Written evidence submitted by Citizens Advice (EPM0014)

Written evidence to the BEIS Select Committee from Citizens Advice

1. Executive summary

1.1 As the official watchdog for energy consumers, Citizens Advice welcomes the opportunity to respond to the BEIS Select Committee's Inquiry into Energy pricing and the future of the Energy Market. Since August 2021, 29 energy suppliers have collapsed, affecting more than 4 million consumers. Citizens Advice has been calling for an independent inquiry into the root causes of market collapse, to ensure this never happens again. As an organisation that not only provides frontline advice to people on energy issues, but gathers real-time information from companies and Ofgem to advocate for consumers, we would be happy to provide oral evidence to the Committee on the issues outlined in this submission.

1.2 Despite widespread concerns about the sustainability of the retail market and repeated warnings from Citizens Advice, Ofgem failed to adequately reform its rules and clamp down on poorly run companies. This left a market that was much less able to withstand the rise in wholesale gas prices that began in 2021. The subsequent series of supplier failures left customers footing an estimated £2.6bn bill[1] (not including the cost of Bulb).

1.3 The energy retail market needs to work for consumers now and in the future as we transition to net zero. To do so:

- Ofgem and government must address problems with unsustainable financial practices in the market
- Ofgem should make sure existing rules are properly enforced and that customers are protected from the costs of supplier failures.

1.4 As a result of increases in wholesale energy prices, the energy price cap is expected to rise by £700 in April, and further again in October by up to £400.[2] This comes at a time where households are experiencing huge increases in the cost of living, with inflation currently at 5.1% and projected to rise. Citizens Advice research showed that a single person on Universal Credit could end up spending 31% of their benefit payments on energy, rising to 37% in October. To mitigate this increase in prices, we're calling for:

- A one-off payment via the benefits system in April
- Benefits uprating to better reflect current inflation
- Next winter's Warm Home Discount payment to be made more generous
- Many costs from supplier failures can be recovered through consumer bills - to protect people from even larger hikes these should be spread across a longer period of time.

[1] Citizens Advice (2021) Market Meltdown

[2] Cornwall Insight (2021) Price cap set for 46% rise for Summer 2022, Winter 2022-23 cap may exceed £2,000

1.5 The energy retail market will have a significant role to play in supporting consumers to achieve the UK's net zero target. People will have to make considerable changes to their homes, adopting smart products and services and transitioning to electric vehicles. The government and Ofgem must take action to rebuild consumers' trust in the market so they have the confidence to make the necessary changes to homes and ensure people are protected if things go wrong.

2. About Citizens Advice

2.1 Citizens Advice gives people the knowledge and the confidence they need to find their way forward - whoever they are, and whatever their problem.

2.2 Our network of independent charities offers confidential advice online, over the phone, and in person, for free.

2.3 We helped 2.4 million people face to face, over the phone, by email and webchat in 2020-21. And we had 40 million visits to our website.

2.4 We are the statutory advocate for energy consumers and run the national consumer helpline. We provide supplier performance information to consumers and policy analysis to decision makers.

2.5 Citizens Advice plays an important role in the Supplier of Last Resort (SoLR) process, providing frontline advice to consumers who are concerned about their supplier going bust and related issues about credit refunds, debt repayment and topping up their prepayment meter. Citizens Advice works very closely with Ofgem to gather real-time information to brief advisors on the failure, so they can best support consumers. We share our insights with the regulator on how the policy and practice of SoLR is affecting people and provide recommendations to improve outcomes for consumers.

3. Submission

The regulatory requirements companies must meet in order to trade as a regulated entity in the retail energy market.

3.1 Since wholesale prices began to spike in August 2021, the GB energy retail market has seen an unprecedented 29 energy suppliers collapse, with 4 million customers experiencing a supplier failure.

3.2 Despite suggestions that the scale of company failures could not have been predicted, Citizens Advice and others had expressed concerns since the early 2010s that a large number of poorly managed suppliers had entered the market. There were clear warning signs that many energy suppliers lacked adequate financial arrangements, including a lack of external funding and an apparent dependence on credit balances to provide their working capital. Few were reporting profits, and many failed to adequately hedge energy for their customers, leaving many energy suppliers vulnerable to the wholesale price increases in Autumn 2021.

