

**Corporate Response Form 'Third Package' Consultation**  
URN 10D/727 Open: 27/07/2010 Close: 19/10/2010

<b>Name:</b>	[REDACTED]
<b>Organisation:</b>	Consumer Focus
<b>Email:</b>	[REDACTED]
<b>Phone:</b>	[REDACTED]

**Consultation Questions**

**Chapter 1 – Consumer Protection**

**1** Consultees are invited to comments on Government proposals to implement the consumer protection measures of the Third Package.

As stated in our initial response to the call for evidence, we agree that in most areas the GB market is already in line with the new EU legislative provisions. There remain, however, some areas where further action is needed. Some of these are explained further below.

**Consumer rights regarding dispute settlement:**

Although all suppliers have complaint handling procedures in place, these are not visible or prominent enough to ensure that all consumers are aware of the redress path and understand the options available to enable them to get their energy issue resolved.

Ofgem's customer satisfaction research in 2009 and 2010 identified that a low proportion (15 per cent) of consumers with complaints were being signposted to the suppliers' complaint handling procedures. The research also identified that only a small proportion of domestic consumers with unresolved complaints were being signposted by suppliers to Consumer Direct, the main source of independent advice and support (4 per cent) or the Energy Ombudsman (10 per cent), the independent statutory redress scheme.

Consumer Focus agrees that the supply licence should be amended to require suppliers to inform consumers of the existence of their complaint handling procedures. We believe that this information should be included on the bill as a minimum but would welcome additional awareness raising via accompanying promotional materials. We also believe that the supply licence should require suppliers to inform customers that Consumer Direct can provide help and advice specifically with complaints. This aspect of Consumer Direct's current role is generally not highlighted by suppliers.

Consumer Focus is currently carrying out research into the attitudes of consumers to additional information on energy bills. We will share the results of this with DECC shortly.

### **Single point of contact for consumers:**

There is low awareness in the UK of the redress arrangements for energy consumers including the support available from Consumer Direct and the Energy Ombudsman. Consumer Focus's recent research on the customer journey indicated that consumers can often find the redress arrangements complex and difficult to navigate. The findings showed that consumers often need to make multiple contacts to suppliers and other agencies to get their problems resolved. This increases the risk of consumers falling through the gaps and not being able to access the help they need. This is of particular concern for vulnerable consumers who are in most need of independent advice and support.

Suppliers are obliged under the complaint handling standards to signpost to both Consumer Direct and the Energy Ombudsman on the back of domestic energy bills and on their websites. During 2009/10, the Energy Ombudsman experienced a steep rise in contacts from consumers that were outside its terms of reference eg consumers are contacting it too early in the complaint process. Consumer Focus's analysis of energy supplier bills and websites indicated that the information signposting consumers to both the Energy Ombudsman and Consumer Direct could account for this confusion. In general, the Energy Ombudsman details are listed in the 'complaints' section, while Consumer Direct's details are listed separately under 'help and advice'.

Additionally, independent research commissioned by Ofgem demonstrated that 24 per cent of consumers found out about the Energy Ombudsman service from the back of their bill<sup>1</sup>. This compares to 18 per cent of consumers finding the contact details for Consumer Direct on the back of their bill. This highlights that energy suppliers need to improve their signposting of sources of independent support and advice to prevent consumers contacting the Ombudsman too soon. Presenting the contact details and information for Consumer Direct in a clearer and more prominent position on the back of customer bills could address this. Consumer Focus is working with industry to improve the signposting information in order to maximise consumer awareness of the redress arrangements and improve consistency and standardisation across the industry.

The Energy Ombudsman was recently reviewed by Ofgem to assess its compliance with the criteria for the statutory ombudsman scheme. While broadly compliant, the review found that the scheme did not fully meet several of the criteria, including the requirement to record more details about contacts that were outside its terms of reference. The review identified a number of areas where further action is required by the Energy Ombudsman to meet the Ofgem set criteria and deliver a better service to consumers.

In particular, it is crucial that the Energy Ombudsman makes changes to the way it operates, including strengthening access to information which could help forecasting and collecting more and better information about the consumers that contact the Energy Ombudsman but are outside the terms of reference, including signposting and referrals information. A better understanding of why consumers are incorrectly contacting them will aid the Energy Ombudsman in driving down contacts to the enquiry line and will feed into how signposting can be improved.

