulnerable consumers. We would like to see this framework incorporating a separate analysis of vulnerable consumers, drawing on and perhaps expanding Ofgem's own programme of work on vulnerability.

For example, under the first pillar "fair prices", we would like to see an explicit commitment to regulating out poverty premiums, by which we mean extra charges that disproportionately affect those on low incomes. We would also like to see a recognition within this framework that a healthy energy market should produce products and services that meet the needs of vulnerable customers, including those on low incomes¹. A healthy energy market should generate products and services that meet the needs of low-income consumers, such as tariffs with low or no standing charges aimed at those who consume small amounts of energy. We would also like to see Ofgem encouraging the development of flexible payment options, which are likely to be attractive to households who receive their income in a more ad hoc and intermittent way (many of whom are also on a low income).

Therefore, theme one: consumer engagement and empowerment lists some very valid sources of evidence and measures but is incomplete. Whilst useful, customer satisfaction scores will only measure if a supplier is delivering on the service a customer signed up for and expects. It will not tell you if there is a product or service that would suit that customer better but wasn't on offer. We would like to see a measure of the range of **different products available and how many of those products meet the needs of vulnerable groups**. Building on the inclusive design work Ofgem did with ourselves at Fair By Design and Toynbee Hall, we would like to see Ofgem conducting its own inclusive design programme particularly with vulnerable consumers to provide evidence of their needs and wants so that Ofgem can ascertain if the market is working effectively for them.

¹ Being on a low income is one of the risk factors identified in Ofgem's multi-dimensional definition of vulnerability (see [Ofgem \(2013\) Consumer Vulnerability Strategy](#)) and throughout this response, we assume "vulnerable" consumers to include those on low incomes.

The indicator “market and behavioural research” should incorporate research into **levels of trust in the energy market**, as well as insights into consumers’ attitudes to switching/shopping around. This is an important indicator for Ofgem to monitor, in relation to how far it is maintaining public confidence in its approach to regulation, which will have an impact on how far consumers want to shop around or want to have a smart meter, for example.

Under the last three measures under theme 3: structural parameters of the market (provision of bundled energy services, take up of EVs, heat pumps and other technologies and take up of smart meters) again we would like to see Ofgem recording the provision/take up separately for vulnerable consumers as opposed to non-vulnerable consumers. This would provide an important signal to Government, as well as Ofgem, about whether those on low incomes or with other vulnerabilities are getting left behind in the transition to net zero, to be able to co-ordinate a response. It will be important for Ofgem to understand what lies behind trends in consumer take-up of these products. Our focus group work with people on low incomes earlier this year suggested that low trust in energy market players was behind a reluctance on the part of some to have a smart meter, for example.

3) Ofgem has a primary statutory duty to protect the interests of current and future customers, as part of which it must consider their interest in the achievement of the net zero targets. Ofgem also has a secondary duty around the promotion of competition. We welcome views on how we should trade-off competition effects against other impacts of regulation, given our wider statutory duties.

We recognise that the trade-offs Ofgem faces within the constraints of its current objectives are challenging. That’s why in response to the Government’s energy strategy and policy statement, Fair By Design asked for Ofgem to be given an explicit objective to ensure that energy is affordable to all domestic consumers including an obligation to eliminate poverty premiums. Nevertheless, we believe that introducing greater transparency around the specific impact on vulnerable customers into the decision making process, and widening out the indicators and evidence used, will assist Ofgem to balance competition effects against other impacts of regulation, in the context of its wider statutory duties and to work collaboratively with Government to ensure that energy is affordable and accessible to all.