

Business, Energy and Industrial Strategy Committee

Oral evidence: Energy price support, HC 980

Tuesday 31 January 2023

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[Watch the meeting](#)

Members present: Darren Jones (Chair); Bim Afolami; Alan Brown; Ruth Edwards; Ian Lavery; Andy McDonald; Mark Pawsey; Alexander Stafford.

Questions 71 - 105

Witnesses

[III](#): Jonathan Brearley, Chief Executive, Ofgem; Neil Kenward, Director for Strategy and Interim Director for Markets, Ofgem; and Neil Lawrence, Director of Retail, Ofgem.

Examination of witnesses

Witnesses: Jonathan Brearley, Neil Kenwood and Neil Lawrence.

Q71 Chair: We now move on to the final panel and welcome to the top table Jonathan Brearley, chief executive of Ofgem; Neil Kenwood, director of strategy and interim director of markets for Ofgem; and Neil Lawrence, the director of retail for Ofgem.

I was just going to raise some of the issues that came up in the previous panels, particularly some of the comments from Energy UK, which I thought were interesting. The trade body for the energy companies is basically saying that some of them are not following the rules and that you should tell them off more, but should they not just be following the rules in the first place?

Jonathan Brearley: As you know, we wanted to give a broader overview of the market, but, just to focus on that for a moment, I am deeply concerned by the comments that came from Energy UK today. There is a good debate about whether we should enforce more and how we run our compliance processes, and we will have those today, but the idea that the industry says, "The way we obey the rules is by making the regulator enforce more" shows to me a deep problem with the culture and the approach that some in the industry are taking.

Quite frankly, I do not think that that represents the conversations that I have had with CEOs or the attitude of the industry as a whole, but step 1 for a CEO of any company is to make sure that they are looking after their customers. Yes, we can enforce and we can run compliance processes, but that is their day job.

Q72 Chair: Why do you think that that was the answer we were given earlier? Are there companies that are just choosing not to follow the rules because they are going to go bust otherwise, or do they not care? I do not understand the rationale for the evidence that we heard.

Jonathan Brearley: The industry has been under enormous pressure. We have to accept that. There is still more to do to get pricing regulation right and make sure that the finances work properly in the sector. We accept that, but that does not represent a sector that I see today. There are problems and we will root them out—indeed, we have done so—but you have to start, as a company, with doing what is right for customers. I simply do not accept the evidence that was given.

Q73 Chair: Jonathan, if you would not mind, could you give the Committee an update on the state of the supplier market, as you usually do?

Jonathan Brearley: Yes, of course. Just to start, we recognise, and I am sure that everyone on this Committee recognises, that customers are in an incredibly difficult position right now. The gas crisis has had stages and, right now, we are seeing the full impacts on customers' bills. I talk to customers almost every week. I have talked to customers who have been put on to prepayment meters, I have talked to families who are in



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distress, and I have talked to businesses that face some of the big uplifts in charges that you have seen today.

Before I get on to the questions around that and what it means for us, I will talk more broadly about what is happening in the market. You will remember, last time we were here and over summer, we thought that, without the price guarantee, the price might be almost £6,000 a year for the average household.

There is some good news. I am pleased to say that the market has changed quite significantly and, for the first time since the start of the gas crisis, we are seeing downward pressure on prices. I have expressed at many Committees the deep uncertainty in projections. Indeed, if you look at £6,000 versus where we are today, you can see how much variability there is in the market, but we expect, on existing projections, that the price guarantee will be breached by the price cap in July. Indeed, that means bills going down for customers and significantly reduces the fiscal cost of the price guarantee in the first place.

Thinking more broadly about the retail market, I just want to focus on three things. First of all, on standards of service, we have carried out a series of compliance reviews. We have moved from being a reactive regulator that used to respond to individual complaints and try to resolve them to one that is looking across the market. Our message to the sector has been really clear. We need to see standards improve, particularly for the most vulnerable.

