PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

DOMESTIC GAS AND ELECTRICITY (TARIFF CAP) BILL

First Sitting

Tuesday 13 March 2018

(Morning)

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PBC (Bill 168) 2017 - 2019

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not later than

Saturday 17 March 2018

The Committee consisted of the following Members:

Chairs: Sir Edward Leigh, † Siobhain McDonagh

† Afolami, Bim *(Hitchin and Harpenden)* (Con)
† Brown, Alan *(Kilmarnock and Loudoun)* (SNP)
† Charalambous, Bambos *(Enfield, Southgate)* (Lab)
† Donelan, Michelle *(Chippenham)* (Con)
Flint, Caroline *(Don Valley)* (Lab)
† Ford, Vicky *(Chelmsford)* (Con)
Gaffney, Hugh *(Coatbridge, Chryston and Bellshill)* (Lab)
† Grant, Bill *(Ayr, Carrick and Cumnock)* (Con)
† Harris, Rebecca *(Lord Commissioner of Her Majesty's Treasury)*
† Heappey, James *(Wells)* (Con)
† Kerr, Stephen *(Stirling)* (Con)
† McCarthy, Kerry *(Bristol East)* (Lab)
† Norris, Alex *(Nottingham North)* (Lab/Co-op)
† Perry, Claire *(Minister for Energy and Clean Growth)*
† Robinson, Mary *(Cheadle)* (Con)
† Smith, Nick *(Blaenau Gwent)* (Lab)
† Whitehead, Dr Alan *(Southampton, Test)* (Lab)

Farrah Bhatti, Nehal Bradley-Depani, *Committee Clerks*

† attended the Committee

Witnesses

Greg Jackson, CEO, Octopus Energy

Juliet Davenport, CEO, Good Energy

Hayden Wood, Co-founder, Bulb

Dermot Nolan, Chief Executive, Ofgem

Rob Salter-Church, Acting Senior Partner, Consumers and Competition, Ofgem

Rich Hall, Chief Economist for Energy, Citizens Advice

Pete Moorey, Director of Advocacy and Public Affairs, Which?

Peter Smith, Director of Policy and Research, National Energy Action

Public Bill Committee

Tuesday 13 March 2018

(Morning)

[Siobhain McDonagh *in the Chair*]

Domestic Gas and Electricity (Tariff Cap) Bill

9.25 am

The Chair: Before we begin, I am afraid I have a list of dos and don'ts; I hope that we are not going to continue in this vein. Please switch electronic devices to silent. Tea and coffee are not allowed during sittings. Today we will first consider the programme motion on the amendment paper. We will then consider a motion to enable the reporting of written evidence for publication, and then a motion to allow us to deliberate in private about our questions before the oral evidence sessions. In view of the limited time available, I hope we can take these matters without too much debate.

I call the Minister to move the programme motion, which was agreed by the Programming Sub-Committee yesterday.

Ordered,

That—

(1) the Committee shall (in addition to its first meeting at 9.25 am on Tuesday 13 March) meet—

(a) at 2.00 pm on Tuesday 13 March;

(b) at 11.30 am and 2.00 pm on Thursday 15 March;

(2) the Committee shall hear oral evidence in accordance with the following Table:

TABLE

Date	*Time*	*Witness*
Tuesday 13 March	Until no later than 10.15 am	Octopus Energy Bulb Energy Good Energy
Tuesday 13 March	Until no later than 10.45 am	Ofgem
Tuesday 13 March	Until no later than 11.25 am	Citizens Advice Bureau Which? National Energy Action

(3) the proceedings shall (so far as not previously concluded) be brought to a conclusion at 5.00 pm on Thursday 15 March.—*(Claire Perry.)*

Resolved,

That, subject to the discretion of the Chair, any written evidence received by the Committee shall be reported to the House for publication.—*(Claire Perry.)*

Resolved,

That, at this and any subsequent meeting at which oral evidence is to be heard, the Committee shall sit in private until the witnesses are admitted.—*(Claire Perry.)*

9.27 am

The Committee deliberated in private.

Examination of Witnesses

Greg Jackson, Juliet Davenport and Hayden Wood gave evidence.

9.41 am

The Chair: Good morning. We will now hear evidence from Greg Jackson, CEO of Octopus Energy; Hayden Wood, co-founder of Bulb energy; and Juliet Davenport, the CEO of Good Energy. Thank you all for being here this morning. Members of the Committee will now ask a series of questions. Unfortunately, this session has to finish by 10.15, so brief questions and brief answers will be gratefully heard.

Q1 Vicky Ford (Chelmsford) (Con): I am going to ask questions of Octopus Energy and then Bulb, because you are new entrants.

Octopus, do you think there is a risk that once the cap comes in, prices will all bunch around that cap level? Some people have said that switching activity might then reduce. Do you think that is a risk? Bulb, do you think that the cap will disincentivise investment in infrastructure at this stage, or do you think we can manage the infrastructure need separately?

Greg Jackson: To answer those three questions, on the bunching question we do not agree. There are 70-odd energy suppliers in the retail market currently. The majority of them price below any realistic level at which an absolute cap would be introduced. If there is any bunching, it will be the welcome bunching of the suppliers that currently charge their loyal customers more than an absolute cap by bringing their prices down to that level. Underneath any realistic cap, there is still plenty of room for competition, and competition among the challengers that have to fight for and win every single customer from scratch will be unabated.

In terms of switching rates, the first thing is that the idea that very high levels of switching is a good thing is outdated. For 20 years, consumers have been told that they have to switch; in any given year, no more than 15% to 20% will do so. All the rest are getting ripped off. What we need is a market in which you get good value without switching, and an absolute cap is a step in the right direction. It is an excellent measure that will help reduce the rip-off for those who switch and those who do not.

Finally, in terms of investment in infrastructure, Octopus Energy is backed by the Octopus Group, which is one of the largest investors in renewable generation in the UK. Frankly, something that makes the retail market behave more like a proper market—one in which consumers get good value by staying loyal to good suppliers—will generate more investment in the sector, rather than the current strangulation that occurs because of things such as predatory pricing, whereby back-book customers of large companies cross-subsidise loss-making deals.

Q2 Vicky Ford: Do the other witnesses agree?

Juliet Davenport: It is going to be interesting—that is the answer. If you look at the current data in the marketplace, with no intervention whatever four out of the big six have a 25% gap between their most expensive tariff and their cheapest tariff. There are two that do not—two have closer to a 6% to 8% differential between the two. Interestingly, the one with the smallest differential also has the lowest standard variable tariff.

If you have an absolute price cap, you will obviously see that the affordability of the lower tariffs for the big six will be less: you will see some shrinkage between the highest price and the lowest price. That is what we are trying to do—to get rid of cross-subsidisation between the most expensive and the cheapest.

Will we see some bunching? We will see a narrowing of that. The question is: how do you want to achieve that? I am assuming that is what you are trying to achieve: the stopping of cross-subsidisation, keeping those people who are very faithful to their suppliers and making the suppliers pay for the discounts that they are using to get other people. I think there will be some slendering through that and the data is kind of showing that already, if you look at it.

Hayden Wood: I would say two things. The first, on the bunching question, is that a price cap would have absolutely no effect on how Bulb sets its prices. We have one tariff, so whether the cap is there or not we would continue to charge the rates that we charge now, and they are among the cheapest rates in the market. There will probably be some bunching, but it is going to occur because suppliers currently adopting these "tease and squeeze" tactics, where they have a great rate in the first year and then they charge more in later years, will be less able to do that: they will not be able to subsidise those teaser rates with expensive rates later. However, we do not expect the long-term cost of energy to change.

On your question about whether this will disincentivise investment in infrastructure, there are two parts of infrastructure that spring to mind: the first is network infrastructure and the second is generation infrastructure. On the network infrastructure question, those investment decisions are made by the regional power networks. Those are regulated local monopolies. They make a metronomic profit margin of between 7% and 9%. The price cap should not affect the profit margin that they will make here, so I do not see any reason why they should be disincentivised from investing.

On the question of generation, from where I am sitting the introduction of a price cap would be a big stimulus to investment in renewable generation, because it would mean that more and more homes could choose to buy their energy from a low-cost, efficient renewable supplier. We see no reason why renewable suppliers should be exempt from this cap, because my view is that Bulb can provide 100% renewable electricity, at a rate that is at least £200 lower than the cap.

Q3 Bim Afolami (Hitchin and Harpenden) (Con): I have a question about what you were saying about the fact you have one tariff. Why do lots of your competitors—your older, more established competitors—have this completely mind-boggling myriad of tariffs? Can you explain why, if you can manage to price up one tariff, they cannot do so?

Hayden Wood: I struggle to explain it. We do not understand why two people in the same street using the same amount of energy from the same supplier should pay different rates. That just does not seem fair to us. There are some suppliers who will provide a fixed tariff and then they claim that there are substantial costs to providing that fixed tariff, and that those costs then need to be reflected in a—

Q4 Bim Afolami: Like a hedging cost, or a currency hedge?

