

Two models of consumer representation in utilities

A question of utility?

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Introduction

The development of consumer representation in utilities has followed two broad models. One can be characterised as a ‘bottom-up’ complaint-handling model, the other as a ‘top-down’ think tank model. The most recent incarnation of organised consumer representation reflects a convergence of these two approaches.

At the same time, from the viewpoint of the regulated industry, the market challenges faced by rising input costs are changing. The new cost drivers are of a regulatory nature. Whereas in the past, price controls placed a considerable downward pressure on supplier costs, nowadays regulatory tools are being deployed to meet policy objectives that impose considerable investment requirements on the industry (such as smart meters, replacement expenditure, new investment). From an industry perspective, it has also become increasingly apparent that previously neglected arms of technical regulation have become more important for the representation of consumers in utilities. In this new world, the authority over what is claimed to be in the interest of consumers may well fragment as redistribution tensions between different groups of consumers become more apparent than they have been in the past.

Complaint driven model 1948–2008

Consumer representation in the UK emerged in the nationalisation of the energy sector in 1948. For example, this period saw the establishment of the Gas Consumer Council. This period was characterised by an emphasis on the resolution of consumer complaints and the provision of consumer advice. The rationale of ‘controlling monopolies’, a key concept in competition regulation at the time, lay behind this choice of model (see Guenault and Jackson 1960).

As a consequence, the successful resolution of complaints was central to the consumer representation organisation. This was seen as reflecting the actual preferences of consumers at that particular time. Consumers were able to seek redress if the monopoly was found to have breached well defined public service commitments, such as billing errors, poor connections and poor customer service. These organisations showed little interest in undertaking policy functions. Questions of general policy were left to the elected government of the day, which was, after all, the owner of the industry.

When privatisation occurred in the 1980s (in gas and electricity), the complaint-driven organisational model was transferred into free-standing non-departmental public bodies, funded by licence fees (in the same way as regulators). This transfer led to a change regarding the type of consumer that these organisations should focus on. The list included the chronically sick, those of pensionable age and those living in rural

areas (e.g. Gas Act 1986, Utilities Act 2000). In this age of privatisation, these consumer organisations may have appeared dated, but they were able to offer distinct advice and complaint-resolution functions. They also undertook a growing amount of policy functions as these organisations directly engaged in dealing with complaints and advice rather than performing the mainly audit role that had characterised the function of their predecessors in the age of nationalised industries.

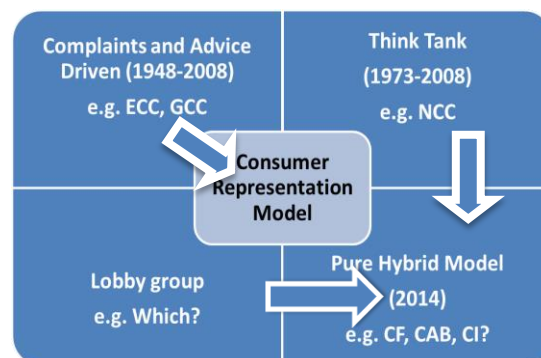
The think tank/ advisory model

The National Consumer Council (NCC) was established in 1975 by the Labour Government. It was to act as a consumer advocate and cover issues across the whole economy. As an organisation it contributed to government policy through reports and lobbying activity. The nature of consumer representation at this level meant that regulation was only one issue amongst many. Reports covered issues such as health (Age Concern/NCC) and the surveillance society (Lace 2005).

Convergence 2008–

After 2008 the trend has been to converge policy and complaint handling activities to produce a more explicitly hybrid approach to representation (Figure 1).

Figure 1 Models of consumer representation



How did these models work in practice?

In practice, both models of consumer representation have their strengths and weaknesses. The complaints-based approach that was deployed in utility regulation built on earlier guaranteed standards of performance and new issues resulting from the introduction of competition. The NCC was able to operate in the wider policy space of general consumer representation. Both groups co-operated with other interest groups over more specialist issues (e.g. Age Concern).

Table 1 Complaints vs policy models of consumer representation

Criteria	Complaint driven model	Think tank model
Meta level argument	'We can help you ...'	'Policy must change ...'
Legitimacy	Is directly linked to customers experiences by what they do not want i.e. too many complaints.	Is defined by 'imaging a perfect world' or highlighting a new issue and offering a solution to it.
Core strategy	The core competence is to devise complaint categories and relationship with regulated/ nationalised activity (e.g. connections, meter reading, water pressure etc.); Generate new data.	Think tanks need a pipeline of well developed policy arguments. They also need to publicise them. They may use classical lobbying tools such as press releases, social media etc. They will on the whole only access new data by original research.
Skills	Likely to be in-house as that allows access to complaints data. The skills required are both technical and regulatory.	Likely to be more general and theoretical. Management decision is based on outsourcing vs commission research
Performance	Complaint handling metrics (volume, quality etc.); Help individual consumer and their specific problem	Citation, changes to primary legislation; Solve problems at root cause at a general level