Last year, we ran a review and asked every company to demonstrate how it was going to improve its approach to more vulnerable customers. I am happy to expand on what we found and why we came to that conclusion. Equally, we have run reviews on direct debits. We have run reviews on the treatment of customers with affordability issues and, indeed, we will continue to do so.

I am not pretending that these reviews are perfect. They are a very different way of regulating. We are moving into conduct regulation as opposed to more reactive compliance regulation that we had before, but, in my mind, those are fundamental to unearthing and then driving up the standards that we see in the industry.

Touching on financial resilience, the Committee and, indeed, all of us examined really carefully what happened in 2021, and I am pleased to say that the sector is in a more financially resilient position today than it was when the crisis started. We have seen dramatic changes in the market over the course of winter, with gas prices being 10 or 15 times their normal price, at £6 a therm, and we have not seen a major failure to date. That said, the sector needs to recapitalise. Using the powers that we have today, plus the new rules that we are putting in place, we intend to make sure that that happens.

Finally, as was mentioned earlier, on the future of pricing regulation and our thinking around what that might mean, the price cap has done a



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good job for customers overall, particularly when the market was stable, but it has costs as well as benefits. Coming on to the question of how we might evolve the market, there is a case for examining more flexible pricing regulation that allows companies in the market to adapt more quickly to the circumstances around them, but that would need to be accompanied by more thinking around how you support vulnerable customers. I have said publicly that a serious examination of a social tariff, funded progressively, is a way in which we might tackle some of the issues that are really the root cause of what customers highlighted today.

The last thing that I would say, which came up in the last session, is that we need to focus on the issues being raised in the non-domestic and business sector, as well as by domestic customers. We have a series of reviews under way to look at behaviour in that part of the market, as well as the domestic market.

Q74 Chair: We will touch on some of those points today. I have just one final question. You have come to the Committee previously and we have talked about businesses going bust because of market conditions. Are you worried now that businesses will voluntarily close down their operations because they just do not think that it is a viable business for them anymore? Will there be further consolidation in the number of energy suppliers?

Jonathan Brearley: That is possible. When I talk to many of the people who own businesses—and you saw the announcement of the review by Shell, for example—there remains a concern to us around the long-term sustainability and attractiveness of this market. We will continue to do what we can in two ways, first by evolving the existing price cap so that it is as flexible as possible, given some of the trade-offs there with customers, but secondly, as we build financial resilience in the sector, it will become more compelling for investors to come into this market and make sure that they can see a sustained profit and not one that is simply based on volatility in the market.

Q75 Alan Brown: National Energy Action estimates that there are 6.7 million households in fuel poverty just now, increasing to 8.4 million come April. Citizens Advice estimates that 2 million households are self-disconnecting at least once a month. We have seen a massive increase in customers being forced on to prepayment meters. What is Ofgem's assessment? Is it as bad as these figures?

Jonathan Brearley: When you step back from all of this and you look at the market as a whole, without a doubt, given the price guarantee at £2,500 a year, despite unprecedented support from Government in this sector, there are many families who are facing a basic problem of affordability. Gillian outlined it really well. I have spoken to customers as they work out their budgets, and those budgets are negative. The question, really, underneath all of this is how we, within the market and, indeed, within wider policy, want to address that issue.

Q76 Alan Brown: Do you agree with the scale of the problem, given that



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over 8 million households will go into fuel poverty come April and 2 million are self-disconnecting once a month? Is that the stark reality of the position?

Jonathan Brearley: We certainly accept that the scale of the problem is very large. There are lots of definitions of fuel poverty and how you might address it, but, fundamentally, there are many people who have serious issues with affording energy today.

Q77 Alan Brown: On self-disconnection, if somebody cannot afford to put money in their meter, they are choosing not to use energy, but they build up debt on standing charges, which makes it even more difficult for them to ever turn the heating back on. Is it just that somebody not accessing their energy builds up debt that prohibits them from being able to heat their home again?