Hayden Wood: Like a hedging cost—exactly. But the irony with the cost of hedging, which you need to put on to a fixed tariff, is that very often those fixed tariffs are cheaper than the variable tariffs. That does not make any sense to us, which is why we have chosen to have a simple offer that consumers can understand, and we think that if you provide something that consumers understand, they are more likely to engage with it.

Juliet Davenport: Most fixed-price tariffs are slightly cheaper because it is cheaper to do that. If you minimise your risk, you can guarantee that that customer will be there, and you can buy forward. If you do not know whether that customer will be there, you have a bigger risk, because you might buy the power and then they do not turn up. That is why, when you buy forward on fixed-rate tariffs, you tend to get those.

I do not agree with the myriad. There are too many tariffs—agreed—but there are some differentials. People want choice, and we must not forget what customers want. Some customers want to fix their tariffs for the next two years. Some customers—they are fairly rare—want to have a daily price, maybe even a half-hourly price, where they can see what is going on and change their behaviours as things go on. Whatever we do, we must make sure that we take into account a wide range of customers in this marketplace and actually deal with their needs.

From talking to our customers we know that there are different needs. Some want smart meters. Some love the idea of smart meters, and some hate the idea, so we have to work our way through that one. Some love the idea of fixing their power for the next five years, because then they do not need to think about it and can get on with the rest of their life, but some want to be much more active. For me the key thing is to look after the people who cannot make those decisions—who do not necessarily have the time, the capability or the access to go and find tariffs that are good for them.

Q5 Bambos Charalambous (Enfield, Southgate) (Lab): My question, which has been alluded to, is about green gas tariffs. In the Bill it is proposed that they should be exempt from the price cap. What are your views on that?

Juliet Davenport: In our view, green gas is an area that is developing in the UK. At the moment, we have a limited amount of green gas. I think the heat targets under the Climate Change Act 2008 are quite significant, and we as a country are behind those targets. We are doing relatively well on electricity, but not so well on gas. My personal view is that we need to try to seed that market. People want to choose.

It reminds me of the early stages of the mobile phone market. If we had said that everybody had to have access to mobile phones right at the beginning, we would not have ended up with a product that was cheap enough. So if you think about technological innovation, that is the way we should go. I think it is the same in this area. We should allow the early adopters to come into this marketplace, which is why there is the idea of giving an exemption on that. We should allow the infrastructure investment.

I am afraid I disagree with Bulb. A lot of work goes into making sure that there are contracts in place to allow for infrastructure investment. We are currently running a pilot with the Eden Project in Cornwall to look at how to buy storage in this marketplace. Our customers back that—they love that—but we would not be able to do that unless we had a whole team managing it and looking at that. It is the same with green gas. You can go and buy certificates, which is really easy. You can buy them on the wholesale market. But if you want to provide investable contracts that allow people to put money behind the projects, then that looks very different.

Hayden Wood: To add to that, today Bulb supplies green gas to more homes in the UK than any other energy supplier. We are growing so quickly that there are new green gas plants being built at pace in order to meet the demand from our future customers. We see absolutely no reason why a green gas tariff should be exempt from the Bill. The cost of providing green gas to homes is between £25 to £50, which is much smaller than the £200 gap between the best tariffs in the market and the most expensive tariffs under a capped regime.

Greg Jackson: In our view, what we cannot allow is a loophole that allows exploitative suppliers to create fake green products in order to evade the cap. It needs to be formulated in such a way that, for example, a company like Good Energy, which has highly informed customers that have chosen to be with an innovative supplier and chosen the price they are on, can carry on doing the good work that it does. But at the same time it should not allow what we are seeing already, which is two of the big six launching green products since the Bill has been under discussion. I do not want to sound cynical, but I cannot help feeling there is a connection.

Q6 Bambos Charalambous: Do you think that the definition of green tariffs should be tightened?

Greg Jackson: That is exactly right. For example, if you are going to have an exemption, maybe a company would have to do 100% green products for all of its customers on all of its products. Something simple like that means you cannot get away with greenwashing a company that is really a cap evader.

Q7 Vicky Ford: I hear you saying that we need to encourage green innovation, while also insuring that there is no gaming. The approach in the Bill is that Ofgem will consult and then develop an exemption in a robust manner that reduces the risk of gaming but still allows innovation. Do you agree with that approach by Ofgem—that it should consult and, within those parameters, make sure that the green sector is protected?

Juliet Davenport: What is the alternative? Is there an alternative? To make a definition in the Bill?

Q8 Vicky Ford: The approach of making sure that Ofgem, the regulator, has to consult before making the decision.

Juliet Davenport: I would agree on that.

Hayden Wood: This Committee has an opportunity to help 12 million homes that are currently languishing on standard variable tariffs and massively overpaying for their energy, and help them to reduce their bills. If we allow a loophole such as this into the legislation—let us say that it is Ofgem's responsibility to manage that loophole and to keep it closed—we open it up to being manipulated or lobbied on or people working around it. We saw how the retail market review regulation years ago led to some unintended consequences in how the energy market is structured, and we now suffer from this "tease and squeeze" problem, which others on the panel have described. We would propose completely removing clause 3(2) of the Bill to eliminate any issues with unscrupulous suppliers introducing non-green tariffs and removing the effect of the cap.

Q9 James Heappey (Wells) (Con): I wonder whether the panel shares my concern that this also allows green tariffs to be seen as a premium product. To achieve our decarbonisation goals, what we actually want is for green tariffs to be seen as the norm. Therefore, to allow them to be sold as a sort of premium rather defeats that long-term aim.

Hayden Wood: I completely agree with that. It perpetuates the myth.

Juliet Davenport: My view is that you can have cheap greenwash tariffs alongside genuine innovative tariffs and you can have a differentiation. You have to focus on the big six and make sure that there are not any loopholes, but most of these companies have had people come to them as a choice. What is great about this market is that we do have choice. We have the cheap greens, and we also have the more innovative products such as us. Why would you close that down? You can see that we have been leading this market and making changes in it. We support about 140,000 homes who generate power in their own house. Those are the kind of innovations that we want to continue to do. To be honest, if you price-cap us, we are going to have no investment left for that kind of innovation.

I completely agree that we should have a differentiation and we should have products that are cheaper green. I met one of Bulb's customers at the rugby the other day who was very enthusiastic. She was so excited by the fact that she is going on a green journey. I think that is brilliant, and that is what we should embrace in this. We should not try to close it down to be one thing or another. We should allow innovation within the marketplace.

Q10 Alan Brown (Kilmarnock and Loudoun) (SNP): On the cap mechanism, there has been debate about absolute versus relative, and I think there are split views across the panel. Why would we go with one versus the other? Some models are clearly more favourable to a relative cap, and others to an absolute cap. Why choose one over the other? The Government have come down for an absolute. I think that has almost got the majority view, but is it possible to find a cap level that is fair to everybody? Is there any trade-off between short-term customer needs and the long-term competitive market that we are trying to achieve? I will just throw that open.

Greg Jackson: That is the most important issue to address during these conversations. An absolute cap, as per the Bill, will provide a decency level beyond which no default customer will be charged. That is a good thing. However, at the moment, a loyal customer of, for example, one of the big six is paying £250 a year more than the price that the same company advertises openly to new customers. When I say "openly", of course, you still have to type in 25 sets of details to see that price, because energy is too complicated. Under an absolute cap, we think that might fall to £200. It is still not going to create an effective market in energy, where competition thrives, if we do not do something about those tremendous differentials. That loyalty penalty is by far the biggest barrier to true competition in the energy industry, so we would propose that, with the protection of an absolute cap, it is the perfect time to bring in a simple limit on the difference between the cheapest and most expensive tariff offered by a supplier, to prevent it hoodwinking its customers into overpaying for loyalty.

The only reasons given during the Select Committee hearings not to have a relative cap were a concern that large suppliers—existing former nationalised suppliers—would raise their prices to fit a relative cap. The absolute cap prevents that being a concern. Bringing in the absolute cap provides the perfect opportunity to generate real competition underneath it by a simple limit on the loyalty penalty. If you do that, I think we will find a price war among energy companies, equivalent to that in supermarkets, where everybody sees the same price. In supermarkets, you do not need to switch, because the threat of some people switching forces supermarkets to bring prices down for everybody. That will be the effect of a relative cap underneath an absolute cap. It is one line of additional rule in the statement of a price cap that would enable this. I think that what you would find, when you take away the absolute cap, which is defined to be a temporary measure, is that you would have a truly competitive market in energy for consumers.

It is worth noting that we are all challenger brands. We have to fight for every single customer from scratch. Eleven challenger brands favoured a price cap, and split roughly equally between absolute and relative, with a lot favouring the combination. We are one of those companies, and that is because we know that will generate the most competitive market for the benefit of consumers.

Juliet Davenport: This is not a position, so much as I just want to add in the risks that we need to be aware of with the absolute price cap, just to see whether there is anything else we can think about in terms of softening those risks.

