

Dan Norton
Deputy Director, Price Cap
Ofgem
10 South Colonnade
London, E14 4PU

10th June 2024

Dear Dan,

Thank you for the opportunity to give input into the consultation to remove the Ban on Acquisition only tariffs in October 2024

About Nous

Nous is an AI-powered 'copilot' that cuts bills for UK households by many hundreds of pounds a year. Nous saves money and time by intelligently managing services including energy, broadband and mobile, finding fair deals for its members with new and existing suppliers, monitoring service levels and pro-actively switching its members as required.

Nous works on behalf of its members to secure long term, low pricing on bills based on their preferences and needs. Nous is uniquely positioned to do this as it does not profit from supplier commissions, which allows it to make independent decisions in the best interests of its customers.

1. Nous does not depend upon commissions for switching so is therefore only interested in ensuring healthy and vibrant competition to drive down prices in interests of end consumers

Nous principally depends on subscriptions fees for its revenues. This allows us to work in the best interests of our members (households) in preferring suppliers who offer everyday low prices and good service, rather than being reliant on commissions for switching. As a result, we approach the questions in this consultation with a degree of neutrality.

We anticipate that you may hear opposition to the early removal of the BAT. Many such opponents we contend will be arguing out of naked self-interest. In particular, larger incumbents are currently enjoying a period of low competition, able to earn high margins without facing pricing pressure from more nimble or hungry rivals. Such incumbents are unsurprisingly opposed to the removal of the BAT which essentially allows them to operate in a cosy, profitable oligopoly protected from the discipline of competition which otherwise keeps market actors honest.

Nous is a consumer champion. We have involved ourselves in several national campaigns to improve fairness for customers of utility companies. In this context we initially supported the BAT to reduce discrimination of existing customers. However, we have changed our position now that compelling evidence has emerged of the BAT's negative impact on multiple sectors of the market by attenuating competition and limiting the levels of savings consumers could achieve.

2. We favour the removal of the BAT at the earliest opportunity

We strongly support the proposed removal of the BAT. We therefore welcome your statement of a *mind-to* position and endorse the following aspects of your argument in particular:

1. Measures introduced by Ofgem to improve supplier resilience have helped to stabilise the market and are, we agree, sufficient to encourage sustainable competition when the BAT is removed. Tougher market entry criteria and the move to the minimum capital requirement in

2025 further reduce the risk of supplier failure, paving the way to reduce other stabilising interventions such as the BAT.

2. The BAT was designed to improve fairness in the market by allowing all customers to access their supplier's best tariffs. In reality, it is keeping prices higher than they need to be. Expected benefits of the BAT have not materialised, with no evidence of any upside in non-price related propositions or increased supplier resilience over and above Ofgem's existing measures. The BAT has instead contributed to reducing customer churn which serves to bolster supplier profitability at a time when service levels have declined significantly.

3. Considering separately 'engaged' and 'disengaged' consumer segments, we believe that outcomes under the BAT are worse for both

- **'Engaged'** consumers actively participate in the market. They evaluate opportunities to switch to cheaper deals and consider these in comparison to the offers they receive from their current supplier. Because this market segment was shopping around, it often secured more favourable pricing and deals. This market segment was significantly larger before the crisis.
- **'Disengaged'** consumers typically pay less attention to the energy market and have rarely or never switched suppliers. This disengaged segment can be further subdivided into those who could switch but do not choose to, and those who face barriers as a function of their vulnerability or comfort with digital adoption.

3a. The absence of lower cost introductory deals means that Engaged consumers have been unable to get cheaper prices even when searching for them.

We might have hoped to see this segment benefit from the BAT had it helped them to get better deals and lower prices from their existing suppliers. However, the reality for most customers is that the deals they see represent such a modest level of savings that only a very small number are willing to endure the perceived friction of switching in order to get those savings.

Nous analysis finds that fixed tariffs in June 24 offer around a 2% saving against the July Energy Price Cap (EPC), compared to a perceived saving of ~25% pre crisis.

Quarterly price cap changes make it harder for customers to calculate the actual benefit of switching externally or internally as savings are presented against the current EPC over a 12 month period. Nous analysis finds that when factoring in seasonality and Cornwall Insight predictions for the future EPC, a customer fixing today may only save 6% over 12 months.

Regardless of which way a saving is calculated, the levels available are not compelling enough to make a real difference to Engaged customers and as a result, they're less likely to take action to save money.

3b. For Disengaged consumers, market-led innovations were successfully emerging before the energy crisis to help address their needs.

For Disengaged consumers to benefit from the BAT, they must still choose to respond to solicitations for cheaper tariffs from their current supplier. Even if that action is simply to visit their supplier's website or responding to an advert to benefit from the cheaper price, it is well known that the disengaged sector of the market is less likely to respond to these "softer" prompts.

A variety of innovative intermediaries including both 'auto-switchers' (alongside the more sophisticated 'co-pilot services' such as Nous which are in a sense their intellectual inheritors) were

enjoying significant popularity meeting the needs of low engagement or disengaged households. The largest of these innovators, Look After My Bills, had signed up as many as 700,000 households before the crisis. However these innovative distributors have essentially been forced out of business by the BAT. Removing the BAT would help to foster a market that endorses sustainable competition which in turn would allow these types of models to re-emerge in response to the needs of disengaged consumers.

4. The removal of the MSC in April is not on its own sufficient to allow market forces to bring prices down

Were the removal of the MSC to be sufficient to restart competition in the market, this would have been apparent by now. Suppliers had notice of the MSC's removal so would have been able to adjust their pricing strategies ahead of April and the effect on pricing would now be visible. The recent slight increase in acquisition activity has contributed to an increase in switching, but it is still only at a fraction of what we would expect to signify a healthy marketplace and notably many suppliers with the largest customer bases remain relatively uncompetitive.

It will take time for customers to re-engage with the market and giving customers access to cheaper pricing will help accelerate this movement.

5. In summary

The key beneficiaries of the BAT have proven to be suppliers rather than customers. Lack of competition in the market means suppliers do not need to compete to win new business nor to invest into better pricing for their existing customers. Low churn means that suppliers, especially the large incumbents, have no incentive to break rank on pricing, which in turn has a negative effect on customers. (It has certainly been intriguing to observe some of the more nakedly cynical attempts by large suppliers to imply that their public opposition to the removal of the BAT has selfless rationale.)

An effective market must have vigorous and healthy competition to ensure good customer outcomes. This starts with better pricing signals but is backed by strong customer propositions that encourage users to engage with their supplier. This does not mean a return to pre-crisis of unfettered and in some cases unsustainable pricing, but it does mean having confidence that there are sufficient regulatory protections in place that allow competition to return in a sustainable way. Suppliers cannot be held to account to improve service levels and pricing unless they are sufficiently disciplined by a healthy level of customer churn where their standards slip.

All of this serves to nurture a vibrant, healthy and sustainable marketplace where suppliers can operate profitably but where there is sufficient competition to ensure all consumer segments enjoy fair and acceptable outcomes, irrespective of their engagement levels.

Yours faithfully



Greg Marsh

Founder & CEO

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