

# Leaving the EU: negotiation priorities for energy and climate change policy

House of Commons Business, Energy and Industrial Strategy Committee

**Which? is the largest consumer organisation in the UK with more than 1.5 million members and supporters. We operate as an independent, apolitical, social enterprise working for all consumers and funded solely by our commercial ventures. We receive no government money, public donations, or other fundraising income. Which?'s mission is to make individuals as powerful as the organisations they have to deal with in their daily lives, by empowering them to make informed decisions and by campaigning to make people's lives fairer, simpler and safer.**

## Summary

1. Which? welcomes this opportunity to submit evidence on the negotiation priorities for energy and climate change policy. It is absolutely fundamental that consumer interests, rights and protections are prioritised in the negotiations for our relationship with the European Union (EU) and wider world.
2. Consumers spend 4.9% of their total expenditure on household fuel on average, rising to 10% for people in the lowest earning 10% of households<sup>1</sup>. Ensuring security of supply at a reasonable price given that 38% of the energy we consume is imported<sup>2</sup> is absolutely crucial in view of the UK's inter-connectivity with the EU market. Our latest consumer tracker survey shows that energy prices are currently consumers' top economic concern, along with fuel prices<sup>3</sup>.
3. The wider approach to energy policy that has been pursued by the EU in relation to climate change policy and consumer rights and obligations, such as clarity of billing and consumption information and energy efficiency needs to be pursued.
4. Consumer interests have to be at the heart of the negotiations. This includes engaging consumers in determining the most appropriate way forward where there is potential for national flexibility and trade-offs to be made.

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<sup>1</sup> Living Costs and Food Survey 2014, Office for National Statistics.

<sup>2</sup> UK Energy in brief 2016, Department for Business, Energy and Industrial Strategy, July 2016.

<sup>3</sup> Fieldwork was conducted 16-17 November 2016. The Which? Consumer Insight Tracker is a nationally representative online survey of around 2,000 UK households every other month.

## Introduction

5. Our evidence focuses on the following questions where Which? is best placed to respond:
  - What should be the Government's priorities on energy and climate change when negotiating the UK's exit from the EU?
  - What would the impact be on the UK leaving the Internal Energy Market? How important is continued UK participation in the Internal Energy Market? What model should this participation take?
  - Which aspects of EU policy should be maintained? Should energy-relevant EU policy be grandfathered into UK law? If so, how could it be updated and enforced?
  
6. There are five over-arching principles that Which? considers need to be upheld across different sectors in order to protect consumer interests as part of the negotiations. These can be summarised as follows:
  - **The importance of monitoring and understanding the impact on the cost of living across different markets** - and managing this as effectively as possible so that consumers, or certain groups of consumers, are not unnecessarily 'squeezed.'
  - **Ensuring essential consumer rights are maintained** – many of the rights that consumers have come to expect (and may not necessarily even be aware of until they need them), are currently shaped and determined at EU level. Consumers need to continue to have access to a range of competitive products and services, confident that there is no undermining of these rights - and where appropriate, opportunities to enhance these protections should be taken.
  - **Safeguarding consumer protection and safety** - this includes maintaining a robust system for product safety and standards - and ensuring that key principles established through EU law, such as the precautionary principle, are not undermined. This will be particularly important if negotiating trade agreements with countries that have lower standards of protection and less independent oversight.
  - **A robust system of consumer enforcement** - underpinning many of these aspects is the need to make sure that there is effective enforcement where EU law currently specifies responsibilities. In globalised markets, co-operation will continue to be essential.
  - **Consumers must have a seat at the table** - consumer interests have to be understood and addressed from the outset of the negotiations. Consumers spend on average almost £100 billion each month<sup>4</sup> and so consumer confidence is also fundamental for successful economic growth.
  
7. These principles are all applicable to the energy sector – whether mitigating against rising prices, security issues or addressing how issues currently shared with or within

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<sup>4</sup> Consumer Trends, Office for National Statistics. Average monthly consumer expenditure (Current Price Value) for Quarters 1 and 2 (January - June), 2016 was £99bn.

EU competence from energy efficiency to billing requirements will be addressed under the different potential Brexit scenarios. We have expanded on some of the key issues that we hope that the Committee will consider in relation to the priorities for the Government below.