Jonathan Brearley: We looked at the issue of standing charges last year and, as part of that, at how we were going to socialise the costs of the levy, for example. We will continue to examine the right balance between standing charges and more variable charges.

What that review uncovered, though, was that, by moving more of the cost on to variable charges, there are another set of customers who are significantly harmed. For example, if you are a disabled family, or if you are a family with someone who depends on and uses a lot of electricity, you are made quite significantly worse off versus some of the benefits of those who were in a normal, average situation.

Q78 Alan Brown: It sounds like there should be better targeted support to help the disabled, if that is the case.

Jonathan Brearley: My view with all of this is that underneath all of these questions is a question of affordability, and that is what we need to focus on. Coming back to the idea of a social tariff, if that were funded in a way that was not socialising that cost on other low-income families, that would be a way to tackle the fundamental problem, which is that, however you structure the charges, there are families who are struggling to pay.

Q79 Alan Brown: Just sticking with standing charges, people on prepayment meters pay a higher standing charge. You have defended that before, saying that it costs the energy companies more, although that is arguable when they can put in a smart meter in prepayment mode and get money up front from these vulnerable customers. Again, is it just that people in prepayment mode pay higher standing charges? The Government say that it is purely a matter for Ofgem, so is it purely in Ofgem's gift to ascertain that it is just that these people pay more in prepayment mode?

Jonathan Brearley: We have had the principle that we reflect the costs suppliers face when they are supplying energy. Our best estimate of the cost is that it is slightly higher for prepayment meters, but we are currently looking at that. We are examining whether there is a case for a cross-subsidy within the industry that would equalise some of the costs between payment methods.



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I do not want to overpromise on that, because it is complex and you would need transfers between companies. For example, we have companies in the market that just have prepayment meter customers. If it is reasonable—and we think that it is—that a levelised price would mean that they were not able to recover their costs, we would have to find some way to make that good, and it is that complexity that we are working on at the moment.

Q80 Alan Brown: What is your timeframe, given that you seem to broadly agree that nearly a third of households are in fuel poverty? What is your timeframe for resolving these matters?

Jonathan Brearley: That will take some time. Neil, I do not know if you want to comment specifically on the time, but it would need to take months rather than weeks.

Neil Lawrence: I absolutely agree. It is months, not weeks. It is a really complex issue, and there will be a lot of debate about that issue, because we have to understand, when we take that decision, who the winners and the losers are. If we do not, we are not acting rationally as a regulator. I am concerned that we will put some elements of society in severe difficulty by undertaking that change. We have to consider it in the round.

Q81 Alan Brown: Equally, the longer we wait, the more people are forced on to prepayment mode and, therefore, paying these higher charges.

Jonathan Brearley: I would come back to that point, though. I sat in front of this Committee in May last year, and we talked about the standing charge and how we apply the SoLR levy. I said then that we were looking at changing it and, quite frankly, I had an almost 98% expectation that we would make the change.

The analysis showed us that prepayment meter customers were, in general, made slightly worse off by doing that rather than better off. All we are saying is that these are complex issues and, when you make a cross-subsidy and when you make a transfer, that creates winners and losers. That is what we need to look at in detail.

Alan Brown: I find that surprising.

Q82 Andy McDonald: Last week, you announced a review on self-disconnection, remote switching and forced installations, and the checks and balances around a decision to put customers on a prepayment meter. We have heard widespread reports of vulnerable customers being forced on to prepayment meters for some time. Why has it taken until now, after the Secretary of State wrote to suppliers, for you to respond? You have already completed your market compliance review, looking at whether suppliers are adhering to their licence conditions. Why is this going to be any different?

Jonathan Brearley: If you go back and look at the middle of last year and the sorts of concerns that were being raised, the first thing that we focused on was, more broadly, how vulnerable customers are treated.



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That mandatory change to a prepayment meter is something that happens at the end of a process.

The first question that you want to ask a supplier is, "What are you doing, when a customer is in financial distress, to find out their circumstances, to identify their vulnerabilities and to make sure that you tailor your response towards that?" That review found that every company needs to make improvements.