3.3 Citizens Advice expressed concerns, as early as 2013, over the lack of entry requirements and the ease of becoming a supplier through companies called 'suppliers in a box.'[3,4] In 2016, GB Energy

[3] Citizens Advice (2017) To supply or not supply: responding to the failure of GB Energy

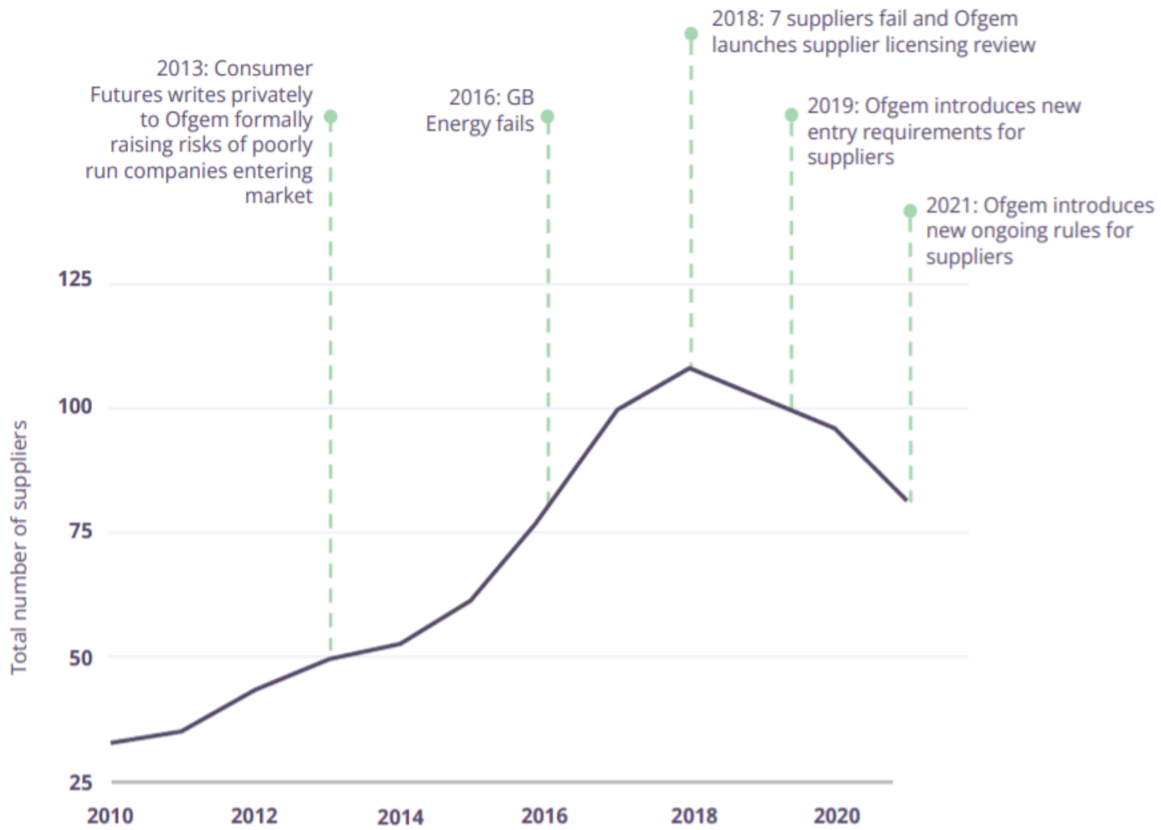
[4] Supplier in a box companies provide an off the shelf billing and customer relationship management system, enabling rapid market entry without putting their own policies and processes in place.

failed. Subsequently, a further 7 suppliers failed before the end of 2018. It took Ofgem until 2018 to address these failures, when it began its Supplier Licencing Review process. This resulted in a raft of changes to licensing and the regulatory regime, to tackle unsustainable business practices.

3.4 The first reforms came in August 2019. These required new entrants to have appropriate resources, understand regulatory requirements and to have plans in place to meet them; as well as ‘fit and proper requirements’ for those in control of the company.[5]

3.7 Despite these reforms, between 2019 and early 2021, a further 13 energy suppliers failed.

Figure 1: Total number of energy suppliers in market, 2010 - 2021



3.8 Additional new rules came into force in 2021, to tackle poor practice and minimise the impact of supplier failures on consumers:[6]

- A requirement to have, at all times, adequate financial resources to cover the company’s costs in the event of mutualisation, and to have the operational capability to effectively serve customers
- Assessments to check suppliers are adequately resourced as they grow, and powers to require independent audits of a supplier’s service or financial health
- Requirements to be cooperative with Ofgem and ensure that senior staff are ‘fit and proper’ on an ongoing basis.

[5] Ofgem (2019) Ofgem introduces new tougher entry tests for energy suppliers

[6] Ofgem (2020) Decision on the Supplier Licensing Review: Ongoing requirements and exit arrangements

3.9 While entry requirement rules were welcome, they came too late. The reforms came in after a period of rapid growth in the number of energy suppliers in the market. Between 2015 and 2018 alone, over 45 new companies were given licences to trade, while only 11 companies have entered the market in the 3 years since the subsequent reforms were made, reflecting market conditions and higher thresholds for entry.