The review also identified that the Energy Ombudsman needs to develop a more cost-reflective fee structure including a separate fee to members for the volume of enquiries

<sup>1</sup> Harris Interactive customer satisfaction research 2010

handled. Consumer Focus strongly supports this recommendation, which has the potential to drive down OTOR (Outside Terms of Reference) contacts and encourage the suppliers to resolve complaints in house where possible, and clearly signpost independent sources of advice.

Another key finding was the need for the Energy Ombudsman to be more active in identifying and commenting on systemic issues through recording more information on the nature of cases and the causes of complaints as they are investigated. The Energy Ombudsman should establish internal processes and analysis tools to review the cases to identify and resolve systemic issues. Consumer Focus strongly supports this view and believes that it is imperative that the Energy Ombudsman makes best use of the information it has about suppliers and industry overall, in order to reduce complaints and drive company performance.

#### **Billing:**

The proposed changes to the notification of billing increases (Annex 1, Paragraph 1(b)) refer to the minimum level of protections only. In fact, these are notably more detrimental to consumers than the changes now under consideration by Ofgem: under the existing Standard License Condition 23, GB energy suppliers are already able to provide notification of changes to their contract terms (including price changes) no later than one normal billing period after the increase comes into effect. However, as we are sure you are aware, Ofgem is currently consulting on changes to Standard Licence Condition 23 to allow for advance notification (by 30 calendar days) of changes to customers' contract terms.

In principle, we believe that advance notification will provide benefits to customers subject to the costs of implementation. As such, DECC should ensure that the implementation of this provision of the Third Package does not render advance notification impossible to implement. The provisions in the legislation should be recognised as a minimum backstop and Member States should have the ability to go beyond the backstop if they so wish.

#### **Smart metering & provision of consumption data:**

##### Interoperability of smart meters:

In the consultation document, DECC notes that the Government is promoting the interoperability of the smart metering deployed in GB. However, although the official roll-out will not be mandated until 2012, some suppliers are already installing smart meters in people's homes. There are expected to be in excess of two million meters installed before the end of 2012. Many of the meters and displays which are currently being installed are not interoperable. The risk is, if a customer wants to change supplier they will have to have their meter, display or in-home communications changed if they want to switch company. This is inconvenient for the customer, costly, wastes resources and acts as a barrier to switching with a potential negative impact on competition.

Urgent action is needed to address the issue of incompatible technology. A limit should be placed on the number of smart meters that can be installed by suppliers until this issue is resolved.

##### Economic impact assessment

The consultation document notes the importance of the outcome of an economic impact assessment of all the long-term costs and benefits to consumers as well as to markets. To

meet this requirement more consideration is needed, particularly of the impact of smart metering on low-income households.

In line with ERGEG (the European Energy Regulators Group) draft guidelines of good practice on regulatory aspects of smart metering for electricity and gas, Consumer Focus believes that all consumers should benefit from the smart meter rollout. If the costs of smart metering are spread across the entire customer base (as is proposed in GB), all consumers will be expected to pay for it. There will be winners and losers from the proposed rollout. Therefore, it is important to identify which groups might be adversely impacted to ensure that the appropriate policy interventions can be implemented. In particular vulnerable and low-income customers must be protected from any additional hardship that may result. This modelling should be carried out.

The GB Government's latest impact assessment does not model the impact of smart metering on different social groups.

Additionally, as explained in our recent response to the public consultation on Ofgem/DECC's Summer Prospectus, Implementation Strategy October 2008, Consumer Focus believes that insufficient consideration has been given to a network-led roll-out, despite this being the model adopted by the overwhelming majority of countries who have rolled-out smart meters. We recognise that any move away from the supplier-led model would go against a strong tide in GB but still firmly believe that a proper assessment should be carried out. The distribution-network-led model arguably lends itself more easily to the delivery of public policy and consumer benefits. For example:

- a) The approach best lends itself to a coordinated regional rollout and the efficiencies and cost savings that could result. A 2008 study by Frontier Economics (*Less is more? How to optimise the smart meter roll out*) suggests that such an approach could result in almost a further £3 billion in cost savings
- b) Separation of supplier sales and marketing activities and distributors' rollout activity not only maximises customer buy-in and trust but also ensures that energy suppliers are not given an unfair competitive advantage in the delivery of energy products and services
- c) There would arguably be more transparency and regulatory oversight in relation to costs and savings passed on to consumers and potentially less financial uncertainty
- d) It may be easier to manage and develop a smart grid to achieve government aims of security of supply and a low-carbon economy. As well as exploit synergies with water meter roll-out and local and national energy efficiency and fuel poverty programmes
- e) Existing problems with interoperability could be overcome without jeopardising meaningful competition. Most competition and innovation around metering is expected to come from communications and services linked to the meters not the meters themselves

Finally, further consideration is needed to the wider potential consumer and tax-payer benefits of smart metering especially the social impacts. This should include:

- a) The potential to dovetail any of water meter rollout with smart meter rollout, particularly in water stretched areas – thus resulting in bill savings to water consumers
- b) Any potential to support wider public policy goals such as the Digital Britain agenda – this could influence decisions around communications
- c) Opportunities to more efficiently deliver assistance to low-income and vulnerable consumers. For example, linking up with national or local fuel poverty programmes or providing extra help during the installation visit
- d) Possible cost savings to the National Health Service (NHS) – decisions on functionality must not preclude the delivery of remote health services which could reduce the burden on the NHS, increase customer convenience and enable people to live independently in their own homes for longer
- e) Non-monetised benefits eg improvements in customer service and convenience to prepayment meter customers – not just the inclusion of the gas valve, but general functionality on meters and displays

Availability of consumption data:

Given the improvements in the provision of consumption data that are expected to result, in the short term, from the roll-out of the new smart metering technology, Consumer Focus supports the proposal to minimise the costs to consumers arising from interim procedures.

That said, however, in order to meet the stated objectives of EU and GB energy policy and in view of the expected capability of customers' metering equipment, 'consumption data' should be understood to mean 'historic consumption data' to which customers should have easy access, free of charge and in a sufficiently harmonised format that will allow a comparison of offers (and thereby facilitate switching).

It also should be noted that while the Directive empowers consumers to provide their data to other suppliers, it will also be necessary to give customers the choice to provide it to other third parties (such as switching sites, High Street retailers and other organisations that may want to offer energy efficiency services).

Additionally, regarding the frequency of data provision, this must be proportionate to the information taken from the customer (eg if half hourly reads are taken, feedback should be given on half hourly use).

Accordingly, in order to meet the requirements of the third package legislation, Consumer Focus calls upon DECC and Ofgem to specify a deadline for the review of the legislation and licence conditions in order ensure that GB requirements remain in line with EU legislative requirements.

**Consumer checklist:**

Practical information on consumers' rights must be conveyed to customers in an easily accessible and understandable format. It must be available at the point in time that it is required. It is unlikely that many consumers would retain a large document for further reference and so this would not reduce call volumes to independent advisors, suppliers or

network companies. Furthermore, distribution, printing and other costs ultimately paid by the consumer, should be minimised.

We will work collaboratively with DECC, Ofgem and industry to deliver a useful document for consumers. It is beneficial to begin with an audit of how far the key pieces of information required by the checklist are already provided to consumers in a variety of user friendly formats (eg energy bills, energy bill stuffers, as part of complaints-handling processes).

### **Vulnerable protections:**

Definitions of vulnerability in the GB are linked to fuel poverty. Fuel poverty is where a household needs to spend more than 10 percent of its income on fuel for adequate heating and a vulnerable fuel-poor household is deemed to be one containing children, or those who are elderly, sick or disabled.

But the definition of income that is used can have wide implications for the total numbers recorded as being in fuel poverty. The Government's preferred definition of fuel poverty – the 'full income' definition – includes, as 'income', benefits received for housing costs. But the government provides fuel-poverty data according to a 'basic income' definition, which does not include benefits received for housing costs as 'income'. The definition used can make a significant difference to the numbers seen to be in fuel poverty.

Recent research by Consumer Focus predicted that 4 million or 18 per cent of all households in England are in fuel poverty in 2010 according to the Government's preferred full income definition – 3.3 million of the fuel-poor households are 'vulnerable'. But using the basic income definition Consumer Focus estimates that 4.4 million households or 20 per cent of households are in fuel poverty on the 'basic income' definition.