With this review, we are looking very precisely at the moment a prepayment meter is forced into someone's home, or, indeed, the switchover to a smart meter is forced into someone's home, to make sure that those checks and balances are also being followed.

If I were to describe it—and Neil may want to expand on this—what we found overall is, principally, a lack of consistency within companies. You are relying on the person you call and the quality of the person you call to make sure that the systems, processes and governance are being followed. Quite often, that is not the case.

Q83 Andy McDonald: Citizens Advice called for a ban on the forced installation of prepayment meters until these supports are in place and we can be confident about them. Would you support that or is it going to cause problems for energy suppliers in recovering debt?

Jonathan Brearley: We have sat with charities and with the companies, and we have tried to get under the skin of what we should do here. There is something that I will say that may not be popular here, but there are a group of customers who can afford to pay their bills but who choose not to. Everyone is agreed that, in those circumstances, the mandatory switch to a prepayment meter is a reasonable response to families who can afford to pay. The question is how you identify a vulnerable group of customers and how you protect those who face much more significant risks when you make that decision.

First of all, the rules are there. They are in place. We will make sure, through a detailed review, that we assess whether they have been adequately followed and whether the transition to a prepayment meter is genuinely a last resort, and we will use enforcement action if we need to. The one thing that I welcomed about Emma's comments is that we will be enforcing aggressively if we find that companies have not followed the right systems and processes in treating their customers.

In terms of what is good for the industry and the fact that we are seeing bad debt increase significantly, which, ultimately, every customer pays for, we need to get a balance here. Principally, this is a compliance issue. If we find that the rules need changing, we will change the rules.

Neil Lawrence: If I may add to that around the scope of the review, which is really important, it is about the journey. It is not acceptable that people are finding a remote switch to a prepayment meter or somebody turning up at their door a surprise. There should be multiple contacts in that journey, so we are going to do sample checking of customers who



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have been affected, look at that issue in detail and come up with the facts to enable us to take action.

It also opens up a debate around toughening or changing our rules to be more prescriptive. Again, we have to think about the balance of that around creating a rulebook that is hundreds of pages long and difficult to enforce versus the principles that are in here at the moment. We welcome that debate. Our role is to drive the standards up, and this is clearly an issue that needs to be looked at.

Q84 Andy McDonald: In terms of driving standards up, we are hearing stories of direct debits being increased and suppliers sitting on cash unfairly. What is happening in that space? What action is being taken to make sure that that does not happen?

Jonathan Brearley: There is quite a positive story about the compliance review and its impact as part of that. Neil, perhaps you want to expand.

Neil Lawrence: The compliance reviews are about driving those standards up, as I have talked about. We did the direct debit review. We agreed with all suppliers their improvement plans. We have checked off those actions. Fifty out of 56 are complete, which means that the standards for direct debits are improving across the industry, and 11 out of 16 audits that suppliers agreed to commit to have been completed.

We have the fact base that we worked on. We have driven the processes. That is the training of all of the agents across the industry. That is the controls in place over direct debits. That is the outcomes for customers, the management information being reviewed, and the governance that exists over the process. We will continue to go through our monitoring data and review that to make sure that those direct debits that are increasing adjust.

You will, on occasion, see an odd direct debit increase. We know that that happens if there is an issue with a meter or an underlying issue in something in the system, but what we are saying is that, if that is uncovered, it should be clearly explained to a customer. Why that direct debit is increasing should be clearly understood. As a result of our review, we have seen improvements.

I will just stress again one more thing. This is not just a point in time when we are going to look at direct debits just once. This is an ongoing process. This is a strategic process to go through customer journeys on a regular basis.

Q85 Andy McDonald: Can I ask you this again? Are suppliers sitting on deposits and holding cash that does not belong to them? That is the question that I am asking. Is it happening and, if so, on what sort of scale?

