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# Consumer Scotland's response to Ofgem's statutory consultation on the Future of the Ban on Acquisition-Only Tariffs

## Consumer Principles

The Consumer Principles are a set of principles developed by consumer organisations in the UK and overseas. Consumer Scotland uses the Consumer Principles as a framework through which to analyse the evidence on markets and related issues from a consumer perspective. The Consumer Principles are:

- Access: Can people get the goods or services they need or want?
- Choice: Is there any?
- Safety: Are the goods or services dangerous to health or welfare?
- Information: Is it available, accurate or useful?
- Fairness: Are some or all consumers unfairly discriminated against?
- Representation: Do consumers have a say in how goods or services are provided?
- Redress: If things go wrong, is there a system for making things right?

We have identified **access**, **choice** and **fairness** as being particularly relevant to this consultation proposal.

## Our Response

We welcome the opportunity to respond to Ofgem's statutory consultation on the Future of the Ban on Acquisition-Only Tariffs (BAT). We note that Ofgem's minded-to position is to remove the BAT from 1 October 2024. For the following reasons, Consumer Scotland does not agree that the BAT should be removed at this time, and that it should be retained for the foreseeable future:

1. The BAT still has a role to play as price stability returns to the market
2. The BAT improves outcomes for loyal customers and those in energy debt
3. The direction of travel in promoting competition in the future retail energy market should be driven by a wider range of factors than price alone

### Role of the BAT

- 1.1 The BAT was introduced by Ofgem in April 2022 to complement the Market Stabilisation Charge (MSC) in protecting consumers from stability risks during the wholesale price crisis. We believe it played a positive role in delivering fairer outcomes for customers in that period.
- 1.2 As price stability returns to the market, our assessment is that the BAT still has a role to play. Falls in the price cap for the typical household over the last two review periods have been a welcome reprieve for consumers, but with prices projected to rise again this winter,<sup>1</sup> Consumer Scotland would caution against any premature removal of consumer protections.
- 1.3 In its statutory consultation, Ofgem states that there was considered to be a residual risk in removing the MSC and the BAT at the same time, hence the February 2024 decision to extend the BAT for a further year. However, with the MSC only expiring on 31 March 2024, there has arguably not yet been sufficient time to assess the impact, if any, its removal has had on market conditions. The proposal to bring forward the BAT removal by six months to 1 October 2024, before the impact of the MSC removal can be fully understood, and to coincide with the projected increase in prices, is therefore not one that we can support.
- 1.4 We note the findings of the analysis that Ofgem has published to support its proposal. However, we are concerned that there may be adverse impacts of removing the BAT which the statutory consultation has not appropriately considered, such as the impact on households in debt, and the need for the direction of travel in promoting competition in the future retail market to be driven by a wider range of factors than price alone.

- 1.5 It is also noteworthy that the previous proposal to extend the BAT beyond 31 March 2024 was supported by all suppliers.
- 2.1 In line with the Consumer Principles of access, fairness and choice, loyal customers should be able to access the same products and services from their supplier as new customers. Consumer Scotland accepts that Ofgem's new common minimum capital requirement from April 2025 should provide some protection against unsustainable pricing and risk taking, but removing the BAT, and reintroducing the potential for a loyalty penalty in the market, appears to be a regressive step.
- 2.2 In our response to Ofgem's call for input on affordability and debt,<sup>2</sup> Consumer Scotland proposed that energy debt should be considered both a symptom and a cause of energy affordability challenges. Repaying a debt on top of ongoing consumption compounds the issue that caused the debt in the first place. We are therefore surprised that the impact of removing the BAT on customers in debt is not considered in this statutory consultation. The BAT ensures that customers in debt, who may not be able to switch supplier, are able to access a better deal with their existing supplier. This is particularly true for households paying by direct debit or standard credit, as they are not protected by the Debt Assignment Protocol.<sup>3</sup>
- 3.1 Consumer Scotland encourages an approach to competition, and consumer protection, which places an emphasis on 'best value' as opposed to 'cheapest value'.
- 3.2 The UK Government's Strategy and Policy Statement for energy policy in Great Britain<sup>4</sup> sets out that sustainable competition in the retail energy market must be the primary driver of good outcomes for the majority of consumers. A direction of travel back towards a model where suppliers compete on price to acquire customers, and where success is primarily measured by the amount of switching taking place, does not appear to be consistent with this vision of competition and the benefits that it has the potential to deliver for consumers.
- 3.3 As we transition to a future retail market, consumers will be expected to make changes in how they use and are charged for energy. This will require structural changes in the retail market and diverse offerings to respond to changing demands. Consumers have varying circumstances and needs, and the retail market needs to be designed in a way that works for everyone. To support this, regulation should help to create the conditions in which suppliers compete on a broad range of factors, including innovation and on specialised services, designed to consumers' specific needs, rather than simply on price.

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<sup>1</sup> [Ofgem cut the price cap but bills forecast to rise this winter - Cornwall Insight \(cornwall-insight.com\)](https://www.cornwall-insight.com)

<sup>2</sup> [Ofgem call for input: Affordability and debt in domestic retail market | Consumer Scotland](#)

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<sup>3</sup> [Debt Assignment Protocol: CMA remedy implementation | Ofgem](#)

<sup>4</sup> [Strategy and Policy Statement for energy policy in Great Britain - GOV.UK \(www.gov.uk\)](#)