

Rachel Fletcher
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23 February 2015

Dear Rachel,

BSC modification proposal P315 and information on retail competition

I am writing to you to express my concern about the issues of regulatory principle and practice raised by the above BSC modification proposal. While I believe there is much to be said for regular information on energy retail competition coming in to the public domain, I have a number of concerns about the way P315 seeks to address this need and how the proposal has developed so far through industry governance.

As a provider of confidential reports on electricity market shares, Cornwall Energy will be directly affected should P315 be implemented. Potentially we could lose custom: alternatively we could hold or even gain custom if we are able to interpret and add value to the newly available data. Others no doubt will look to do the same. Either way we have a direct commercial interest in P315. To date concern about a conflict of interest has deterred us in engaging with P315 apart of tracking the process—although several of the independent suppliers that we work with have told us of their concerns.

Cornwall Energy market share services

Cornwall Energy provides market share information on the electricity and gas household and business markets. For 10 years we have provided this information as data and reports on a quarterly basis and half yearly for businesses. Our methodology is detailed and to support it we have provided our information confidentially to active suppliers on a subscription basis. Currently subscribers include all the Big Six and four larger independent domestic energy suppliers, the 12 largest electricity suppliers by volume to business and 10 of the largest 12 gas suppliers to business by volume. We also actively research the market shares of all the other energy suppliers of whom we are aware.

Considerable effort has been expended by Cornwall Energy to develop the intellectual product embodied in the survey to date, and we believe it has become the reference point for the industry on supply competition. We take particularly seriously our obligations to keep the full data set confidential and do not comment on our findings on individual companies publicly. We also take care in our reporting not to inadvertently reveal information that will allow the identification of individual customers or groups of customers. We do not report companies individually in our full regional and non-domestic contract segmentation until they have reached a 1% market share. This is so that our data cannot be used by larger suppliers to identify the particular areas of the market where smaller competitors and new entrants are active.



Cornwall Energy was presumably who the proposer had in mind when referring to “third parties [which] perform surveys to establish market share and sell this information to industry stakeholders”.

There is some crossover in the information provided by Cornwall Energy on a confidential basis and that which P315 envisages making much more widely available. However, P315 proposes the routine release of extremely detailed information that goes far beyond the reporting capabilities of any professional market analyst.

Issues raised by P315

Cornwall Energy believes P315 raises the following very important questions:

- whether disclosure of the information at the granularity proposed would hinder rather than facilitate competition?
- what form any release of information should take and who should be the party responsible for it?
- whether a procedural rule change under the BSC is the right mechanism to release such confidential information?

I comment on them further below.

Whether disclosure of the information at the granularity proposed would hinder rather than facilitate competition?

Disclosing information on electricity meters and volumes by profile type, with granularity up to half hourly by region, will hinder competition and innovation rather than help.

Most at risk will be smaller and specialist suppliers that target particular market niches. In a decade's experience of analysing and commenting on market shares, two points we have learned are relevant to P315:

- existing industry dataflows (which enable them to learn of the counterparty on their gains and losses as well as volumes allocated for settlement by region) and consumer research such as exit/entry interviews allow suppliers to have a very good picture of where their customers are going to and coming from. Suppliers of all kinds pay very close attention to this information, with the larger competitors able to undertake very detailed analysis from it; and
- our own assessments provide value in confirming points about competitors that suppliers may have deduced from their own research. Progressively more importantly, they confirm awareness of or put new competitors on their radars and provide context for how market forces are affecting their larger rivals.

The level of granularity of data proposed by P315 goes way beyond our periodic reporting of customer accounts and energy volumes. Under all four approaches, it also goes way beyond the CMA's guidelines on disclosure.¹ If implemented, it will be extremely damaging rather than enhancing to competition as it will allow well-resourced companies if they desire to track in microscopic detail the progress of their competitors. For example, by linking with published domestic tariff information, they would be able to see at a glance where competitors in that sector were gaining and losing customers by the day and be able to respond immediately. Effectively information of such granularity could give them the power to squeeze competitors out of the market before they can even establish a toehold.

In the non-domestic and embedded generation markets, larger customers could be easily identified if a supplier only served a small number of users. This would give the same opportunity for larger competitors to squeeze smaller rivals from the market.

¹ <https://www.gov.uk/government/publications/transparency-and-disclosure-statement-of-the-cmas-policy-and-approach>

What form any release of information should take and who should be the party responsible for it?