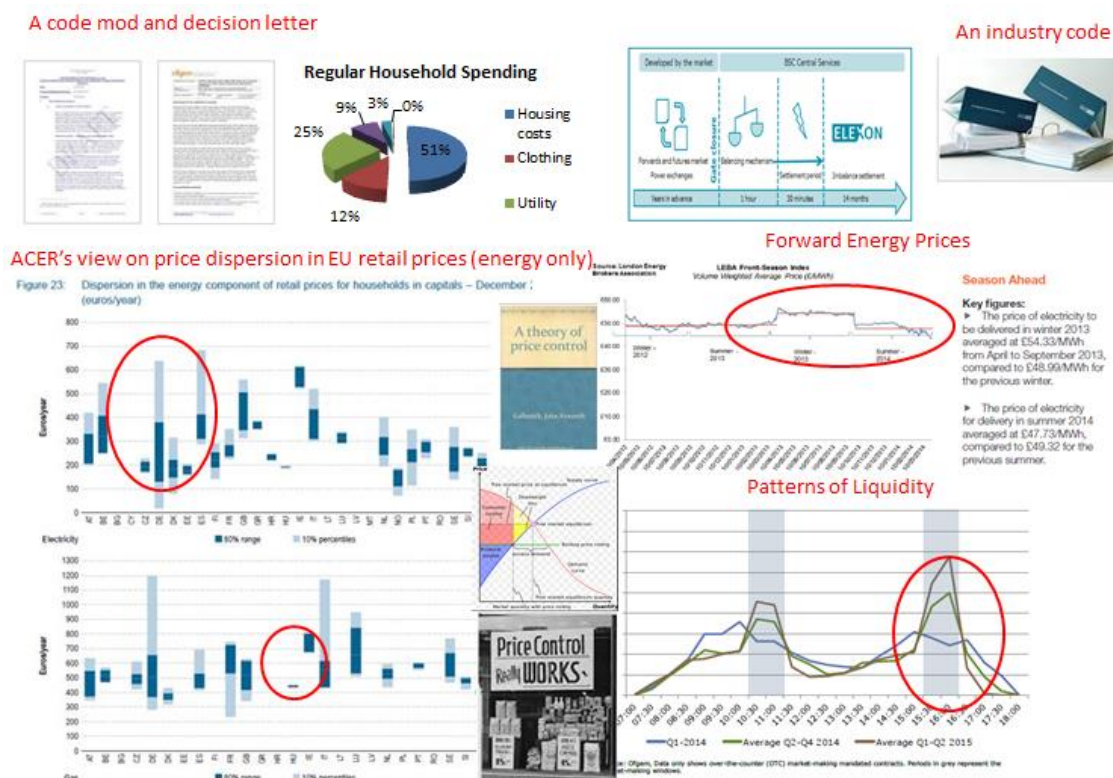
Leading up to the 2000 Utilities Act, the proposal to establish a single independent consumer council was dramatically aborted during the second reading stage. Instead, the Utilities Act created 'energywatch' by merging gas and electricity councils. The late 2000s finally saw the creation of a single consumer body; Consumer Focus was created in 2008 as a result of a merger of Postwatch, energywatch, and the Welsh, Scottish and National consumer councils.

During this time, trust in upstream markets in energy collapsed in the light of price increases. Confidence in wholesale prices is highly relevant for wider consumer confidence in retail prices – and it is also related to switching. In many cases, suppliers therefore have only limited control over costs, e.g. network charges or taxes. As upstream markets therefore define downstream markets, they must be regarded as 'fair', especially as utilities account for 25 per cent of regular household spending and regulated charges for 50–100 per cent of the bill. The design of the quasi-market mechanisms across regulated industries (such as the balancing and settlement code in electricity, spectrum auctions in telecommunications) will typically incorporate

consumer representation in one form or another, such as by providing for participation on an industry code, or by creating an advisory panel.

The contemporary crowding of the regulatory agenda for consumers poses considerable challenges for consumer groups as they have to address complaints about the underlying reasons for price increases. However, it is the regulatory system itself which through price control mechanisms has come to represent a major proportion of the bill. As an illustration of the considerable complexity of the agenda, November 2015 offers a good example. Consumer insights were sought, for example, on price dispersion in European markets, a liquidity report that indicated that liquidity levels were falling, and the debate over price controls and issues arising over a Competition and Markets Authority (CMA) investigation of energy (see Figure 2). In addition, there were numerous modifications that were being processed during this particular (and representative) month.

Figure 2 The regulatory agenda for November 2015



Two important questions have now emerged from the regulated industries perspective:

- Has a gap emerged in consumer representation between the existing organisational design and the requirements of recent developments in regulation?
- Are issues that have an impact on the consumers' final bill articulated as well as they could be?

Two key examples are (a) price controls and (b) regulated midstream prices. In both cases, it could be argued that consumer representation organisations accept many aspects of the regulatory frameworks that produce technical decisions which, in turn, can have considerable redistributive effects on different consumer groups. Whereas the ‘common enemy’ from 2008 onwards was the (high) level of input costs, regulation has now become a new significant cost driver. As regulation is being used to achieve specific and prescribed outcomes (such as sustainability or asset replacement) which increases costs, it is becoming harder for a consumer organisation to represent conflicting priorities. This wider trend also means that it is increasingly important to understand consumer preferences – as these can be linked to specific regulator designs such as trade-offs between containing price increases and imposing investment requirements. There has, in turn, been considerable overlap among research activities into consumer preferences among different consumer groups and the regulated industries (see Table 2). In the future, the resolution of disputes will therefore become increasingly about the evidence gathered by regulators as well as by consumer bodies and by regulated industries.

Table 2 Identifying consumer preferences: industry and consumer groups compared

Firms understand consumers in a number of different ways:	Consumer organisations understand consumer utility by:
Market research Lessons from marketing Customer service Complaints Enquiries	Conducting primary research Experience gained resolving complaints Trends Trends in complaints Enquiries

Conclusion

The current regulatory landscape implies that consumer organisations have to take into account:

- Technical regulatory issues in order to achieve success;
- Understanding consumer utility in terms of the menus offered by price controls and other regulatory processes;
- Being able to articulate their views in the process and exploit the opportunities given to them by regulators;
- Operating conditions of firms which are required to implement change.

References

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