The North West also has the highest number of fuel poor households among England's nine regions (accounting for 16.8 per cent of all fuel poor households in England on both the full- and basic-income definitions). London has the lowest number (10.4 per cent) according to the Government's preferred definition, but increases to the second highest (13.1 per cent) under the basic definition. The full income definition tends to 'deflate' fuel poverty in London because of the capital's high housing costs.

DECC also points out that there are other definitions of vulnerability that are separate from fuel poverty. Ofgem must carry out its duties having regard to the interests of: (a) individuals who are disabled or chronically sick; (b) individuals of pensionable age; (c) individuals with low incomes; and (d) individuals residing in rural areas. But the legislation also says that this list should not be 'taken as implying that regard may not be had to the interests of other descriptions of consumer.'

It is important to emphasise that it is not sufficient to simply equate certain 'categories' of people or households with vulnerability or disadvantage, but rather to recognise that people can move into (and out of) vulnerability according to certain 'risk factors', such as age, disability or employment status. However while 'low income' is not the only vulnerability, it is a major contributor to fuel poverty and it inevitably puts consumers at a disadvantage. Energy markets rarely cater for low-income consumers' needs without intervention.

Protection should address arrears recovery at affordable rates, procedures to avoid disconnection, fair-tariff structures and social tariffs for consumers not benefiting from competitive markets.

But the key protection is to ensure energy is affordable. The most cost effective means for achieving this is by ensuring consumers live in energy efficient homes and use energy efficient appliances. It is therefore important that energy markets are structured to meet this goal, backed up by Government programmes that have a clear focus on 'vulnerable' and fuel-poor households.

#### **Energy efficiency incentive mechanisms:**

Consumer Focus is concerned that the Government's proposals are predicated on the assertion that it already complies with most of the provisions of the EU Third Internal Energy Market Package. However, Consumer Focus considers that there are a number of areas for improvement. We highlight these below. Consumer Focus also considers that the Government has not made clear those areas of policy for which the Devolved Governments have responsibility. This is particularly the case in Northern Ireland, which has a separate energy market to mainland Britain.

The Government states that it complies with Article 3(8) of the Electricity Directive and Article 3(4) of the Gas Directive through formulating national energy plans, providing support for domestic energy efficiency improvements and providing appropriate social security benefits

Consumer Focus does not consider that the list of English energy efficiency initiatives provided by the Government represents a national energy plan. Rather we consider these initiatives are ad hoc, incoherent and confusing to consumers.

Consumer Focus has called for the Government to implement a national programme that systematically improves all existing homes, using a street-by-street approach, to the energy efficiency standards of homes built today, wherever practical. Such a programme should start with the homes of the fuel poor. It should also set out a detailed road map, with interim targets, for meeting the Government's statutory carbon and fuel-poverty targets.

Consumer Focus also notes that the Government only refers to English programmes, such as the Decent Homes Standard and Warm Front, and does not mention the Devolved Government equivalents.

Consumer Focus is concerned that the Government does not make clear its intentions with respect to social housing, given that the Decent Homes programme finishes this year.

Similarly, while it now appears that Warm Front will continue until 2013, there is no clarity as to how the successor Green Deal programme will tackle fuel poverty, nor the interim implications of the severely reduced Warm Front budget.

Responsibility for fuel poverty and energy efficiency is a devolved matter, with the level of funding varying between the Governments. It may therefore be possible for one part of the UK to comply with the Directive, while others do not.

2	<b>In respect of the requirement to switch customers within three weeks, subject to contractual terms, we propose to put in place a new Licence Condition requiring the new supplier to give new customers a 14 calendar day period after the contract has been entered into, to consider whether they wish to proceed with this. Unless the customer notifies the supplier they do not wish to proceed, the Licence Condition will require the new</b>
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	<p><b>supplier to give customers the right to change their mind within 14 calendar days and then be switched within three weeks, subject to outstanding debt (and, in the case of non-domestic customers, contractual conditions). Do consultees agree with this proposal?</b></p>
	<p>Consumer Focus supports the approach suggested in the business impact assessment to minimise the costs on business and on enforcement, while maintaining consumer protection. Since ultimately such costs are passed to consumers, a thorough and transparent cost/benefit assessment is welcome.</p>
<p><b>3</b></p>	<p><b>Do consultees consider that the requirement on supply undertakings which are not registered in Great Britain, to provide a GB address for the service of the documents, poses any difficulty for these suppliers? Evidence of costs to these suppliers would be particularly welcome.</b></p>



## Chapter 2 – Transmission and Distribution Networks

**4** Do you have any comments relevant to our consideration of which unbundling models should be available in the GB market?