3.10 While the reforms may have had the effect of strengthening requirements to enter the market, the rules did little to tackle poor financial practice in existing companies. For example, the energy supplier Avro owed more than £250m to its creditors at the time of failure.[7] As far as Citizens Advice is aware, since their introduction, Ofgem have never used any of their new powers to tackle poor practice in existing companies - such as conducting an independent audit of a supplier.

3.11 As part of this inquiry, it's vital that the Committee reviews the root causes of the retail market crisis, to ensure it doesn't happen again. Given the instability in the market and knock-on impact on consumers, the Committee should ask Ofgem how it intends to enforce the existing rules and strengthen entry requirements to ensure the market delivers good outcomes for consumers.

The mandate, role and performance of Ofgem in setting regulation and supervising regulated entities.

4.1 Citizens Advice's recent *Market Meltdown* report expressed our concerns that Ofgem was not effectively enforcing rules for companies when evidence was presented of potential breach of licence conditions.

4.2 In our role, as statutory consumer advocate for energy, Citizens Advice regularly shares information with Ofgem through bilaterals and tripartite arrangements with the Energy Ombudsman. In our view, Ofgem repeatedly failed to act on information from Citizens Advice on customer experience, and evidence of potential licence breaches by suppliers.[8] Below we summarise two key areas where Ofgem failed to take action.

4.3 **Telephone support:** Citizens Advice has repeatedly raised concerns about customers' inability to contact their supplier by telephone, which is evidence of a potential breach of the Complaints Handling Standards. It is vital customers are able to get through to their supplier if they have an issue. In September - December 2020, 1 in 7 customers who tried to contact their energy supplier could not do so.

4.4 **Billing**: We have repeatedly raised concerns about consumers receiving accurate bills. Concerns about billing is the top issue that people contact the Citizens Advice consumer service about. There are 'back billing' rules in place protecting customers from paying for energy that they have not been billed for, if it is from more than 12 months ago. The Citizens Advice consumer service helped more than 1000 people with potentially non-compliant back bills last year, worth an estimated average of £1197 per customer, a total of nearly £1.2 million.

4.5 Ofgem compliance and enforcement has tended to focus on more technical problems, with less direct impact on how consumers experience the market and how they are served by their supplier.

---

[7] Alvarez & Marsal (2021) Avro Energy Limited in Administration- Joint Administrators' proposal

[8] Citizens Advice (2021) Timeline of Citizens Advice and Ofgem engagement on compliance and enforcement

Less than 40% of Ofgem's compliance and enforcement cases in the past 3 years focused on consumer experience issues, such as billing, customer service and debt.

4.6 A request for information by Citizens Advice on Ofgem compliance and enforcement resource, found that resourcing had been cut by a quarter over the past 4 years, despite the number of energy companies in the market being at a record high.

4.7 Citizens Advice is also concerned about the lack of compliance and enforcement of the new rules that Ofgem put in place from 2019 to improve financial resilience and mitigate consumer harm in the case of supplier failure.

4.8 Ofgem introduced a requirement for companies to have a Customer Continuity Plan or "living will" in March 2021. These are designed to safeguard customers if their supplier fails and they are moved to a new supplier via the Supplier of Last Resort process. Amongst other things, these should include: key information about customers (including information on vulnerability), billing systems and arrangements with third party service providers. Details of how information about customer account balances will be collated and prepay customers protected. Plans for communicating with customers in the case of supplier failure, as well as engaging with Ofgem and central industry bodies.

4.9 This information should ensure consumers are protected during supplier failures, and make the handover process smooth and efficient. Citizens Advice evidence shows only 1 of the 20 suppliers that failed between August to mid November 2021 had a 'living will' in place.

4.10 Taken together, our evidence suggests an approach to compliance and enforcement which readily allowed rule-breaking with little consequence to companies, at the expense of customers.

4.11 The Committee should ask Ofgem how it intends to make sure it is effectively monitoring compliance with key licence requirements, particularly around consumer experience, interrogating whether it is properly resourced to enforce existing rules and any new rules brought in to reform the market.

The performance of previous policies introduced to stimulate effective competition within the retail energy market, and an assessment of the impact on competition of proposed future regulatory frameworks.