Neil Lawrence: We do not think so, and I am happy to write to the Committee with regards to the value of cash that is held on customer accounts as a result of direct debits, recognising that there is a cycle throughout the year.



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Jonathan Brearley: That is the important thing to note. The industry is likely to be building up customer deposits through summer. Those deposits are built up until October/November time and used to pay for energy in winter, because most customers prefer to have their direct debits as a monthly payment across the year, and we all use much less energy in summer than in winter. What we are not seeing systemically is credit balances being built up in the way that we saw pre-2021, but we will keep that under review.

Q86 **Chair:** Jonathan, you said that there were some customers who can afford to pay but will not pay, and that that was part of the rationale for some of the actions that energy companies are taking on debt collection. How can you possibly know that that is the case?

Jonathan Brearley: We have had this problem in the industry for a number of years, in the sense that this is an issue about how you manage your bad debt. If you look back over a normal year, for example, around 20% of mandatory installation of normal prepayment meters is about the normal rate that you would get. It is about 20% less than we saw last year. Throughout the process, there are always case studies of customers who are able to pay. The only argument that I am making here is that, if that is the case, an installation of a prepayment meter is a reasonable response. The balance of what has happened is something that we need to uncover during the review, and that is what we will be doing.

Q87 **Chair:** What I am struggling with is that, if the rationale for a forced instalment of a prepayment meter is based on a case study or an assumption, since you do not have access to people's incomes and outgoings, you do not know if people can afford to pay their energy bills. I would assume that most people are not paying their bills because they cannot afford to pay them. Do you see the point that I am trying to make? I struggle with the idea that you would allow forced installation of prepayment meters because there have been case studies in the past where some people can pay but do not.

Jonathan Brearley: Going back to what Ofgem can do, the right to do this is, ultimately, protected by law, so it requires a change in the law to move away from that. Suppliers can install a meter, and that is set out in the Energy Act. The simple point that I am making is that, if you have a customer who is able to pay and chooses not to, this is a reasonable response for a supplier that has to manage its bad debt and has to manage its own financial situation. Indeed, it is obliged to do so.

The balance of how many customers there are in the market who are like that is something that we will uncover in the review, but, if you look back over a number of years, this is a response that suppliers have had. From the evidence that I have seen and from the discussions that we have had with consumer groups, those customers exist. If they do exist, this feels like a reasonable response.



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What we cannot do—you are right, Chair—is say, “Out of the households we have seen last year, we know that X% can afford their bills and Y% do not”, but that is part of what we will be testing.

Q88 Ruth Edwards: How would you describe the culture in the energy industry, going back to the comments earlier from Energy UK?

Jonathan Brearley: Honestly, I am quite disappointed by the comments that we had today, and it feels like a step backwards. I came in in 2021 and expressed concerns about not only the culture but the relationship with the retail business, with the regulator and with Government.

We have made a lot of progress over the last year and a half, where all of us have had to work together collaboratively to solve a whole set of problems. How are we going to evolve pricing regulation? How are we going to design financial regulation that moves the market to a better place? Indeed, how do we address some of the issues around customer standards?

What concerns me is that, if the industry’s answer is genuinely, “The regulator should force us to look after vulnerable customers”, there is still a long way to go before we get the right culture in this part of the industry.

Q89 Ruth Edwards: From your experience as the regulator, is that a fair assessment of the culture in the industry?

Jonathan Brearley: That is not a good representation of where the industry is, but the fact that the trade body is putting it that way deeply concerns me.

Q90 Ruth Edwards: Energy UK also criticised some of the criteria that you used in your market compliance reviews. What is your response to that?

Jonathan Brearley: If the Committee will indulge me, I will just describe the normal process when we go through enforcement. It is almost like the stages of grief. The first stage is, “You have your facts wrong”; the second stage is, “Well, everybody else is doing it”; and the third stage is, “Well, the harm was not that bad”. Quite frankly, Energy UK is at the first stage.