**5** Do you have any views or concerns with how we intend to apply these new Third Package requirements on TSOs and DSOs?

### Chapter 3 – Gas Infrastructure

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| <b>6</b> | <p><b>Should the Gas Directive requirements for storage and LNG operators be introduced through a new licence regime or by amending existing legislation? Please provide evidence of costs and benefits wherever possible.</b></p> |
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### Chapter 4 – Role of the National Regulatory Authority

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| <b>7</b> | <p><b>Implementing binding decisions</b></p> |
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For the reasons we have set out in the consultation document, the Government proposes to replace the current collective licence modification objection arrangements with a process that allows Ofgem to reach its decisions subject to appeal to an appropriate body. This would reinforce Ofgem's power to make decisions in accordance with their powers and duties under the Third Package, and would give all licensees the same right of appeal. Ofgem's decisions, as now, would need to be reached following consultation and subject to the principles of better regulation. This proposal would include all Ofgem licence modification decisions and not only those covered by the Third Package. We would be grateful for your views on these proposals.

Consumer Focus has responded in more depth on this mechanism in a separate response to DECC's mini-consultation on Ofgem's licence modification appeals. We would simply wish to point out here that this mechanism needs to be accessible to all (consumers as well as industry) if it is to adequately hold the regulator to account.

## **Chapter 5 - Cross border co-operation**

<b>8</b>	<b>Do you have any views or concerns with how we intend to introduce the regional co-operation elements of the Third Package?</b>
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## **Impact Assessment Questions**

**These are partial Impact Assessments containing our initial qualitative assessment of the costs and benefits. We therefore would welcome any quantitative evidence to support the further development of these impact assessments. Any information provided will be treated with sensitivity and anonymity.**

### **Consumer Switching**

<b>9</b>	<b>Are the assumptions made as part of this Impact Assessment correct and have we correctly identified the costs and benefits associated with this measure?</b>
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In addition to the assessment of the proposed switching time-limits against current contractual and technological requirements, there may be value in investigating possible links with forthcoming policy changes. In this context, it would be helpful to receive clarification as to how far 'contractual conditions' (Article 3(5)(a)) should be able to limit consumers' right to switch. For example, Consumer Focus questions whether it is anticipated that the new Green Deal provisions could tie consumers into long-term contracts with the potential to undermine competition.

<b>10</b>	<b>The Government would welcome any information that could improve our analysis of the costs and benefits highlighted in this Impact Assessment, and specifically any evidence regarding: supplier systems changes, monitoring costs, administrative burdens, the number of extra erroneous switches which may occur as a result of our proposals, the cost of manually stopping the switch and any information regarding the number of customers that currently fall outside the 3 week switching period defined (excluding the cooling-off period).</b>
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<b>Consumer Information</b>	
11	Are the assumptions made as part of this Impact Assessment correct and have we correctly identified the costs and benefits associated with these measures?
Please refer to our response to Question 1.	