5.1 Between 2008 and 2009 Ofgem conducted a probe into the effectiveness of competition in the retail energy market. It followed this with a further retail market review in 2010-11. From 2014-16, following a referral from Ofgem, the Competition and Markets Authority conducted its own review of the energy market. All three of these reviews resulted in reforms to increase transparency of pricing, tackle the 'Big 6' domination of the market and reduce the loyalty penalty consumers pay.[9] In some areas these reviews built on each other, although some interventions - like restricting the number of tariffs suppliers could offer - were introduced by one review and then scrapped by another. During this time, the number of suppliers increased dramatically from 24 in 2013 to its peak of 70 in 2018.

5.2 Although this did increase price competitiveness,[10] many pursued aggressive and unsustainable growth strategies by offering loss-making tariffs, inappropriately financing growth through customer

---

[9] Ofgem (2009) Addressing undue discrimination

credit balances and failing to appropriately hedge against wholesale price rises. Companies were effectively betting on benign wholesale market conditions continuing indefinitely and betting they could hold on to customers once the cheap fixed deal they had signed them up to lapsed. This didn't always work - especially when the customers they had signed up to cheap fixed deals were engaged and highly price sensitive. In many cases, there was no obvious route to profitability for suppliers, even if wholesale market conditions had remained favourable. The recent crisis may have accelerated the failure of many suppliers that were doomed to fail anyway.

5.3 The design of government schemes like Warm Home Discount and Energy Company Obligation also enabled smaller companies to avoid costs imposed on larger ones, distorting competition. The average tariff of the companies that failed in Autumn 2021 was consistently well below the market average, as demonstrated in the graph below.

5.4 Many of these companies were also providing poor service for their customers. Analysis of the Citizens Advice customer service star rating showed that between January-March 2021, companies that eventually failed tended to rank poorly for customer service - with 80% ranked 11 or below out of 34, and 50% ranked below 20.[11] While competitive prices are important for customers, so is good customer service and accurate billing.

Figure 2: Comparison of fixed price tariffs offered by suppliers, Oct 2020 - Sept 2021

5.5 Ofgem will need to consider how to encourage competition on price, in a sustainable way, but also competition in providing excellent service and innovative products for consumers. In the transition to net zero, the market should enable companies to compete to provide different services, such as electric vehicles (EVs), leases for heat pumps etc, where customers will potentially be entering into longer contracts with their supplier. The retail regulatory framework needs to make sure that it is robust enough to protect consumers in the future market. Ofgem will need to consider how to rebuild consumer confidence in the energy market to encourage consumers to make the necessary changes to their home to meet net zero.

5.6 BEIS is also considering changes to the regulatory framework, as set out in the energy white paper. This includes expanding regulation to include intermediary services like auto-switchers (see

---

10 Ofgem (2021) Retail Market Indicators
11 Citizens Advice (2021) Domestic energy supplier performance data

below). It was also developing plans for a new opt-in switching scheme to engage customers on more expensive default tariffs by sending them personalised deals,[12] though this is now paused given current market circumstances.

5.7 Extensive Ofgem trials of similar opt-in prompts demonstrated that disengaged customers receiving these communications were much more likely to switch.[13] We believe there could be a role for opt-in switching to support certain groups of consumers who otherwise face barriers to engaging, including people in rented homes or people who are digitally disengaged. These groups are likely to face additional barriers to engaging with low carbon energy services and technologies in future. As we move to a more consolidated market, we are sceptical of the extent to which incumbent suppliers will engage their own customers, for example prompting them to switch to better deals, given their poor performance in this regard previously.

5.8 BEIS was also considering plans to enable small-scale trials of opt-out switching, in which customers could be switched to a new supplier chosen for them. Citizens Advice has concerns that this raises issues about consent and consumer choice, but supports proposals to safely test the approach to better understand real-world consumer reaction to it.[14]

The functioning and performance of the 'energy price cap' and an assessment of its use in the future, and an assessment of the role of auto-switching.

6.1 The price cap was introduced by Ofgem in 2019 as a temporary measure to protect customers on default tariffs from being overcharged.[15] The first two years it was in place saw record levels of switching.[16] It has proved to be a vital protection for customers as wholesale prices have increased and as energy companies have collapsed, with many customers of failed suppliers being transferred on to default tariffs. 22 million households are now on the price cap tariff, up from 15 million in August 2021.

6.2 The price cap contains allowances for wholesale costs that are based on actual forward market prices for the period to which it relates. It also contains allowances for costs incurred in the short-term market to shape their position, and some headroom. As such, a supplier who can accurately forecast the future demand of their customers should be able to broadly replicate the costs that are allowed for it. Problems in the current crisis have arisen in two areas.