Cornwall Energy's primary activity is interpreting and demystifying complex energy markets. As we have a fundamental belief in transparency and competition and although we undertake the supply market share survey confidentially, we are one of the primary sources for public domain information on retail markets.

Working in conjunction with Energy UK we have been publishing regular updates on competition trends in domestic and non domestic energy markets² covering:

- the numbers and identities of active energy suppliers;
- the size of the energy markets by customer numbers and volumes consumed;
- aggregate market shares of the major suppliers and their competitors; and
- measures of competitiveness including Hirschmann Hirfindahl Indexes based from our market share assessments.

A track of this data back to 2011 is now being regularly updated by ourselves and presented to the market via Energy UK.

In addition at the close of each our domestic market share surveys we make available without restriction via our website assessments of shares by major supplier individually and other suppliers as a group. This information is based on the most up-to-date statements and public information on the major suppliers applied to our domestic market segmentation. We believe it provides a helpful reference point for anyone interested in understanding the latest situation on retail competition.³

We regularly receive requests from potential new entrants, service providers, consultants, academics and others and provide data to them, normally without charge, that does not put us in breach of our confidentiality obligations.

In addition DECC publishes very useful information on domestic market shares by region and payment type for the electricity and gas incumbents⁴. It also publishes very granular regional consumption information⁵. This information in combination with data from the electricity distribution charging models⁶ in my experience enables a very accurate view to be formed of the retained domestic energy market shares of the major suppliers.

Of course Ofgem also regularly publishes or obliges the major suppliers to publish information on their sales through the company segmental accounts⁷ and its annual report to the European Commission⁸. Its Retail Market Review workstream and is also likely to result in publication of key market indicators.

Therefore there is already a considerable amount of information on energy supply competition that is freely available. It may be that there is a case for such information to be made available through a single reference point and it may also be that there is other information that is either not published at all or not published with sufficient frequency or granularity. We believe a consultation from Ofgem is the appropriate format for all stakeholders to evaluate this very important issue.

² See for example <http://www.energy-uk.org.uk/publication/124-research-and-reports/4886-energyukdomesticoctober-pdf.html>

³ Our latest information can be found here <http://www.cornwallenergy.com/cms/data/files/Downloads/Cornwall-Energy-data-market-breakdown-public-141212.pdf>

⁴ See <https://www.gov.uk/government/collections/domestic-energy-prices>

⁵ See <https://www.gov.uk/government/organisations/department-of-energy-climate-change/about/statistics#sub-national-energy-consumption-statistics>

⁶ See <http://www.energynetworks.org/electricity/regulation/distribution-charges.html>

⁷ See <https://www.ofgem.gov.uk/gas/retail-market/monitoring-data-and-statistics/understanding-profits-big-energy-suppliers>

⁸ See <https://www.ofgem.gov.uk/publications-and-updates/2014-national-report-european-commission>

We do not believe that a technical industry rule change is the right way to proceed. If there needs to be a review of information coming in to the industry and the public domain, we believe an Ofgem consultation covering both the electricity and gas markets is the appropriate way forward.

Whether a procedural rule change under the BSC is the right mechanism to release such confidential information?

Such important principles are raised by P315 for it to be an inappropriate means to decide on whether more information on retail markets should be disclosed.

Even if it were, we do not believe that the working group has properly weighed the arguments for and against further disclosure. The assessment report that has been published is partial, lacks rigour and disregards and counter-arguments to the proposal.

Furthermore we believe that members of the working group are service providers and may see a direct opportunity in providing commercial services using the data that P315 would release. Unlike ourselves, they do not appear to have disclosed any potential conflict of interest in their engagement with the modification process. They should be asked to disclose their commercial interests publicly and then withdraw from any further engagement in the working group.

Furthermore as a matter of course all service providers should be asked to disclose any commercial interests they may have in any future BSC modification processes.

I would welcome the opportunity to discuss the concerns outlined above in more detail with you.

Due to Cornwall Energy's concerns and commercial interests in the above, I am copying this letter as part of our response to the P315 impact assessment consultation.

Yours sincerely

A handwritten signature in blue ink that reads "Nigel Cornwall". Below the signature is a long, sweeping horizontal line that extends to the right.

Nigel Cornwall
Director
CC Neil Barnes