12	<p><b>The Government would welcome any information that could improve our analysis of the costs and benefits highlighted in this Impact Assessment, and specifically any evidence regarding: whether the record keeping requirement imposes additional costs (system costs and administrative costs) on industry; an estimate of the scale of these costs; and any evidence regarding the costs associated with passing on consumption and metering data to another supplier.</b></p>
<p>While DECC have asked for information on the costs of the record keeping requirement we would like to highlight the <b>benefits</b> of implementing such a requirement.</p> <p>Consumer Focus agrees that DECC should place an obligation on energy suppliers to hold relevant data relating to all transactions in gas and electricity supply contracts and gas derivatives with wholesale customers and transmission systems operators as well as storage and LNG operators for at least five years. We also agree that Ofgem should have the power to request and publish this information (subject to commercial confidentiality issues). We would also ask DECC to provide mechanisms available to other market participants to request the publication of data available to Ofgem.</p> <p>Consumer Focus favours the establishment of a public database of wholesale trading contracts to act like a trade repository. The information available to market participants should include:</p> <ul style="list-style-type: none"> <li>• contracts traded on a 'pure' over-the-counter (OTC) basis (bilateral trading not executed via a broker), contracts traded on an intermediated OTC basis (trading executed via brokers) and exchange-based trading (trading made on N2EX and APX-Endex platforms for example)</li> <li>• contracts of varying maturities ie within day, day ahead, monthly, seasons, quarters and annuals made on spot, prompt, forward and futures markets for example</li> <li>• peak and off peak power contracts</li> <li>• details related to terms, prices and volumes/quantity</li> </ul> <p>If necessary data could be anonymised or aggregated to ensure any commercial confidentiality test is met. The ability for market participants to request this data will provide the following benefits to the market and ultimately customers. The availability of this data would allow market participants to contest the validity of trades in comparison with prevailing wholesale market terms and price. This should provide evidence that companies are 'testing' the market for the cheapest source of energy. It should allow market participants to validate company hedging strategies which would provide a greater understanding of the relationship between wholesale and retail energy prices. It would also provide market participants with the ability to include trades in market indices which would ensure that these market signals are reflected in wholesale prices (particularly forward prices). Finally, it would also demonstrate how much trading occurs on the openly traded wholesale market in comparison with the 'off-market' (trades made bilaterally off wholesale markets without brokers). As a result this provision could help improve liquidity in the GB forward wholesale power market (please see Ofgem's consultation on wholesale power market liquidity for a fuller discussion of the problems facing the market  <a href="http://www.ofgem.gov.uk/Pages/MoreInformation.aspx?docid=130&amp;refer=Markets/WhlMkts/CompandEff">http://www.ofgem.gov.uk/Pages/MoreInformation.aspx?docid=130&amp;refer=Markets/WhlMkts/CompandEff</a>).</p>	
13	<p><b>What would be the additional costs to the industry for providing the additional information to consumers in terms of complaints handling/dispute settlement arrangements available by the supplier?</b></p>

## National Regulatory Authority

14

**Are the assumptions made as part of this Impact Assessment correct and have we correctly identified the costs and benefits associated with these measures?**

Set out below are issues which Consumer Focus requests that DECC should be mindful of in informing their Impact Assessment.

### **The role and powers of Ofgem**

#### Independence and accountability

The third package contains detailed provisions on the scope, powers, independence and accountability of the regulator. These provisions appear to significantly constrain DECC's separate review of the regulator although, as the consultation highlights, in many areas the existing arrangements in GB are already compliant with the third package.

The provisions around independence, and the prevention of direct instructions from government to the regulator, are of greatest concern to consumers. This is because of widespread concerns that Ofgem is failing to adequately protect and promote consumers' interests and that it is already insufficiently accountable for its actions. Ofgem is not an elected body; consumers cannot 'vote it out' if it does a bad job. Likewise while, in principle, judicial review exists as a remedy mechanism for poor decisions made by statutory bodies, in practice it is an inaccessible tool; judicial review proceedings can be extremely expensive and open-ended.

Consumers have therefore been highly reliant on parliamentary scrutiny to try to hold the regulator to account but the requirements of the third package on independence appears to dilute the ability of parliamentarians to act on poor performance. We would like to see the development of alternative tools to counterbalance this loss of accountability.

One of these, as highlighted in this consultation, is the introduction of an appeals mechanism for those adversely affected by regulatory decisions.

More broadly, the Government will need to consider how it can best ensure that its activities, and that of the regulator, are not in conflict – given that it will not be able to issue directions to the latter. The delivery choices that a regulator makes may facilitate, or impede, any broader strategic goals that are set by Government.

The consultation sets out that the Government may still be able to set the strategic direction for energy policy through the introduction of Public Service Obligations (PSOs).

There is a powerful case to suggest that some decisions on trade-offs between different interests are essentially political ones and should be taken by ministers to ensure democratic accountability. We think that there are a wide range of areas where this is clearly so; for example in areas such as social price support and decisions on carbon targets. Decisions about equity and social justice are essentially value-laden judgements that should reflect the wishes of the public as expressed through the democratic process.

DECC may therefore wish to consider using PSOs as a way to delineate those matters that DECC considers must rightfully rest with elected government.

More generally, we consider that a revised framework for regulatory action could provide clearer accountability while remaining compatible with the requirements of the third package.