### **Energy prices and security**

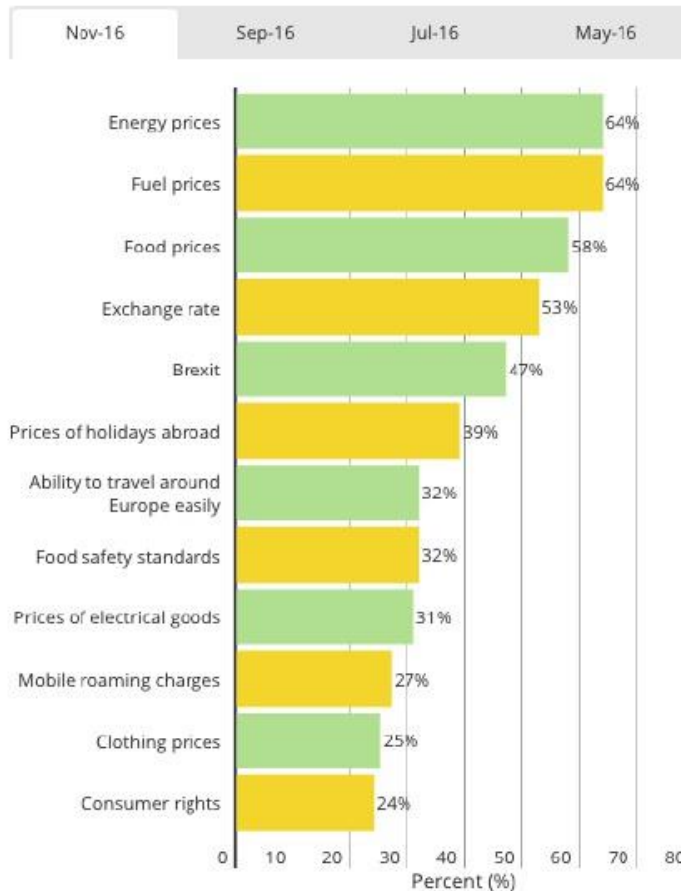
8. Affordability and security of energy supplies in view of the UK's (both GB and Northern Ireland) inter-connectivity with the EU market is the key issue for consumers. Consumers on average spent 4.9% of their total expenditure on household fuel in 2014, rising to 10% for people in the lowest earning 10% of households. 2.38 million households (10.6%) in England were classed as being in fuel poverty in 2014<sup>5</sup>.
9. Our consumer tracker<sup>6</sup> finds that the highest levels of consumer worry are currently being experienced in relation to energy prices (64%) and fuel prices (64%), followed by food prices (53%).
10. The UK currently imports around 38% of the energy we consume. Trade in gas and electricity between Great Britain, the rest of Europe and the Irish market is well established and helps provide security and a certain level of flexibility. Ireland and Northern Ireland operate on an all-Ireland basis. At a time when there are proposals for further integration through a European energy union and security of supply measures, it is important that this cross-border trade is not adversely affected by the outcome of the negotiations.
11. It is difficult at this point to fully assess the risks or opportunities when there is uncertainty about the future relationship, including whether the UK would still be part of the energy community and subject to relevant regulation along-side this – or whether there would be separate trade deals negotiated and greater flexibility in terms of policy and associated regulation. The situation and risks could be very different in a free trade agreement scenario, although still subject to negotiating how much of EU policy and regulation would need to be retained – or of a WTO scenario where the UK would be subject to the General Agreement on Trade in Services (GATS). Alongside this, the UK would need to engage effectively with the key regulatory and standards bodies that govern the cross-border energy market, including the European Network of Transmission System Operators for Electricity and Gas – ENTSO-E/G - and the Agency for the Cooperation of Energy Regulators.

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<sup>5</sup> Annual fuel poverty statistics report 2016, England, Department of Energy and Climate Change, 30<sup>th</sup> June 2016.

<sup>6</sup> Fieldwork was conducted 16-17 November 2016. The Which? Consumer Insight Tracker is a nationally representative online survey of around 2,000 UK households every other month.

## Consumer Worries



*Source: Which? Consumer Insight Tracker, nationally Representative Online Survey, approx 2,000 respondents per wave.*

- More specifically, if no longer subject to EU requirements, there may be flexibility in relation to VAT rates, currently set by EU rules at 5%. The UK could therefore have flexibility to reduce this additional cost to consumer bills – although against the backdrop of the more fundamental market factors described above.