That is not to say that our methodology is perfect. These are quite new and quite fundamental changes to the way that we regulate, but the truth is that the complaints always come when you find someone in the seriously unsatisfactory category, and that is where, usually, your methodology is questioned.

If I had a comment on what I have seen—Neil and I are debating this, and he may disagree—we need to think about how we adapt to the different business models that are in the market. When you are looking at governance processes and at the way in which companies approach things, there is a risk that you go for a more traditional assessment rather than being broader for the newer companies that are in the



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market. One of the things that we are exploring is how we get a more outcome-focused approach to compliance reviews that we do.

Neil Lawrence: I would certainly like the approach to evolve to take into account other people's views around the service metrics as part of the assessment. We have to get better at that sampling methodology and the analytics around the data that is available. We are making improvements. We are bringing individuals into those teams to do that. This will be an ongoing process and, if we can get that all working correctly, service standards will improve across all suppliers and we will be in a much better space, but I appreciate that it takes time.

Q91 **Ruth Edwards:** We have been discussing higher prices paid by customers on prepayment meters. We have also been told that customers paying by cash or cheque pay up to £254 more a year than customers on a direct debit. Is this justified? I appreciate that it is a more expensive way of paying, but it does seem to be a huge premium.

Jonathan Brearley: Again, Neil will expand on this. We are concerned about the way that the methodology has evolved. Part of the methodology for standard credit customers scales with the cost of energy, but we want to look across all payment methods and see whether there is a case for levelling them. As I say, there are trade-offs there. One is the complexity of some companies having to pay other companies that have different proportions of different kinds of customers.

Secondly, we need to remember the incentive effects here. When the differentials were made originally, part of that was encouraging people on to direct debits, but we are at the limit point where, if you are on standard credit, it is unlikely that you are going to move to another form of payment because it simply is part of the way you manage your budgets and the way you want to run your life.

Q92 **Ruth Edwards:** I suppose my concern is that a lot of older customers also might be paying by cheque, for example. To me, £254 sounds like a nosebleed price for that difference. What is your view, Neil?

Neil Lawrence: Yes, I absolutely understand. There is a proportion of society that choose cash cheque, and they have a belief that that is the way you should do things. There has been a lot of work in the industry to try to correct the belief that that is a good way of managing your money; to encourage that set of customers that, if they can afford to go on direct debit, it is cheaper; and to get them to migrate to that smart world where there are more protections in place.

We could go further in that space. We could look more at what companies can do to incentivise. Ultimately, we need to have a look at the underlying cost models, but it is complex. There are industry charges in those different product types that differ. There are also different debt levels that need to be cross-subsidised. It is a really complicated change to make. Jonathan is right; it could involve cross-subsidisation across companies, which would be really complex to implement; it would not be a short fix.



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Q93 Ruth Edwards: Do you think you are likely to persuade older customers, who perhaps do not use the internet, to go on to a direct debit payment?

Jonathan Brearley: That is why we are at the limit of worrying about the incentive effects, because in a sense we are at the limit of the number of people who would now make that transition. This is why it feels right to us to have a look across all payment methods and see whether they should be equalised.

Q94 Ruth Edwards: Did I understand right from your opening comments that you expect the price cap to come down in July?

Jonathan Brearley: We expect the price cap to be below the new level of the energy price guarantee, which is £3,000 in July. We are perhaps seeing the first signs of the market easing.

Q95 Ruth Edwards: When the wholesale price starts to rise, the energy price goes up very quickly, but when the wholesale price has fallen, it seems to take many months to filter through to consumers. A lot of people find it difficult to understand why. Can you just set out why that is?

Jonathan Brearley: I am really happy to. The formula we use for the price cap is fixed. It changes a little, but it is broadly the same. The truth is that the price cap did not rise when the market prices first rose. In fact, there was almost a six-month delay before prices went up. Now, what it says is that the best way to manage risk is to ask companies to buy forwards and buy energy in the market for three or six months' time. That does mean that, when prices fall, it takes three to six months for that to unwind and go back into customers' bills. There are small changes to the formula, but the formula going up is exactly the same as the formula going down.