One risk with an absolute price cap that I am concerned about is that Ofgem will be setting the prices. There is no downside to Ofgem with getting that wrong; if Ofgem sets that price incorrectly—I know you are seeing Dermot after this, so you can ask him the question—what are the sanctions against Ofgem for getting that price wrong?

And it is really difficult to set prices at the moment. I could ask my colleagues about the unidentified gas charges that we have just seen go from 0.6% to 2% of gas bills. This is a post-charge that we were not aware was coming. We knew there was some discussion of it, but it has been charged in arrears. How does Ofgem factor some of those things into its price? Does it put a risk in the price? That would be one question.

The other question is, because we set the price cap at a particular time of year, we will get everybody forward-contracting with their hedging position at the same time of year. The concern I have is that we might see some distortion within the wholesale market. Can we keep an eye on the wholesale market? I do not know whether that means that we have to ensure that there are extra powers to ensure that the wholesale market does not try to spike at exactly the time that everybody will be forward buying their power.

Those are the two risks that I am concerned about with the absolute cap. That is not to argue against it, but those risks are there and they need addressing whether in the Bill or in guidance from Ofgem.

Q11 Alan Brown: I was going to ask whether it was okay if Hayden could give an answer. Greg was saying that he favours an absolute cap with a relative cap underneath it, combining the two options. I just wonder whether Hayden had a view on that.

Hayden Wood: We think that the top priority is the absolute cap. As I have mentioned before, there is a risk that homes will not get relief from the cap if that is not in. The idea of a relative cap underneath the absolute cap sounds fine to us, too. I think more price competition in the energy market is a great thing.

The third point I would mention on these extraordinary powers that Ofgem would have under this new set-up to set prices is that those powers need to come with more transparency. The formula and methodology for calculating what the absolute cap would be should be published so that there are no surprises for suppliers and we can plan. We also think there should be more transparency around the contributions that Ofgem receives from suppliers and the meetings that they hold with them, in order to ensure that there is more transparency.

Q12 Dr Alan Whitehead (Southampton, Test) (Lab): I want to pursue the question of the absolute and relative cap. The way the relative cap has been talked about, it does not look like a cap to my mind. In fact, as Greg mentioned, it is a process of narrowing the range between possible tariffs that are offered, in order, I would have thought, to regulate the market subsequent to an absolute cap. Is it your view that that is the role that might be played by what is called a relative price cap? Or is it something that ought to be done in parallel with an absolute cap? That is, is it a market solution for the future or is it a cap solution for now?

Greg Jackson: You are quite right that the phrase "relative price cap" is not necessarily the most helpful name. It is a simple restriction—a simple limit—on the difference between the highest and lowest price from a single supplier. There is no reason at all why that would not operate underneath an absolute cap. In fact, there is no reason at all why it would not be defined at the same time as the pricing rules of an absolute cap.

If we did that, it would simultaneously attack the loyalty penalty, which is one of the biggest topics currently being looked at in pricing in consumer markets where you pay by direct debit. The real issue is that in consumer markets where you pay by direct debit—running an account—you do not know what you are being charged. If you do not know what you are being charged, companies essentially can have these enormous false differentials, and the opportunity, alongside this absolute cap, to bring the differential down is sitting there today. That would turbocharge competition because it would mean that, if a company wants to win new customers, it would have to bring prices down for its existing ones. But not only that: if it wanted to hang on to its existing customers, it would have to bring prices down.

We saw that British Gas provided a useful case study during the period when they were having to sit in front of Select Committees. They reduced their differential to basically zero for that period, and they lost 823,000 accounts in four months, I think, leading to a 12.5% drop in share price and a 20-year share price low. That demonstrates that companies that try not to offer good value in a world of a relative price cap will lose customers, market share and share price.

Therefore, we think that bringing that alongside the absolute cap, sitting underneath it, is the best way to use the force of competition to drive prices down for everyone. When you remove the protection of the absolute price cap, you will actually have a competitive market.

The Chair: I want to bring in Stephen Kerr here. I should say that we have only another seven minutes.

Q13 Stephen Kerr (Stirling) (Con): My question is about appeal. Ofgem come up with their absolute level. There has been a lot of discussion from different commentators about the right of appeal. The Business, Energy and Industrial Strategy Committee came up with its view. What is your view, Greg?

Greg Jackson: Appeal rights—for example, Competition and Markets Authority appeal rights—would probably mean that every time the cap is being reviewed every six months or quarter, it gets tied up in process. It means it never actually happens. Of course, that is what the big six want.

Hayden Wood: I completely agree. If consumers are going to benefit from this, we want them in by the next winter, and also Ofgem needs to be able to set the price, and not have to go through a long appeals process because, as Juliet said, things move in the energy market, so it needs to be nimble—

Q14 Stephen Kerr: Very clearly, you two are aligned.

Juliet Davenport: The only thing I would comment on is this. In a business you have got a first line, a second line and a third line of defence. Normally, Ofgem would be your second line of defence. The issue you have got is that you are blurring their rules: they are acting as first line and second line. That is where the appeal is a concern because they are setting the prices, and then they have got to judge themselves, almost, on setting the prices.

Q15 Stephen Kerr: What is your view, then?

Juliet Davenport: I wonder whether you have to look at the role within this: how you get that to be independent rule setting—whether it almost has to sit aside from Ofgem so that Ofgem can oversee it. If you put it within the regulator, I agree it is going to get—

Q16 Stephen Kerr: But they have to consult, don't they?

Juliet Davenport: They will have to consult but, even so, I think you can see this being contested time after time. On the prepayment meter cap that has gone in so far, our calculation is that it has been incorrectly calculated probably about twice already. The question is that, if that then goes across 11 million customers, what is going to happen at that point, when it really starts to hit people's balance sheets?

Q17 Stephen Kerr: How transparent is the calculation?

Juliet Davenport: It is not.

Stephen Kerr: It is not?

Juliet Davenport: It is not transparent till afterwards. You are immediately in breach if you do not comply. There is a process where you cannot actually challenge it.

Stephen Kerr: Neither of you had any concerns relating to that. You agreed with the Select Committee.

Hayden Wood: I would say that this goes back to the transparency point that I made earlier. I have an issue with a non-transparent process where the methodology, formula, and data input into that process are not published. That is an issue. I do not have information on the appeal issue.

Greg Jackson: The idea that you end up going to appeal in order to get the right to over-charge customers is going to be pretty grotesque. The reality is that they may try to do that, and you have to stop them. We have to prevent it becoming tied up in process. The prices are all still grotesquely high, whether they are set at £1,050, £1,075 or £1,030.

Q18 Bill Grant (Ayr, Carrick and Cumnock) (Con): Juliet touched on smart meters earlier and the rather ambitious and expensive project that is endeavouring to secure 53 million installations by 2020. To what extent do you believe that smart meters can make the market work for consumers? This is to everyone. Could it lead to an early end to the cap, or could it make it redundant before 2023? It is not a freeze, it is a cap. There are opportunities three years prior to 2023 in which it could be eased or lifted. What is your view on that?

Greg Jackson: I think smart meters make this all the more important right now. If we do not clean up the energy market before we end up with everybody having a different price every half hour, it is going to be a wild west. We have the opportunity to clean up pricing now, and that is why it is particularly important that we deal with this topic of the difference between the highest and lowest tariffs. If it is hard for someone to know where they stand at the moment, then it will be even harder for them to know where they stand in the world of rampant time-of-use tariffs. Let us tidy up pricing now, and then smart meters really can be a path to success.

Hayden Wood: To add to that, we find the conflation of the price cap and the smart metering quite troubling. We do not see a relation between them. A person's understanding of how much energy they use does not influence how often they might go into the market and look at price comparison sites and understand how much they are paying versus other suppliers. We are also not aware of any evidence suggesting that installing a smart meter would offset the £100 a year that a consumer would save under this price cap. The Government's own data would suggest that the installation of a smart meter saves the consumer only £11 a year on their energy bill. They are actually separate things.

Juliet Davenport: My personal view is that they do come together when we get proper smart meters: SMETS2 in as opposed to SMETS1. The SMETS2 meters are going to make a significant difference to switchability. At the moment, if you take on a SMETS1 and you are not SMETS1-qualified you cannot switch them to smart metering. You would have a proper smart process in terms of switching. We are going to see some disruption in the market there with accessibility of data and third parties providing information in the house that can switch you instantly to another supplier if you are over-paying. That is the intelligence we are going to see with an increased amount of data. I am quite excited about smart meters and what they can do. They will facilitate households in saving much more than at the moment because we are going to see the smart house plug into that.

The Chair: I am sorry, I just wanted to bring in Alex Norris.

Alex Norris (Nottingham North) (Lab/Co-op): My question has been answered.

Bill Grant: I welcome the embracing of the new technology and I know it is not perfect right now. You seem rather negative, Hayden.