### Consumer rights and protection

- UK consumers currently benefit from a range of EU consumer protection requirements relating to energy (through the Third Energy Package and Energy Efficiency Directive for example) – from billing information to the roll out of smart meters and other energy efficiency measures, such as environmental performance certificates (EPCs). The principles of these have been broadly aligned with UK policy and consumer interests and should not be jeopardised. If there is potential to deviate from these measures, greater flexibility can bring both opportunities and risks.

14. Current EU law sets out a number of requirements, including that the switching process must be complete within three weeks and a requirement that consumers receive bills containing all relevant consumption data and costs. Suppliers must accept readings from consumers and provide a final bill within 6 weeks of account closure. The Energy Efficiency Directive requires that consumers are billed on accurate consumption data at least once a year. Consumers must have access to online account management and historical consumption data, and must be billed at least twice a year, with quarterly bills if requested or if the consumer has an online account. It is important that, if no longer covered by this requirement, Ofgem achieves similar outcomes through its more principles-based approach.
15. The roll out of smart meters has generally been driven at EU level with a target to have electricity smart meters in 80% of homes by 2020 - although the UK is applying the target to both gas and electricity. While overall this benefits consumers, there could be some benefits in greater flexibility and timing in order to manage costs. As Citizens Advice have highlighted in previous evidence, the relationship between EU and UK legislation relating to data protection and privacy also needs to be understood.
16. Two other Directives that relate to energy efficiency are the Energy Performance of Buildings Directive and the Energy Efficiency Directive, which are currently under revision. The former sets out the requirements for Energy Performance Certificates (EPCs). The EU also funds energy efficiency measures which can benefit lower-income consumers in particular. It has also developed energy standards for products and associated labelling. The general direction of these initiatives should be continued.
17. More generally, the European Commission is also currently working on a New Deal for Energy Consumers<sup>7</sup>: "The Commission's vision for the new electricity market design aims to deliver a new deal for energy consumers, including by better linking wholesale and retail markets. Taking advantage of new technology, new and innovative energy service companies should enable all consumers to fully participate in the energy transition, managing their consumption to deliver energy efficient solutions which save them money and contribute to overall reduction of energy consumption." These are important aims that generally align with the UK's approach and so it is important that policies continue to reflect these goals regardless of our relationship to the single market.

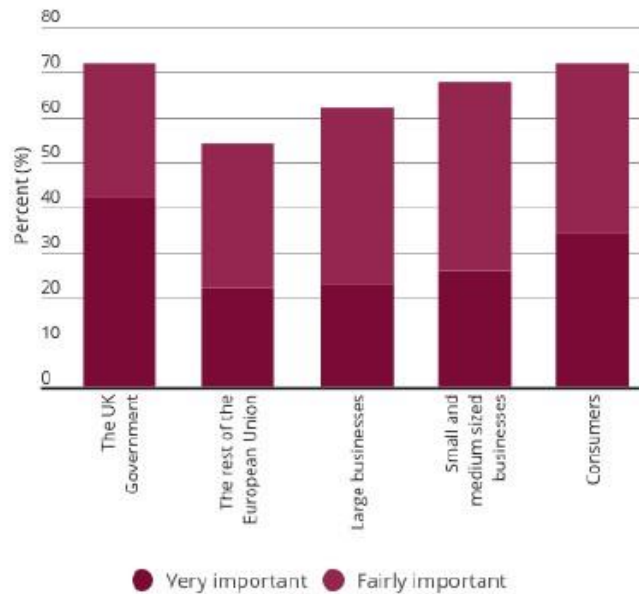
## **Consumers at the heart**

18. Our consumer tracker, referred to above, also asked about official Brexit meetings and negotiations and found that 72% thought that the interests of consumers were either very or fairly important. This was the same proportion as thought the interests of the UK Government were important.

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<sup>7</sup> Communication from the Commission on Delivering a New Deal for Energy Consumers, COM/2015/0339 final.

## Percentage of people who rate key groups' interest in Brexit as very or fairly important



*Source: Which? Consumer Insight Tracker, nationally Representative Online Survey, approx 2,000 respondents per wave.*

19. Despite the high perceived importance of the consumer voice in Brexit negotiations and meetings, only 31% expected consumers' interests to be represented. By contrast 71% expected the interests of large business to be represented. It is therefore crucial that negotiations relevant to Energy policy are not dominated by the 'Big Six' and have consumer interests at their heart.

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