6.3 Firstly, that a number of suppliers chose not to follow the hedge (where suppliers buy energy ahead of time) implied by the price cap but to gamble that a much shorter hedge, or no hedge at all, would be a better option.[17] This left them unable to cover their costs to supply, contributing to their failure.

---

12 BEIS (2021) Energy retail: opt-in and testing opt-out switching
13 Ofgem (2019) Ofgem's Collective Switch Trials
14 Citizens Advice (2021) Citizens Advice response to BEIS opt-in and testing opt-out switching consultation
15 Ofgem (2018) Default tariff cap: decision - overview
16 BEIS Quarterly domestic energy switching statistics
17 For example, the administrator for Avro said that it 'lack(ed) any hedging instrument' for its energy purchases (Alvarez & Marsal (2021): Avro Energy Joint Administrators' Proposals). It has been reported that Bulb was only buying wholesale energy three months ahead of delivery (The Guardian, 25 November 2021).

6.4 Secondly, because wholesale prices have risen so fast, the price cap is currently the cheapest deal on the market. This means that suppliers are having to provide more consumers at the capped rate than they anticipated. Purchasing power for that unexpected volume will be expensive as short term prices are much higher than the forward prices that were used to set the allowance for the October 2021 to March 2022 price cap period.

6.5 Ofgem has proposed to increase the allowance for wholesale price risk through an adjustment to the April price cap. The cap set for that period will also contain a much higher allowance for wholesale costs that reflects the much higher prices recently seen in those markets.

6.6 Ofgem are also considering three main options to adapt the price cap from October 2022 to the new environment in the energy market:[18]

- An enhanced status quo: keeping the existing price cap methodology, but with an enhanced ability for Ofgem to adjust the price cap in extreme circumstances
- A quarterly price cap: allowing Ofgem to adjust the price cap on a more frequent basis to reflect changes in wholesale prices
- Replacing default tariffs with fixed tariffs with exit fees.

6.7 **Citizens Advice believes that the price cap has an important role in delivering affordable bills, and so in our view the quarterly price cap is the most attractive option of the three proposals.**[19] A more frequent calculation of the price cap would pass on price rises - and falls - to consumers more quickly, leaving suppliers less exposed in the case of rapid price changes. There may be some implementation costs associated with more frequent price changes, but we believe these are likely to be much lower in magnitude than the scale of costs that consumers face in bailing out failed suppliers, making this a reform worth considering. Furthermore, more regular price signals may have the impact of prompting customers to switch to find a better deal.

6.8 **In Citizens Advice's view, replacing default tariffs with fixed tariffs contracts with exit fees would be detrimental to customers on default tariffs.** They would make it harder and more expensive for customers to switch, and reduce competition in the market.

6.9 Auto-switchers are designed to switch on a consumer's behalf automatically to get customers a better deal, and can be convenient for customers who don't want to regularly engage in the market. These services have played a growing role in the energy retail market over recent years. At its peak, the largest service alone reported over half a million users.[20] Some charge customers a fee, but most earn commission from suppliers for completed switches.

6.10 All domestic energy Third Party Intermediaries (TPIs), including auto-switchers are unregulated, although BEIS is considering regulating them in the future.[21] We have expressed concerns that auto-switchers market coverage is often opaque, with sometimes only a handful of tariffs being looked at.

---

[18] Ofgem (2021) Adapting the price cap methodology for resilience in volatile markets
[19] Citizens Advice (2022) Consultation response: adapting the price cap methodology for resilience in volatile markets
[20] Look After My Bills (2021) We're now the LARGEST auto-switching service!
[21] Citizens Advice (2021) Citizens Advice response to BEIS Call for Evidence on third-party intermediaries in the retail energy market

Information provided by these companies means consumers can struggle to understand how much value they're getting, compared to switching themselves.

6.11 These services often take little account of customer service at suppliers and instead switch people to the companies paying the most commission.[22] They may not take into consideration individual customers' needs such as paper bills, different payment methods and other support for consumers in vulnerable circumstances, such as regular meter readings, which they may require. In some cases, these services prevented suppliers from knowing any details about the end customers at all.

6.12 We are also aware that many of the companies that have recently failed used auto-switchers to grow aggressively. Furthermore, Citizens Advice has provided support to consumers who have been switched between different suppliers who have subsequently failed in quick succession. This has caused problems for customers, including issues with accounts getting set up and receiving credit balances. Many auto-switchers and TPIs have stopped operating amidst current market conditions, given the lack of competitive deals to switch to. However this could change rapidly when market conditions change.