Neil Kenward: Importantly, when the crisis began and the gas prices started rising, we had a six-month price cap formula. The lag was actually six to eight months. Through the crisis, to make the price cap more resilient in the face of this volatility, we compressed that. It is now a quarterly price cap. There are lead times, but it is now a three or four-month lead time, so prices will fall for consumers if market prices stay at the levels they are coming down to now.

Q96 Ian Lavery: It is fair to say that Ofgem supports the introduction of a social tariff. I am just wondering whether you could tell the Select Committee if you will work with the Government with regards to a social tariff. If so, what do you think the design could be? Are you looking towards specific individuals being targeted?

Jonathan Brearley: Just stepping back from all of this, we do think there is merit in looking at a social tariff. We have not done all the detailed work behind it that you would need to do or traded it off against other interventions the Government might be contemplating, such as changes to benefits and other ways of supporting vulnerable customers. Just to expand a bit on why that is the case, the reason why you would go for a price-based intervention, rather than one driven by fiscal decisions and what you normally do when you are concerned about



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families in poverty across the country, is that, even though benefits can be uprated by inflation, the difference in the scale of energy use between two different households in basically the same income circumstances can be very large.

If you are living in a well-insulated flat with a family of three in modern housing that is well equipped, your energy bill is fundamentally different from a family in draughty, energy-inefficient social housing, who have other energy needs, such as disabled children. The only way I can see of making sure that the support matches that difference is to have something that intervenes in the price that those customers pay. That is why we think, if you are going to think about the future of pricing regulation—and I agree almost with a question that was asked in the last session around pricing regulation—we broadly need, for most customers, at least something that is more flexible and more adaptable.

It is right to focus on the affordability issue, which ultimately goes beyond regulation to something that is subsidised. In terms of the design, in principle I support what Citizens Advice was suggesting about the way you might do it. The thing I would like to see, and this is a big challenge, is making sure that those customers who receive a social tariff do not miss out on the new world that we are hoping comes into place. For example, Emma mentioned the flexibility initiatives, where many of us will be turning off our lights and using less energy between 5 pm and 6 pm. This is the world we are moving to, and I would like a system whereby the most vulnerable customers can benefit from that future for the retail market.

In terms of who is targeted, that is a massive question. This is my starter for 10, and it is no more than that. It is a personal starter for 10, rather than a big, detailed Ofgem piece of work. You probably need to attach it to some other existing indicator of income, which means looking particularly at those who receive benefits. All of that is up for debate and we need to work it through.

Q97 Ian Lavery: Should a social tariff replace the existing price cap? If there was a social tariff, how quickly could it be implemented?

Jonathan Brearley: We need to think seriously about the cost and the benefits of the price cap for customers today. It has done a good job, particularly when the market was stable. Just to explain why it has cost for customers, if you have a fixed price for everybody and you have a volatile market, the only thing we can do as a regulator to make sure that we do not see a repeat of 2021 is to ask companies to hold significantly more capital. If they hold more capital, more money within the company, ultimately, that needs to pay someone a return—otherwise that capital simply will not be invested—and that will cost customers money. The trade-off we have to make between the price cap and the alternatives is whether those costs are beginning to outweigh the benefit.

Probably one of the least popular things Ofgem have done is introduce the market stabilisation charge, which is the charge between different



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suppliers when someone moves from one to the other. Certainly at times like now where you see prices falling, these secondary and tertiary impacts of the price cap are important to assess, to make sure you can look at the alternatives.

Looking at the alternatives, you can go right the way back to focus on pricing behaviour, like you do in the insurance market, preventing the acquisition tariffs and what was called bait and switch, where a company would give you a low offer for a year but slowly transition you to a much higher price, through to things like relative price caps, which are a bit more adaptable to the market that is in place. If you do that, you have to address the affordability issues. For me, that ultimately means seriously examining a social tariff.