Hayden Wood: On smart meters? Oh no, we are extremely positive about smart meters, but not—

Bill Grant: Thank you, we will leave it at that. It was my misinterpretation.

Q19 James Heappey: You have the Minister to your front and the regulator behind you. What does the end-state look like? Is this price cap to repair the current market, or to deliver something new. If new, what is it?

Greg Jackson: You now have a market of 70-odd companies, mainly vying it out in a 20% churning area. If we get this right, you will be able to let loose the competitive efforts of companies like ours and 68 or however many others to bring prices down for everyone. Getting it right involves the decency cap or the absolute cap and finding a way to tidy up the entirely unjustifiable hundreds of pounds of difference between the cheapest and most expensive tariffs from each supplier. At that point you can let loose our competitive efforts to bring prices down for everyone.

The Chair: Order. I am ever so sorry about what I am about to do, but I am required to do it. I am afraid that has brought us to the end of the allocated time to ask questions. I thank all the witnesses. It has been a very good session. Thank you very much. I now call the next panel.

Examination of Witnesses

Dermot Nolan and Rob Salter-Church gave evidence.

10.15 am

The Chair: We will now hear from Dermot Nolan, chief executive of Ofgem, and Rob Salter-Church, acting senior partner for consumers and competition at Ofgem. For this session, we have until 10.45 am. Will the witnesses please introduce themselves, although I may have already done that?

Dermot Nolan: Thank you, Chair. I am Dermot Nolan, the CEO of Ofgem.

Rob Salter-Church: I am Rob Salter-Church, the interim senior partner for consumers and competition at Ofgem.

Q20 Bim Afolami: Assuming that the legislation passes unamended, how do you intend to set this cap?

Dermot Nolan: We have already commenced the process in the sense that last Thursday, after Second Reading, we put out an open letter specifying our processes over the next few months. Yesterday we released one of a series of discussion papers that looks at certain elements of the cap and how it might work. We will do that over the next month or so. We will gather information, consult as widely as possible and issue a more formal consultation while the Bill is still passing through Parliament. That will try to tie together the various proposals that we will put in place and look at a potential framework for the cap. After Royal Assent we will issue a statutory consultation, which we are required to do, so we can put the cap in place as quickly as possible.

Q21 Bim Afolami: Is Northern Ireland and how a cap works there your starting point? Is that something that informs you, or is there something about that to make you think that we need to do it in a different way this time?

Dermot Nolan: It certainly informs us, as indeed do the designs of price caps around the world. We have caps in place for pre-payment meters and particular tranches of vulnerable consumers, and they will inform us. Given the statutory duties as we interpret them, though, we will I think have to design the cap ourselves while being informed about others. One point about the Northern Ireland cap is that it was designed specifically for one firm, for the previously dominant firm, so it may not be exactly wise to take it off the shelf for the cap in GB.

Q22 Bim Afolami: Just on this precise point, in all parts of the House there are people who are concerned about Ofgem's ability to get this right—not through lack of effort, but simply methodologically. Are you confident that we can get this right?

Dermot Nolan: I am confident. I am confident that it is a difficult task. There are statutory objectives, and we have to be mindful of them all. It will require a lot of analysis, which we are already commencing on, a lot of evidence and, ultimately, a degree of regulatory judgment to get it right, but I am confident that we can do it. It is an absolute priority for the organisation, and for my board and me.

Q23 Bim Afolami: If you did not think that you could get it right, would you have communicated that already to the Department for Business, Energy and Industrial Strategy?

Dermot Nolan: Yes, I certainly would have. I will be responsible if I do not get it right, so I would have communicated that.

Q24 Vicky Ford: The previous panel spoke about the need for transparency in this process. How do you intend to ensure that, during the consultation, transparency is achieved? Will you be consulting all suppliers equally, for example? Recently, it was pretty cold, so can you assure us that the price cap will be ready by the time next winter comes?

Dermot Nolan: We will consult as openly as possible. We will issue consultation documents, because that is the nature of what we are required to do, but we will also hold workshops which are open to all and we will try to get views from every possible supplier. Not only that, however—I want to be very clear on this—we will want views from stakeholders far beyond suppliers. I think your next session is consumer groups, and we will try to consult as extensively as possible with them. In fact, being blunt, we are both required to and want to listen to as many as we can hear over the next few months, to inform any decision.

Regarding next winter, as you say, it was cold recently, but I have said before and I repeat again very clearly here that we will have the cap in within five months of Royal Assent. We will have it in place and affecting consumers by that point.

Q25 Vicky Ford: With the people who come to those stakeholder meetings and attend those consultations, is that public information?

Dermot Nolan: Yes, it would be on our website and we would make a specific—*[Interruption.]* Sorry, Chair.

The Chair: No, no, I am sorry. I am just keen to get as many people in as possible. Alan Whitehead.

Q26 Dr Whitehead: I just want to be clear about the point on five months, Dermot, that you have mentioned. Could you briefly break down what that five-month period will consist of? And are you able to guarantee that there will not be any drift in that process, so that the five months is an absolute outside time rather than an approximate time?

Dermot Nolan: I might ask Rob to answer that, but I may come back at the end.

Rob Salter-Church: That five-month period will start with us issuing a statutory consultation, which will run for eight weeks, or two months. That is something that we are required to do by law as part of the due process that we go through. Thereafter, we would have a period to analyse fully the responses to the consultation. As we said, that will be a transparent process; there will be lots of information that we will need to review. Thereafter, when we publish our decision and the final drafting of the cap, it is subject to a 56-day notice period, which again is a legal requirement that we have to go through before the changes can take effect. When you add those various stages together, it gets to five months. Can I guarantee you that there will not be any drift? What I can guarantee is that we will have this as our absolute No.1 priority for Ofgem to deliver.

One of the things that is important for us to consider in ensuring that this cap is in place as quickly as possible is making sure that the due process is gone through. It would be unfortunate if, in trying to do something more quickly, we created a legal risk around process, and that could be exploited by somebody challenging it and seeking to delay the introduction of the cap. So, we are confident that we have a good, robust process and we will get through it as quickly as we can.

Q27 The Minister for Energy and Clean Growth (Claire Perry): We are all very much appraised of the need—cross-party—to get this cap introduced by the end of the year. For us, winter does not start in February 2019; it starts in November 2018. What is the opportunity to apply the cap retrospectively, particularly if there is any form of legal challenge?

Dermot Nolan: Retrospectively, Minister, in the sense of—?

Claire Perry: In other words, reimburse customers who would otherwise be overcharged if for some reason the energy companies delayed the introduction of the cap through any form of legal challenge.

Dermot Nolan: First, before coming back to that, I want to reiterate again that we want the cap in as quickly as you do. There will be no drift; we will make sure that we meet that timeline. I absolutely say that as clearly as I possibly can. So we will bring in the cap.

At that point, the cap would apply to all energy suppliers. If they were in breach of it, they would be in breach of their licence obligations and potentially they would be subject to fines, and ultimately to losing their licence. So, it is almost inconceivable to me that, if the cap was in place, a supplier was not in compliance with it. We would obviously use every single power we had at that point in time.

Q28 James Heappey: On the last panel, Dermot, the price spike of two weeks ago come up. So, to follow on from Vicky's questions, first, against your modelling, what event did we see two weeks ago? Was that a once-in-five-years event or a once-in-10-years event, in terms of the price spike it generated? Secondly, how do you model against the reality that there will occasionally be those price spikes, but at the same time that we will all urge you to take as much risk as you are willing to, in order to make the price cap a meaningful cap? It would be interesting to know how you strike that balance between the variability in the wholesale market, albeit that it happens very infrequently, versus our wish that you are as bold as possible with the cap.

Dermot Nolan: Absolutely. Two points on that. First, regarding, the events of last week, it is difficult to be precise. I would say they are more the type of once-in-five-years spikes. I will note that, if I may sound very gnomic, there are spikes and spikes. This was quite an acute spike in the gas price, and then there was a spike in the electricity price, but it was not that long-lived. Forward prices for four or five days did not change dramatically, so it was an abrupt spike but a short one.

The whole point of how to set the cap, and over what time period, is a fundamentally important one. The Bill suggests that the price cap must be updated every six months or less. There is an inherent trade-off. One of the things I particularly want to hear about from consumer bodies is over what period people want their prices to change. All the evidence we have in many ways suggests that people like smooth energy prices. They do not like spikes in their own bill. If the cap is set every six months, and a one-week spike is smoothed out over that six months, there is an appeal to that—you get relatively sure prices over a six-month period.

At the same time, you find that if there have been spikes of whatever form during a six-month period—if there has been, say, a fall in energy prices after two or three months—people say, "Why is this fall in wholesale prices not being reflected in my bill? Why do I have to wait six months for it? Why can I not have it after three months?" If we did a three-month price cap, that would ameliorate that issue, but we might be a little bit more vulnerable to spikes and changes in prices. How we balance that is not straightforward and is one of the things that we would particularly want to hear from consumer groups on during a consultation.