6.13 Looking further into the future, TPIs are expected to be major providers of services which offer demand flexibility to the grid. These services - such as aggregators - are already active in the non-domestic sector, with pilot projects exploring the potential of domestic flexibility to provide the necessary balancing services required by the grid to ultimately accommodate the intermittent renewables required to reach net zero. Our research found that this concept of a "smart TPI" controlling devices in the home would need robust protections in place before consumers were comfortable engaging with these services.[23] **BEIS should take forward regulation of auto switchers and other intermediaries to ensure that they cannot fuel unsustainable growth by suppliers in future and ensure regulation is future-proofed for the significant role intermediaries are expected to play in the net zero transition.**

The future of Bulb and the recovery of public funds and the cost to consumers of other energy supplier failures.

7.1 Suppliers can exit the market in various ways. If they are able to find a buyer for their company (or sell their customer accounts to another supplier), they can exit via a trade sale. If no buyer can be found and the company enters administration, their customers will generally be moved via the Supplier of Last Resort (SoLR) process. This is a competitive process in which Ofgem accepts bids for the customers. Ofgem chooses a new supplier based on lower costs for consumers generally, the best deal for the affected customers, as well as ensuring the new supplier has operational capacity to onboard customers.

7.2 Since August 2021, over 26 suppliers have used the SoLR process when exiting the market, and since 2016, more than 50 suppliers have failed. The process protects affected customers by ensuring continued energy supply and carrying over any credit balances to the new supplier. However, this incurs costs which suppliers can choose to waive as part of their bid, or can recover via a levy on network charges recovered from all domestic consumer bills. There are other costs from supplier failures too, which are recovered via other processes.

[22] Citizens Advice (2020) Stuck in the Middle
[23] Citizens Advice (2020) Stuck in the Middle

7.3 The key drivers of mutualised costs from supplier failures are:

- Industry levies - if a company fails without paying into schemes that fund renewable energy, the costs are mutualised (spread across all other company bills for the scheme). The main scheme resulting in these costs is the Renewables Obligation. As suppliers only have to pay this bill annually they can build up large liabilities. The scheme was first mutualised in 2018, and by 2022/23 over £390m in unpaid levies have been mutualised. **BEIS should amend legislation to enable more regular payments (in line with schemes like the Feed-In Tariff, which is paid quarterly) to reduce the risk of unpaid bills.**

- Credit balances - the cost of refunding customer credit balances can be protected through the levy. Prior to 2021, there were a number of supplier failures where the new supplier covered these costs, although £50m was still collected via the levy since 2016. All SoLRs since August 2021 will be applying to use the levy to fund credit balances, so we expect this cost to rise significantly. There is clear evidence that some companies have been building up higher credit balances than they need to smooth consumer bills over the year, as a form of cheap finance. Ofgem found suppliers held £1.4bn in 'surplus credit' in 2018.[24] People contacting Citizens Advice about recent supplier failures had an average of around £350 in credit, while Ofgem modelling shows an average household only needs £150 credit to cover winter costs. Ofgem has been consulting on rules to limit the amount of credit balances that can be held since 2019, but has not yet made any reforms. **Ofgem should now proceed with reforms to limit how credit balances can be built up and used.**

- Purchasing energy - the new supplier has to buy energy for the customers it takes on at short notice. Very high wholesale prices during recent supplier failures, combined with the high number of customers affected and the price cap limiting what costs they could be charged - mean this bill is much larger than in previous failures. It makes up the majority of the £1.8bn of initial levy claims approved by Ofgem so far for supplier failures since August 2021.[25]

7.4 Recovery of some of these costs can be attempted via the administration process. There are also a number of other energy market participants (including meter operators, gas shippers and other services) which are not protected by mutualisation and rely on the administration process to recover funds. However, failed energy suppliers generally have few assets, so the chances of recovery for non-priority creditors are small. In practice, this means the vast majority of costs are recovered through the levy on consumer bills, and that other service providers may have to make up for losses by passing through higher costs to customers. We're concerned that in some cases failed suppliers have been structured in such a way that means their parent company is repaid in full before or during administration, while other costs are pushed onto consumers via the levy. Ofgem, in the course of its work around retail financial resilience, has recently expressed similar concerns around the potential for situations in which direct action is taken prior to a supplier's failure, to benefit a parent company or its investors at the expense of consumers or taxpayers.[26] For example, liquidating or terminating agreements for key supplier assets (such as a hedging contract), making the supplier insolvent but allowing unregulated parts of the group to retain the value of those assets. We welcome action in this area to extend the financial responsibility principle to strengthen supplier control of assets to minimise mutualiation costs to consumers.