Underneath the statutes, it is important to have clarity over the medium and long-term outcomes that departments and regulators are working towards, in order to fulfil the statutory objectives. This requires Government and regulators to engage at a strategic level, rather than simply on individual issues. This could mean every Government department publishing a strategic policy document for each regulated area within its remit. This document should be applicable for a fixed term, perhaps five to seven years, to provide continuity and stability in policy goals. It could spell out the Government's visions and objectives for the sector; what it intends to do to give effect to that vision; what it expects the regulator to do; and how it intends to ensure co-ordination of these two parallel streams of work. This would draw the Government out to say what it wants to achieve and provide an accountability framework against which the regulator's performance can be assessed.

There should also be clarity as to how the day-to-day relationship between departments and regulators operates in practice. This might take the form of a 'regulatory contract' between Government and the regulator, outlining who is doing what and what resources each will have to ensure that this work is done as efficiently and effectively as possible.

Each of these documents should be in the public domain. Select committees could question representatives from each actor to assure themselves that the work is allocated and co-ordinated appropriately.

We would also like to see the energy sector subject to more rigorous scrutiny by independent competition authorities because it has never been subject to a market referral despite significant (and continuing) evidence of consumer detriment. We recommend that there should be periodic independent reviews of the state of competition in the energy sector – please see our submission on the review of Ofgem for further detail on how such a mechanism could be framed.<sup>2</sup>

<sup>2</sup> Pages 14 and 15, <http://www.consumerfocus.org.uk/assets/1/files/2009/06/Response-to-DECC-call-for-evidence-review-of-Ofgem.pdf>



Additionally, the proposed abolition of the energy consumer watchdog, Consumer Focus, will reduce the independent scrutiny of Ofgem. It is currently proposed that Consumer Focus's existing statutory functions will be transferred to Citizens Advice. It is unclear, however, whether all of Consumer Focus's statutory powers could be transferred to a charity, given concerns around accountability.

Therefore, the proposed abolition of Consumer Focus and its impact on the existing scrutiny of Ofgem should be considered as part of this consultation process.

#### Budgetary autonomy

Although we note the Government's view that the requirements for Ofgem to have budgetary autonomy are already met we do have some concerns about whether there are the right disciplines in place to ensure it adequately manages its costs.

Ofgem E-Serve administers an increasing number of environmental schemes but has not been required to tender for these services. Although to some extent this is an accident of history rather than a state of affairs that it has sought, it does strike us as fundamentally undesirable to have a monopoly unregulated service provider carrying out these functions. The absence of any kind of tendering process, and the ability to pass through all costs, may mean that consumers are getting poor value for money.

We would like the government to consider whether Ofgem should be administering these kinds of schemes and divesting them to alternative providers where it is not best placed to lead. If there are schemes that it is obliged by statute (EU or UK) to carry out, we would like it to consider whether sub-contracting could help to ensure value for money.

15	<b>We would welcome any information that could improve our analysis of the costs and benefits highlighted in this Impact Assessment, and specifically any evidence regarding; the monitoring, enforcement and administrative costs involved and any evidence regarding the indirect costs on industry of these measures.</b>
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## **Transmission and Distribution**

<b>16</b>	<b>Are the Impact Assessment assumptions on the costs to TSOs of complying with the new TSO certification process realistic (both for those seeking derogations and those not doing so)?</b>
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<b>17</b>	<b>The Impact Assessment assumes that ensuring the independence of the compliance officer for DSOs requires little additional action on the part of the affected DSOs. Your views including evidence of costs would be appreciated.</b>
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## **Gas and LNG Operators**

18	<b>Are the assumptions made as part of this Impact Assessment correct and have we correctly identified the costs and benefits associated with these measures?</b>
19	<b>What specific changes to current practice will be required to comply with articles 15 (unbundling) and 16 (confidentiality) of the Directive? What are the likely costs of making these changes?</b>
20	<b>Articles 15, 17 and 19 of the Gas Regulation specify that certain operational information must be made publicly available by 'technically and economically necessary' LNG and storage sites. What are the likely costs involved in making this information publicly available?</b>

	<p><b>21</b></p> <p><b>Article 22 of the Regulation outlines the requirement for contracts and procedures to be harmonised at ‘technically and economically necessary’ LNG and storage sites. What changes to current practices will, in your view, be required to achieve this and what are the likely costs of making these changes?</b></p>
	<p><b>22</b></p> <p><b>We would welcome evidence on the costs and benefits of introducing a licensing regime for LNG and storage as opposed to introducing the measures through changes to legislation.</b></p>