Q29 Michelle Donelan (Chippenham) (Con): On that point, do you think six months is right? I know you have just described the trade-off between a three-month and a six-month period. Do you believe six months is the correct period? There are people that are concerned about flexibility and fluctuations. In the last panel, we heard that if everybody started buying their energy in advance, it could inadvertently cause a spike. What do you believe?

Dermot Nolan: I think six months is the maximum. If the Bill goes through as is, we will consult on it. I honestly cannot say what we would ultimately pick, because it would be an open consultation. Certainly, I cannot imagine, at this point in the way the energy market is, having prices change every week or month. I think it would be a consultation along the lines that I have already mentioned. There is no perfect number though. We would want to try to hear from consumers what they thought was best and what reflected their preferences.

Q30 Vicky Ford: One of the issues that has been raised is making sure that the price cap does not disincentivise investment in infrastructure. During the consultation, will you also be listening to infrastructure investors to take into consideration their views when setting the cap?

Dermot Nolan: We will listen to everybody when taking views on setting the cap. However, the infrastructure should not formally be part of the price cap. It should not affect the way in which the price cap will broadly be set in terms of interactions with suppliers and the prices of the inputs they purchase. So although we will listen to everyone, I do not think infrastructure investors per se will be crucially involved.

I came in at the end of the last session and heard about smart metering. We will have to consider the smart metering costs, but only in the efficient cost. One of the difficult tasks in setting any level of cap is deciding a precise, efficient cost for the firms and ensuring that those efficient costs are passed on in the cap.

Q31 Stephen Kerr: In the past, Ofgem has said that it accepts the outcome of the CMA's energy market investigation, including the majority view that said a price cap would have a negative impact on competition. How are you going to manage that? You have accepted that a price cap can lead to a loss of competition in the marketplace. How will you know? How are you going to measure competitiveness in the marketplace, and what will you do in terms of pulling levers in order to rectify that?

Dermot Nolan: The CMA view was split. We said we would go with the majority view, but one of the points about the process is that Parliament has now taken a decision. It is absolutely something that we will implement, because we are servants of Parliament, and we will implement it as quickly and as effectively as possible.

On the theme of competition, in my reading of the draft legislation, it seems to me that there is a desire to bring in a cap but also a desire to develop a more competitive market. There are a number of things that we are putting in place that we believe will help develop a competitive market further.

On smart metering, I know there were different views among the earlier panel, but smart metering is helpful. It is in some sense a necessary condition for, if you like, a digitised retail energy sector. There will be faster and more reliable switching processes. There are a number of remedies we have tested for prompts—ways in which people who have not yet been prompted to engage in the market will be prompted further. We have tested a lot of those already, trialled many of them and are going to roll them out in the next couple of years. There is the work on what we call midata, where we are going to push forward with a secure piece of your data that you can use in any price comparison website or any particular thing that will facilitate competition.

There are two more points—I know I am listing them off, but I want to be clear. One is that we think vulnerable protections will still be necessary if a full price cap is removed. We will look at whether any vulnerability price caps should be kept and, in particular, whether other forms and ways of protecting vulnerable customers, including things such as collective switches, could be used.

Q32 Stephen Kerr: Going back to the measures you mentioned earlier, which will underpin the competitiveness of the marketplace, those are things that can be done now. Yes?

Dermot Nolan: Those are things that will be done over the next year to two years.

Q33 Stephen Kerr: Tell us again how you will know that they are working. What are the features of a market to which you will say, "Yes, this is a competitive market."?

Dermot Nolan: Last year we published a response to the Competition and Markets Authority—which, going forward, will form the core of our report to the Secretary of State, as envisaged under the Bill—that we called a state of the market. It was a detailed look at the state of competition in the retail sector. It will look at a number of indicators; it will be on the basis of this suite of indicators—there will not be one perfect one. It will include the numbers switching, but also survey evidence, levels of satisfaction in the market, whether people feel more trust in the market, and whether the vulnerable, in particular, feel empowered to switch or still feel disengaged. We will focus on and continue to develop a suite of indicators that will form the basis of a report to the Secretary of State, which, as envisaged in the Bill, we will make on a yearly basis.

Q34 James Heappey: I am keen to understand what you think a good market looks like. In a lot of other markets, we would consider happy customers who think that they are getting good customer service and a good deal to be a good thing. In the energy market we seem to be quite aggressively pursuing the absolute opposite. We seem to think that a good market looks like lots of people who are moving constantly to find a better deal.

I wonder how we do something in this price-capping process that, when energy companies go to war with one another over price, ensures that all of their consumers,

[James Heappey]

including those who are loyal and seeing the benefits of good customer service, get rewarded, rather than simply perpetuating this view that a good energy market is one in which everybody is moving constantly and there is no incentive for companies to deliver good service.

Dermot Nolan: Absolutely. When I talked about a suite of indicators earlier, I think one should not over-concentrate on switching. It is perfectly possible, as James Heappey has said, to have a market that is functioning relatively well, but, actually, observed levels of switching are slow. What is important is that the customer must have the ability to switch if treated poorly.

In that sense, what we have seen, particularly in the energy market over the past two years, as we have seen in other markets, is a divergence of outcomes—£200 or £300 between people's bills. Some—not all, because more than 20% of our domestic residential customers now come from small suppliers—have the disengaged feeling of, "I don't feel comfortable switching and don't feel protected." The reforms that I mentioned in the last question are about trying to create a situation where we go back to the engaged customer—in some sense protecting the disengaged—with less variation between the engaged and the disengaged as a result and with people feeling, "I don't need to switch, because I am not going to get charged £300 or £400 more by my own supplier if I don't switch." That is the kind of market that we would revert to. I think the reforms that we have set out will get us in that direction.

Q35 James Heappey: That is exactly the point. When Tesco and Sainsbury go to war with one another, they might compete over the price of Hobnobs, and that might make a small number of people switch their supermarket, but everybody who shops in those supermarkets gets the benefit of that price reduction. That surely must be the market that we are seeking to design.

Dermot Nolan: That must be the market we are seeking to design. I would say more generally that new technology, through which we are buying goods and services in many areas, is such that that old area is, to some extent, breaking down. I do not want to go beyond the topic, but you will see people paying different prices buying online, and that is good in many ways, but it also has public concerns more generally. One thing about the energy market is that it will clearly not be successful if we are still seeing observed differentials of £300 in two or three years' time.

Q36 Alan Brown: You have already said that when the absolute cap ends, you still think there needs to be protection for vulnerable customers. Does that not suggest that the Bill is not doing enough to protect vulnerable customers? What protection do you think they need going forward?

Dermot Nolan: I think there are already 5 million people who are vulnerable under price cap protection. If the Bill was not going forward, we would have extended that, anyway, to another tranche of vulnerable customers. Regardless of whether there is a price cap or not market-wide, the regulator is likely to have price caps for vulnerable customers going forward. I might be wrong on that, but it will be an absolute priority for the regulator to do that, which we believe we can and already are doing under our own powers. Obviously, I want as much protection as possible for vulnerable customers. Any regulatory body, given the statutory duties that it has, will take on that itself. If it does not, it will be messing up. So I feel there will be protections there from the regulator in any case.

Q37 Alan Brown: I have a supplementary question. This is slightly tangential, but there is a proposed amendment that the Bill should aim to make sure that each SVT customer saves £100. Would an amendment that sets an absolute value within the Bill help or hinder you as a regulator?

Rob Salter-Church: At this stage it would be difficult to say exactly how much money a customer would be able to save through the price cap that will be put in place. We can say that—indeed, the Bill requires this—our first and primary objective is to think about protecting consumers, but we need to make sure that in setting the cap we also take account of the other factors that we need to consider, which is ensuring there are incentives for customers to switch and ensuring that suppliers are able to continue to finance their activities and fund things such as the smart metering roll-out. Although we are keen to ensure that we can save consumers as much money as possible, ultimately it would potentially create some unintended consequences to fix that amount at this stage in the Bill.

Q38 Michelle Donelan: I want to go back to the competition point. Some members of the previous panel supported a relative cap as well as an absolute cap in order to stop the cross-subsidisation that is happening between consumers. What are your thoughts on that? Would that be helpful?

Dermot Nolan: Is this a relative price cap and an absolute price cap co-existing at the same time?

Michelle Donelan: Yes.

Dermot Nolan: I have only heard that recently. I am sceptical for a number of reasons. First, I think it is always difficult, and it is undesirable, to tell a company it cannot charge a price below a certain level, which is what a relative price cap might do. I would always be reluctant, personally, to endorse something like that. More generally, the absolute price cap will, to be candid, have an effect on the larger companies. It will drive down the prices at which they charge standard variable tariffs. They will react to that, hopefully, by becoming more efficient and so on, but it seems likely that, for the larger companies, it would reduce the differential between their standard variable tariffs and their fixed tariffs. The idea that they would then be able to cross-subsidise seems unlikely, so I do not see the need for a relative price cap on top of an absolute price cap.