7.5 Mutualisation of the renewable schemes and the SoLR levy are likely to add significantly to bills in both 22/23 and 23/24. We estimate the cost of these supplier failures is likely to be around £2.4bn - or £94 per household. **These are one-off costs resulting from the gas crisis, at a time when energy**

---

[24] Ofgem (2021) Ofgem reforms could see credit balances of around £1.4 bn automatically returned
[25] Ofgem (2021) Faster SoLR levy process: consents to Last Resort Supply Payments | Ofgem
[26] Ofgem (2022) Update to action plan on retail financial resilience: supplier control over material assets

bills are already at record highs. We think they should be recovered from bills over a longer period of time to protect customers, ideally through a low/no cost loan from Government.

7.6 While the SoLR process has been successful in maintaining supply, it does cause stress and hassle for affected customers. Customers from suppliers who have failed through the SoLR process in Autumn 2021 have already faced an average £30 a month increase to their energy bills, as they moved from good deals to a tariff set at the level of the price cap.[27] Many customers going through the SoLR process experienced problems, particularly months of delays in getting their new account set up, final billing from the failed supplier, credit balance refunds and their first bill from their new supplier.

7.7 These delays are generally caused by a combination of poor data management by the failed company, and actions by the administrator and the new supplier. Administrators face costs for maintaining access to data and systems for the new supplier, but there are also opportunities for them to use this as a mechanism to raise funds to repay creditors. These costs can ultimately be recovered from other customers via the SoLR levy. People in debt to failed suppliers often face the toughest impacts, as the money owed is collected by the administrator. This means they lose the energy debt protections they normally have, so large demands for payment can be made at short notice and any existing repayment plans can be torn up. **We think Ofgem and the Government should ensure the SoLR process is improved so that people in debt are better protected, and to ensure that administrators take account of consumer interests.**

7.8 Bulb collapsed in November 2021 with 1.5 million customers, the largest supplier ever to fail. Whereas other supplier failures used the SoLR process to move customers to a new supplier, Ofgem instead recommended that the Secretary of State invoke the Special Administration Regime (SAR). This was because Ofgem considered the large number of customers involved would:

- put pressure on industry systems required to complete customer transfers and risk a poor experience for affected customers, particularly prepay customers
- have significant competition impacts if such a large number of customers would be given to a new supplier in a matter of days based on a regulator decision
- add a significant financial burden to the SoLR levy.[28]

The SAR process means the company remains a licensed supplier and is run in administration, and is funded by the Treasury until it is able to secure funding, dissolve or sell all, or part of, the company. The SAR means the administrators have a duty to consider consumers interests, as well as those of creditors.

7.9 Customers of Bulb have had greater protections compared to customers of suppliers going through the SoLR process. Bulb customers have been able to continue to engage with their supplier, much as they had prior to its collapse. With the same account, customer service teams and the same tariffs (although all Bulb customers were already on a single tariff priced near the price cap).

7.10 Although SAR is currently working well for customers, it is important that the administration regime is as short as possible to avoid additional costs to consumers. The joint administrators for Bulb have suggested that the special administration regime may continue until Spring 2022, although this could be longer due to difficulties with current market conditions.[29] Costs are likely to increase the longer Bulb remains funded by the taxpayer.

---

[27] Citizens Advice (2021) Customers landed with £30-a-month price hike when energy companies go bust
[28] Ofgem (2021) Bulb Energy Limited - Energy Supply Company Administration letter to the Secretary of State | Ofgem
[29] Teneo (2022) Bulb Energy Ltd

7.11 The Government has so far set aside £1.7bn to fund Bulb in special administration. When Bulb is sold, the proceeds will be used to repay these costs, but there is likely to be a shortfall. The Government can direct these costs to be recovered from energy bills via transmission charges. This would be in addition to the £2.6bn cost we estimate from other failed suppliers. **Consumers are already experiencing record increases in energy prices. Instead of passing the additional cost on to consumers, the Government should fund any shortfall when Bulb's special administration is completed.**

The role of retail market reform in the context of the UK's net zero transition and domestic energy security requirements.

8.1 The energy retail market will play an important role in meeting the UK's net zero commitment, by helping millions of households across the country make the necessary changes to their homes and shifting the way they use energy. Energy suppliers, as recognised players in the energy market, need to play a role in providing information and support to consumers as they navigate these changes. Suppliers need to be there for consumers as they consider making energy efficiency improvements, upgrading their heating systems, switching to an electric vehicle, and weighing up smart, flexible products and generation technologies.[30]

8.2 Suppliers are already playing a crucial role in enabling a more efficient, renewable energy grid, by continuing to roll out smart meters and offering time of use (TOU) tariffs. While agile tariffs are currently being offered on the market, consumers have low awareness of them. In consumer polling, we showed people definitions of various smart energy services and asked whether they understood what the service would deliver and whether they'd be likely to use the service. For most services, only around half of people felt confident they understood these services and even fewer people felt that they would be likely to use these services. Older people often felt less confident.[31] To increase confidence, any company offering these services should give consumers clear and transparent information to help consumers feel confident about the contracts they sign up to, know where to go for support and have control over their data.