Q98 Ian Lavery: How quickly could a tariff be implemented, then?

Jonathan Brearley: There is a lot of detailed work that needs to be done to answer that question. All I would say is that the energy price guarantee was implemented in a matter of weeks and months, so we need to work with Government, and it needs to be urgent.

Q99 Mark Pawsey: Mr Brearley, you told us what you thought of Emma Pinchbeck's evidence. What did you make of what Kate from UKHospitality had to say? Alarming, if this business in the hospitality sector went out to get six quotes, four people would not bother.

Jonathan Brearley: This is a real and substantive issue. She mentioned what we did in November to begin addressing it. You have to look at both sides of this, though. If you go back into the market in August, you had prices at £6 a therm. It was incredibly hard for any retailer to genuinely be able to hedge a contract that it was passing through at a fixed price to a business customer. We have to unpack two big things that are of concern to us. The first is around whether companies abused the fact that other companies were not offering tariffs and so simply jacked up their prices.

Q100 Mark Pawsey: Some companies abused the fact that they could demand huge upfront payments.

Jonathan Brearley: Right, and all of that needs to be looked at, to simply say, if you are in a market and you know your competitors are not bidding, you will behave in a different way. Frankly, we need to see whether there was market abuse at that time.

Q101 Mark Pawsey: Do you think you currently have enough powers to get involved in that sector or would you like to see an extension of your powers to regulate the supplier to non-domestic customers?

Jonathan Brearley: We already regulate what is called the deemed rate, which is almost the rate you are put on if a supplier does not offer you a fixed tariff. That is something we are reviewing and we are looking at.

The question as to whether we need more powers is more broadly—where? I am not saying we are completely against it, and we need to do



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work with the Treasury to assess this, but we need to be cautious about further pricing regulation in the market until we have something that works.

- Q102 **Mark Pawsey:** Arguably, do you not have enough on your plate already without extending powers into this sector?

Jonathan Brearley: We have plenty on our plate now. The question really is whether the behaviour of the companies has—

- Q103 **Mark Pawsey:** Part of your role is to protect vulnerable customers. Should we say that tough businesspeople should be able to deal with all these issues themselves? Why do they need you to get involved?

Jonathan Brearley: That is the framing. The piece we need to look at is microbusinesses and small or medium-sized enterprises where there is a case for that. We have had this conversation. Again, we debate all this within the building. There is a risk that, if you continue to regulate for every problem you see on a behalf of a customer, you end up with a much bigger rulebook than the one you have today.

- Q104 **Chair:** I have two last very quick questions. If the energy companies are not making any profit, how easy is it for them to capitalise their business to the levels you need?

Jonathan Brearley: This is the ongoing iteration of pricing regulation that we need to make. If you look at what happened last year, in quarter 3 many companies were on track to make a profit for that year. Simply because of the warm winter and the low prices in the market, many of them were unable to do so. Again, it comes back to the interaction of the price cap with the market that we are seeing.

We will adapt to that. We will pass through reasonable costs when we iterate the price cap next time, and we have done previously. I would argue that we have a good reputation with the industry for doing that. Ultimately, this will come down to whether you need to put more into the price cap in order to raise prices for customers to offset some of these risks. That is why we are saying that perhaps pricing regulation in this way is too rigid for the market we have today.

- Q105 **Chair:** Lastly, you said earlier that a social tariff should be funded progressively. Does that mean your view is that it should be funded by general taxation?

Jonathan Brearley: I am teetering on the brink of Ofgem's job here, but what I struggle to see is a social tariff being funded by other people's bills. We have done the analysis. We have looked at it as a board. It is very hard to see how you would charge quite significantly more to a customer on £18,000 a year to fund a customer who is on £14,000 a year through a series of benefits. To me, if you are going to provide support, it is best done progressively.

Chair: We could keep going, but I am afraid we have timed out. We will no doubt see you again later in the year. Thank you to all three of you for



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your contributions today. Thank you to Members for keeping us to time.