As I said earlier, I think that anything that involves telling a company it cannot charge a low price is not a great thing. Further, if I may say, it complicates the cap. We can figure out an absolute price cap. It will not be easy to set, but we will muster every fibre we have to set the right cap. To complexify it further with a relative price cap strikes me as undesirable.

Q39 Michelle Donelan: You would say that getting this entire process put through simply will foster competition, and that is one of the goals you believe should be in the Bill.

Dermot Nolan: I think it will have an effect. We have a prepayment meter cap already. I said that switching is only one aspect of competition; I want to be clear on that. After the prepayment cap, we saw that some of the cheaper deals left the market, but not all of them did. Some stayed, including from existing suppliers, and there were still cheaper deals from some of the smaller suppliers. I think that is likely to occur. There might be a measured drop in switching for a period of time, but as long as the mechanisms are put in place, this can facilitate competition over the medium and long term.

Q40 James Heappey: This is similar to the question I asked at the end of the previous session. What does effective competition look like to you as the regulator? Are you looking at measuring this in terms of engagement within the market and net fall in the number of SVT customers? Is it based on some differential between SVTs and introductory or promotional prices? Alternatively, is this an opportunity for transformation? We bring in the price cap, but in the process we look at what has been wrong with our old energy system and what the innovation and disruption is likely to be that leads to something for the future, and whether this is your opportunity to deliver that.

Dermot Nolan: I think it is an opportunity for transformation. I have talked about some of the short to medium-term things we will do. Over the period of the price cap—this would probably be a legislative thing, working with the Department and ultimately with Parliament—it represents a chance to perhaps radically recast the supply market.

The supply market has become quite complex. I am not saying that the system of suppliers acting as vehicles for delivering the various obligations has not worked—in many ways, it has—but we see a situation in which a host of new suppliers will be entering the market in three to five years. These might be quite large ones that do not currently provide energy, and they could come in selling energy in a bundled product with other goods.

We will see electric vehicles being rolled out, and a price cap will have to deal with issues such as electric vehicle charging and how people are charged for them. I see a situation in four to five years' time in which the energy market could have changed radically. The key point of the price cap is that it has to be flexible to any changes and fulfil its basic role of protecting consumers. With great respect to the suppliers in this room and suppliers already out there, I would hope that we could see radically different sets of people providing energy in five years' time.

Alex Norris: Ofgem said to the Department for Business, Energy and Industrial Strategy Committee when this was being considered that the cap ought to be temporary. How do you feel about 2023 as the sunset clause? What should Members in 2023 have seen to be assured that the cap would be unnecessary?

Rob Salter-Church: It is right that everyone is focused on what happens at the end of the price cap. It is important to us that if the price cap is removed, then all consumers get to benefit from the new competitive market that we are seeking to create.

We are comfortable with how the Bill is currently drafted. It requires us to have a comprehensive report from 2020 on the state of competition, and whether we believe that the conditions for effective competition that benefit all consumers are in place. Every year, we will be providing recommendations to the Secretary of State.

We are confident that, as the Bill is drafted, there is sufficient opportunity for the Secretary of State to determine whether there is a future role for an overall price cap, or whether there are things within our powers that we should be doing. Earlier on, Dermot mentioned the likely ongoing need for vulnerable consumer price protection. More broadly, we will be able to report on the progress made by us in creating what is ultimately a more effective form of competition where everyone benefits, whether you choose to switch or whether you choose to stay with your current supplier.

The Chair: Can I bring in Vicky Ford?

Q41 Vicky Ford: In my view, 2023 is the sunset clause: a window to get the competition in the market working. If you bring in measures such as faster switching, prompts and Midata, I am sure we will see more innovation with smart appliances that feed off smart meters and therefore there is smart consumption. Are those the measures that you would write into your report in 2020 for us to be able to decide come 2021 that the competition had maybe already been achieved? You said it could be done in a couple of years. Why do we need five years?

Dermot Nolan: I hope we do not, frankly. We will do our very best to bring competition as quickly as possible.

Q42 Dr Whitehead: I just wanted to reflect the fact that there is a sequence in the Bill, which is that Ofgem carries out a review as to whether conditions are in place for effective competition, and then you have just one requirement to put into your review, which is the vision of smart meters. The Minister then has to make a statement following the report, but it is all sequentially based on your report in the first instance.

Are you happy with what appears to be an almost complete lack of pillars on which your report might be based? Is that something that you can live with easily, or would you prefer or welcome further pillars in the report to ensure that your understanding of the report was in line with what was required to bring competition back into the market?

Dermot Nolan: It is a fair question. I am personally content with the drafting, but I respect the fact that it is a matter for Parliament. I think we have a reasonably clear idea, and I hope we have given some of it today, but I assure you that we will spend a lot of time preparing an analysis of whether we think competition is working effectively in the market.

If further areas are to be put in, that is a matter for Parliament. I am slightly worried that putting specific targets and measures directly into legislative language now, in a market that will change radically over the next five years, might be somewhat distortionary. All I can say is that on the current language we will do as comprehensive a job as we can and look at all possible indicators to give an overall assessment to the Secretary of State of whether we think the market is working for consumers.

The Chair: Order. I am very sorry, but that brings our session to an end. I thank the witnesses for giving their evidence and I ask the next panel to come forward.

Examination of Witnesses

Rich Hall, Pete Moorey and Peter Smith gave evidence.

The Chair: We will now hear evidence from Rich Hall, Chief Economist for Energy at Citizens Advice, Pete Moorey, Director of Advocacy and Public Affairs at Which? and Peter Smith, Director of Policy and Research at National Energy Action. We have until 11.25 am.

Q43 Claire Perry: Good morning. Thank you very much for coming. I have lots of questions for you. Thank you very much also for your support—sometimes equivocal and sometimes unequivocal—for the Bill.

One question that I think is exercising us all is support for vulnerable customers, who we strongly believe the Bill will help. We are interested in your views as to what else, as well as the Bill, would be necessary to deliver what we all want: maximum protection for the most vulnerable.

Rich Hall: I will kick off. I think we would strongly support the view that we would like to see protections in place for vulnerable consumers as a priority—for them to be the first to be protected and the last to lose protection if there were to be a circumstance in which it would be lost. We know from the CMA's investigation and from other studies that consumers with vulnerability characteristics are less likely to switch than the norm: disabled people, the elderly, those on low incomes, renters, people in rural areas and those who left education early. Some of the most vulnerable consumers in society are likely to be on the worst rates.

The Bill should provide significant protection to those consumers for the lifespan of the legislation, but that lifespan is clearly finite in its current form. There would be annual reviews from 2020 to 2022, which we would expect to pay particular regard to the impact of the price cap on vulnerable customers and to the extent to which they are engaged in the market and benefiting from it or need further protection.

However, in its current form the Bill would fall away no later than 2023, which creates an issue around how you would ensure that those consumers continued to be protected beyond that date. Clearly, if it were possible to encourage them to engage more in the market and to switch, that would be our first line of protection in which they could help to protect themselves. However, we have to look back at the historic records here and note that over 20 years or so there has been significant disengagement in the marketplace. It might be difficult to tease vulnerable customers into the market. From our perspective, we would be looking to see price protection for vulnerable consumers extended beyond the lifespan of the legislation.

We note and welcome the comments from the Minister and the Government in their response to the Business, Energy and Industrial Strategy Committee's pre-legislative scrutiny, that enduring protections might be needed, and also Dermot Nolan's comments, from Ofgem, to a similar effect. I think the challenge is: if it is not going to be in the form of protection through this cap, what is it? We currently think that there might be a need for an enduring cap, and the Bill in its current form does not necessarily provide for that protection after 2023.

Q44 Claire Perry: Thank you. Mr Moorey, you have not been super-supportive. Would you agree on the need for more protection for vulnerable customers?

Pete Moorey: I support everything that Rich said on the potential need for ongoing support for vulnerable consumers beyond the end of the cap as set out in the Bill. It is important, though, that we do not assume that vulnerable consumers across the board do not engage in the energy market. We know that the most vulnerable are often the savviest consumers. They have to be: they are on tight budgets and, therefore, they can be the most adept at engaging with markets. I know Peter's organisation, National Energy Action, has done an awful lot of work with very vulnerable people to get them engaged and on to some of the best deals in the market.

Our—and, I hope, your—vision is ultimately of a market that is competitive and delivering good outcomes for consumers. That should include vulnerable consumers and the ability for those consumers to be as actively engaged in the energy market, as they are in many other markets—notwithstanding the fact that, as Rich said, there will potentially be some people who will need ongoing additional support. We would support that.

Peter Smith: There are two clear priorities that sit outside the Bill. The first would be to extend the warm home discount scheme to smaller suppliers; currently, smaller suppliers, with fewer than 250,000 customers, are not required to provide the warm home discount scheme. That means a real challenge on the doorstep in terms of encouraging households, particularly vulnerable households, to switch to the smaller suppliers. Those smaller suppliers are often able, at least on a price comparison website, to provide the cheapest deal but households do not know that they might be missing out on the warm home discount scheme.