8.3 The success of encouraging uptake of new energy service models such as TOU tariffs and Energy as a Service - intended to support decarbonisation by incentivising flexible consumption and uptake of renewable heat sources - will also be driven by policymakers and industry breaking down barriers to consumer engagement with these services. Our previous research shows how a range of consumer characteristics play a significant role in determining ability to engage with new energy services. Many consumers lack trust in the energy market having experienced poor service and supplier failure.[32] As outlined in sections 4.1-4.11 there is a need for a reformed approach to compliance and enforcement to ensure consumers have confidence in the protections they are guaranteed and confidence that breaches of these rules will be pursued by regulators. Other consumer characteristics which have an impact on willingness to engage involve a consumer's personal circumstances and financial situation. For example, to optimise the benefits of a TOU tariff may require a consumer to invest in smart appliances, an electric vehicle or solar panels, but if they lack the savings or credit score to take out a loan this acts as a significant barrier. Those in the private rental sector - 4.5 million households - often lack the ability to choose their own energy supplier, with tenancy agreements typically prohibiting

30 Citizens Advice (2020) Future Proof: Challenges and opportunities in providing great service in energy
31 Citizens Advice (2021) Smartening up: How to improve people's confidence in smart home technology
32 Citizens Advice (2019) Future for All

without the landlord's consent alterations to the property that might be needed to install low-carbon technologies. Some households (6%) also still lack internet access, while a wider group (32%) are identified as having narrow digital skills, all contributing to digital engagement acting as a barrier to new services which typically will require controlling devices or engaging with a service provider via an app or online.[33]

8.4 Along with Energy UK and the ADE, Citizens Advice have highlighted a number of risks to domestic consumers using Demand Side Response, where consumers vary how much power they use at different times of day to respond to price signals based on the availability of electricity on the grid. Our risk register identifies where protections are currently lacking, for example when households are less able to be flexible with energy use or are in vulnerable circumstances, or when they have poor installation experiences and lack access to redress.[34]

8.5 The government and Ofgem will need to consider measures for raising awareness of these technologies, and provide greater protections for consumers, to give them the confidence to invest in and ability to benefit from these technologies.

4. Recommendations

4.1 As consumers are facing record increases in household bills, partly due to footing the bill of the scale of recent energy supplier failures, action must be taken to prevent a similar crisis in the future.

4.2 **The committee should probe Ofgem on its compliance and enforcement record, and its role in allowing non-compliance with industry rules.** Ofgem should be asked how it plans to improve its compliance and enforcement activity, to make sure suppliers are abiding by the rules and consumers are getting better outcomes.

4.3 **Ofgem and government should take forward planned work to minimise the risk of supplier and the cost to consumer, including credit balance limits and to increase the frequency of Renewable Obligations payments.** Limits on the amount of customer credit balances suppliers can hold on to will clamp down on suppliers using these to fund their operations. Reducing the cost to the consumer in the case of a supplier failure. More frequent Renewables Obligation payment deadlines will highlight when suppliers are in financial difficulty, and will also reduce the cost of non-payment, which is put on to customers bills.

4.4 **Ofgem should implement new prudential regulations on capitalisation and hedging, as fast as possible, to protect consumers from further risk of supplier failures.**

4.5 **The committee should investigate the role of auto-switchers in the energy market crisis, and the government should address the risks and consider regulating them.**

4.6 Amidst the current energy crisis, households are facing record increases in energy bills as well as the highest level of inflation in 30 years. Many are forced to make difficult decisions between heating their homes or eating. To support households at this difficult time the government should consider the following.

1. **To make sure customers are able to heat their homes this winter, the government should give a one off payment to households on low incomes to help with energy bills.**

---

33 Ofcom (2021) Adults' Media Use and Attitudes report

34 Citizens Advice (2021) Demanding attention: Managing risks with demand-side response, to improve consumer experience tomorrow

2. Inflation has risen far beyond the rate of inflation in September, which was used to calculate benefits increases. To make sure households are able to keep up with rises in the cost of living, **benefits should be uprated with the current figure of inflation.**
3. **The Warm Home Discount should be made more generous and extended to reach more people who would benefit from it.**

For more information, please contact:

31 January 2022

January 2022