The second element is to get on and use the data-sharing powers on which there was a recent consultation, which would enable Government to better share information about households eligible for the warm home discount scheme and could, therefore, benefit from the safeguard tariff.

Those two actions can take place regardless of this Bill. As we warned in the Business, Energy and Industrial Strategy Committee's pre-legislative scrutiny, if we do not do those things, the cost might be that 500,000 low income and vulnerable households—many working-age—will miss out on approximately £260-worth of support this winter and next. It is an urgent priority.

Two things that can be done inside the Bill, reflecting on the previous evidence and remarks from the rest of the panel, would be to clarify in clause 2 that Ofgem should have due regard to households on the safeguard tariff. We are particularly worried that there is an assumption being baked in at this stage that the SVT-wide cap will protect exactly the same households as are protected by the safeguard tariff. That is not the case. We are also making an assumption that the relative values of those two different caps are going to be broadly the same. Again, that is not the case. We would like Ofgem to consider those two issues specifically. It is right that that is reflected in clause 2, and we support the hon. Member for Southampton, Test's amendments that seek to achieve that outcome.

The final thing from my perspective is in relation to clause 8, where the conditions by which we remove this SVT-wide price protection need to be met. The opportunities that Dermot Nolan talked about to reflect on vulnerability within that context, particularly engagement for vulnerable consumers, are the clear priority and should be listed in the Bill to make sure that that assessment on competition is also reflecting on engagement of consumers, particularly the most vulnerable households. There would be a set of things that could be done to make that clear.

Michelle Donelan: I just want to follow up and build on the topic of consumers. How do you each feel this Bill will impact on the interest groups you represent? This is particularly pertinent to Which?

Pete Moorey: We represent all consumers, and the Bill may have a number of different impacts for all consumers. Clearly, for the large number of people on standard variable tariffs, it is going to mean a cut in their energy bills, which will be very welcome for them.

However, as you are probably aware, we have some concerns about the risks presented by a price cap and the impact that could have for consumers as a whole, which may well be mitigated by the measures in the Bill regarding Ofgem, ensuring that it maintains attempts to promote competition.

Nevertheless, the things that we are concerned about with the introduction of a price cap are that we do not see any softening of competition and that we do not see prices for consumers overall going up. It is likely that for some consumers we will see some price rises, as some tariffs get removed. We do not want to see a reduction in the standard of customer service, which is often deemed as being poor among the larger suppliers; the annual satisfaction survey that we do at Which? every year shows that the larger suppliers do very poorly on a whole range of metrics.

Also, we do not want to see less innovation in the market. So we do not want to see the introduction of a cap having an impact on the smart meter roll-out, or indeed on the transformation that Dermot Nolan spoke about, which we really support, around the introduction of new suppliers in the market, who may well be able to bring a transformation to energy, which is what we want to see.

I absolutely understand why the price cap is being introduced. I think the energy industry had opportunities, time and again, to stop this from happening, and they failed to react to that and to the problems that their customers were facing in the market. However, as we now introduce the cap, we have to be very mindful of those risks: the last thing we want is a price cap to come in, be removed at the end, and for us then to be left with exactly the same kind of broken market that we have now.

Q45 Vicky Ford: I want to push a bit harder on understanding the concerns of Which?, because I see smart meters being only a part of the whole move towards smart consumption and connected appliances that talk to each other—in order, for example, to use less energy at peak times of day. Such innovations are important. Do you want to ensure that the cap does not stop that sort of innovation and instead continues to encourage consumers to have a competitive offer?

Pete Moorey: Absolutely. Smart meters themselves are only the facilitator of a new kind of market. Gas and electricity is a homogenous product. Of course it is dull for consumers to engage with, and our expectations around them switching have been—by and large—fairly ridiculous really, given that there is generally little value in switching beyond the price that you can be saving, which can be significant. But beyond that, why people should really engage with this market has been bewildering to consumers, really.

However, we are now just starting to see potentially a very different energy market, because of smart metering and then smart appliances, as well as the introduction of electric vehicles, storage and a whole range of other changes. They should make energy an attractive industry for new kinds of players to enter, which may well mean that consumers start to be offered very different kinds of things. It may well be, as Dermot said, that there will be much more bundled products, whereby suppliers effectively offer to look after your whole house—your whole life—and that may well be attractive.

Of course, with that comes the risk that that will potentially only benefit people like me, who perhaps have the ability and the money to engage with that market. We obviously want to see all consumers benefiting and we will need to be very mindful, as that change comes, about vulnerable consumers and their ability to benefit from the price cap, too. They should do, because the positive benefit could well be that you can target much more specific products at the most vulnerable, and ensure that they really are getting value out of their relationship with their energy supplier, or indeed with a whole range of other suppliers that could start to form a hub around smart meters and other smart appliances.

Q46 Vicky Ford: So, is 2023 the right date?

Pete Moorey: Yes. I think it is the right date, but the critical thing is that Ofgem has the ability on a very regular basis to review how the price cap is working, to set out transparently the changes being made in the market, and to be able to recommend to the Government whether the cap should be removed earlier. I think that having that balance is right.

Q47 Bill Grant: We mentioned smart meters. Do you believe that the roll-out of the smart meters will engender or promote effective competition in the energy market, and, if so, will that contribute to the ending of the cap by 2023? Indeed, I think there is an opportunity in the previous three years to end the cap. What part do you think that process will play?

Finally, picking up on Pete's reference the less well-off groups, or those who are less price-savvy—I think that was the term—do you think the meters will assist those people in understanding their expenditure? Do you really think it will have an impact?

Pete Moorey: I hope so, but I think there are significant challenges for the roll-out. The fact is that the roll-out does not appear to be going as well as it should. Our own research in the last few months revealed that energy suppliers would be having to install 24 meters per minute for us to hit the target by 2020. So we have to keep a close eye on the smart meter roll-out. I do hope that it leads to changes, and changes that benefit all consumers, but that will require not only groups like us but also yourselves to keep an incredibly close eye on the roll-out.

Peter Smith: National Energy Action runs something called the communities programme, alongside Smart Energy GB, which is the organisation that exists to engage smart meter roll-out. We are doing some valuable work on that, but we are concerned that the roll-out is significantly back-loaded now. That challenges the cost-benefit analysis that the Government originally estimated, which assumes cumulative benefits running all the way through successive years, up to 2020. Now we are in 2018—and 2020 is there; so there is a concern.

Q48 Bill Grant: Is it 53 million installations? I think that is the target by—

Peter Smith: It would be slightly less than that, but it depends whether you think you need to put in SMETS2 meters, once they are ready, and replace the SMETS1 meters. We recognise the value of smart meters, particularly for low-income and vulnerable households, given the fear of an unknown bill. Estimated bills are the biggest concern that these guys get, so we recognise that they can have sufficient benefits. The trouble is we are so back-loaded now, the care and attention and extra help that we thought was going to be possible with smart meter roll-out is now going to be compromised, as everybody, as you say, is just going for volume.

Q49 Kerry McCarthy (Bristol East) (Lab): This question is for NEA; I think you have already covered quite a bit of this. Obviously your remit is to look at issues of fuel poverty. You have already spoken about the warm home discount scheme and the safeguarding tariff, and the need for more engagement to make more people aware of those. You have just mentioned that smart meters have a role to play in fuel poverty as well. Do you think this Bill will help to address fuel poverty? Do you think there is enough in it? Do you think it really gets to the heart of it, or is it just about consumers being overpriced at the top end of the market and people being perhaps neglected at the bottom?

Peter Smith: First things first: it was reflected in my comments to the Business, Energy and Industrial Strategy Committee as well that NEA believes we must also tackle the vicious overlap between the households with the lowest incomes living in the least efficient homes. That needs to continue to be a priority, and, sadly, we have seen a dramatic drop-off recently in home energy efficiency delivery rates. You could build that into one condition by which Ofgem could make an assessment about whether we are now pulling on that lever as hard as can, maybe as part of an ambitious energy efficiency infrastructure programme.

The second thing relates particularly to the Bill. As I have described, there is a risk that we are assuming that the same people are covered through the SVT-wide cap as benefit currently—or would do in a few months' time, with the extension of data-sharing powers—in the safeguard tariff. There is a difference between the people that it covers, so not everybody that will be protected by the SVT-wide cap will be protected by the safeguard tariff currently; and the values are very different—or could potentially be very different—in terms of the value of the safeguard tariff currently in place. That is about £100.

Given the drivers on Ofgem to create headroom to encourage competition and so on, that headroom might be significantly reduced. Therefore the general value that the two relative caps present might be very different. So in simple terms we cannot assure ourselves that the provisions in the Bill are consistent with the value that the safeguard tariff is currently providing. Ofgem need to consider that issue in relation to clause 2. It should be written into the Bill.

Q50 Kerry McCarthy: That was going to be my question. How should those things be done in clause 2?

Peter Smith: Clause 2 needs to say that there should be specific regard to customers that currently benefit from the safeguard tariff, and that the value of those relative price protections should be considered, to make sure that vulnerable customers benefit from the most attractive option.

Q51 Kerry McCarthy: Do you think the pool of people that currently are eligible for the safeguarding tariff is wide enough, or, in an ideal world, that it ought to be extended?

Peter Smith: Currently, the safeguarding tariff only targets those households that receive the warm home discount scheme. Those are typically poorer pensioners who automatically receive the warm home discount scheme, and some households in what is called the "border group", which have to apply for support. Some households apply and are eligible, but miss out on the assistance because the programme is a first come, first served programme. Therefore we have been urging—and there were encouraging signs recently that this was going to be acted upon—that that should be extended to all households that were eligible for the warm home discount scheme, so it would cover those people who apply but maybe miss out on support.

Q52 Kerry McCarthy: At the moment, you have to be first in the queue to get the tariff. There is no reason why—

Peter Smith: You are either doubly benefited or doubly negatively impacted, because you do not receive the warm home discount scheme and therefore miss out on the safeguard cap, or you get the warm home discount scheme and the safeguard cap. We can reconcile all of that without these provisions. It was encouraging to hear Dermot Nolan say that he is minded to have due consideration of those issues when he sets the cap—because we could get into a situation where we look to preserve the extended safeguard cap at the same time as continuing with this endeavour. That would make sure that some of the issues I have spoken to are addressed. We would welcome that approach.

Q53 Dr Whitehead: Pete Moorey, your submission to the pre-legislative scrutiny of the BEIS Select Committee raised issues about the extent to which the remedies put forward by the CMA as far as market restitution was concerned were not, in your view, sufficient. Bearing in mind that it is going to be down to Ofgem to declare that the market is now functioning reasonably well and that the cap can now be taken off, what sort of remedies, in addition to those suggested by the CMA, might you have in mind to get the market working again? Do you think those should be introduced during the price cap or after it? Should they run after the price cap is over or concurrent with it?

Pete Moorey: We supported many of the remedies of the CMA, so while we did not believe that they would take us far enough to deliver effective competition, it was absolutely right that the CMA recommended that we would be testing and trialling new ways of engaging people in the energy market. We were disappointed that the energy industry did not respond effectively enough to that. We said to the industry immediately after the CMA inquiry, "Start getting on with it. Test and trial new ways of engaging particularly the most disengaged people with the energy market." I think that a lot of that work should continue. The good news from Dermot Nolan this morning, and from other statements Ofgem have made over time, is that they are going to continue to do work on that, which is welcome.

We are not necessarily suggesting that there are other remedies such as that that could be trialled. It is more that we should be spending time considering what transformational changes can be made to the market along the lines that Dermot Nolan was talking about, particularly in his responses to James Heappey, to ensure that we have much more innovation in the market through new suppliers who can be tapping into the benefits that smart and other changes in the energy market will make. That is likely to be the transformation that will lead to a new kind of energy market where consumers are more engaged. That is the critical element, alongside all the key factors around switching levels—particularly engagement of more vulnerable consumers, energy satisfaction, trust in the market and so on—that we should be looking at.

As I say, simply removing the cap in 2023, and the market looking effectively as it is now, will not, I think, be the kind of change that we all want to see in the energy industry, and certainly will not deliver the kind of change that consumers need.

Q54 Alan Brown: Are there any improvements needed to the Bill? I have a couple of suggestions and considerations. We have already heard the merits of trying to introduce what is called a relative cap to work underneath the absolute cap, and we have spoken about vulnerable customers. Are there any improvements that could be made to the Bill to protect vulnerable and disabled customers?

Peter Smith: I will try to be a bit more concise than I was earlier. Clause 2 needs to be amended specifically to ensure that the safeguard tariff is considered when setting the SVT-wide cap, and Ofgem needs to have a duty to consider that. In clauses 7 and 8, we need to include customer engagement, particularly vulnerable customer engagement, as part of that overall assessment of competition and of whether it is working effectively.

I could give you a couple of examples, but perhaps they are best fleshed out in some further written evidence. They would include online access. For instance, we know that households that are offline do not benefit from the considerable discounts for online deals and from paperless billing discounts, and they do not get to apply to the warm home discount scheme. Cumulatively that could be up to £300. Things like that need to be considered when we make that overall assessment.

Rich Hall: From our perspective, we are broadly comfortable with the Bill in its current form. In the area of providing enhanced assurance that vulnerable customers' circumstances are being improved, we think that is something that should be captured within the annual assessment by Ofgem and by the Secretary of State. We are reasonably comfortable that that is implicitly delivered through the Bill, but I can understand that there are arguments that there might be benefits in it being explicitly delivered on the face of the Bill.

In terms of there potentially being a relative cap underneath the absolute cap, I have some similar views to Dermot on that, in that it is an idea that has been floated only really in the last few days and weeks, possibly by people who would prefer a relative cap and who are now trying to use absolute plus relative as an alternative vehicle to reintroduce that approach.

We have some concerns about the relative cap approach. Because the large incumbents have so many sticky customers, in comparison with the relatively small number of customers they could pick up through any promotional campaign, if they were to seek to hold their line on their acquisition prices, that would make the cost of acquiring new customers punitively expensive. Because of that, we think it is more likely that the large incumbents would simply exit the acquisition market, which would neither help their SVT customers, who would continue to pay the same prices, nor improve pressure in that market. There is a risk that a relative price cap could backfire and be worse than the status quo, so we see the decision on absolute versus relative as not simply a choice between a good model and an excellent model, but as a choice between a good model and an unworkable model.

Pete Moorey: I would not add anything to what Rich said, but in terms of other changes to the Bill, there could be some changes to ensure there is more transparency and accountability of Ofgem, in terms of setting the cap. We would like to see changes so that Ofgem are required to set out clear criteria for monitoring and evaluating the success of the cap. We wanted to see a requirement to review the price cap every six months. It may well be that the evidence you have just heard from Dermot Nolan suggests that they will be reviewing it anyway every six months and that the bar could be set lower. It may well be that that is unnecessary in the Bill itself, given that it seems likely from what he said this morning that we will have a consultation on that as well. I think Ofgem should be required to publish reports on the impact of the cap on a regular basis and on how they would take any action if the cap was having any negative impacts.

Q55 James Heappey: Some of the big six, in particular, have tried to head off this legislation by, apparently, removing people from their SVTs already. I wonder whether you have made any analysis of the sort of tariffs they have been transferring people on to and of whether that represents genuinely better behaviour, or are they just getting ripped off in a different way?

Rich Hall: We do not have any analysis on that to hand, but it is a crucial issue, in that the problem with SVTs is not their name, but their characteristics; it is the fact that they are extremely poor value products that exploit consumer inertia. If the replacement products simply have the same characteristics, and they are benchmarked to a similar level of pricing, that is simply an attempt to get around the intent of the Bill rather than to reduce the detriment that those customers see. That is an area where we, Ofgem and others will need to improve our monitoring in the coming months, as we see more of those tariffs in the market. At the moment, it is still fairly soon after the launch of these approaches by three suppliers, so it is a bit too early to say, but it is a genuine issue.

Q56 Vicky Ford: Just to come in on this issue of reviewing every six months, that is of course in the Bill.

Pete Moorey: That is good news.

Q57 Stephen Kerr: Would it help to remove the stickiness of customers if the SVTs were renamed emergency tariffs, because that is quite alarming?

Pete Moorey: I don't know. It might do. That probably returns to the point I made to Alan Whitehead around testing and trialling different ways of engaging people in the market. It is really important that Ofgem tests how it communicates the safeguard and whether it should be called the safeguard. There is a real danger that most consumers, once they hear they are on a safeguard tariff, think that there is absolutely no reason for them to switch. Once the cap is in place, one of our key messages at Which? would be to go out there and say to people, "The safeguard tariff is not the cheapest tariff on the market. You could well still be saving hundreds of pounds by switching, particularly to some of the smaller suppliers in the market."

Q58 Stephen Kerr: I think the standard variable tariff sounds rather benign.

Pete Moorey: Absolutely.

Q59 Stephen Kerr: If it was something more aggressively named, people might go, "I don't want to go on this tariff."

Pete Moorey: I think it should be tested.

Peter Smith: There is also a risk that if people are on the safeguard tariff, they think that they are safeguarded, but they are not taking up the wider support schemes that the Government have made suppliers deliver—things such as the energy company obligation, the warm home discount scheme, free gas safety checks and the priority services register. There are a number of other things that need to be considered to assess whether or not consumer engagement is happening, particularly for vulnerable households.

The Chair: If there are no further questions from Members, I thank the witnesses for their evidence.

Ordered, That further consideration be now adjourned.—*(Rebecca Harris.)*

11.17 am

Adjourned till this day at Two o'clock.