



# Consumer engagement in regulatory decisions

A guide to how UK Regulators involve consumers, hear their views and take their interests into account

April 2017



# The UK Regulators Network

The UK Regulators Network (UKRN) is a member organisation formed of thirteen of the UK's sectoral regulators<sup>1</sup>.

The UKRN was established in 2014 to provide the structure for regulators to consider common issues and policy projects with relevance across the sectors. Since our formation, we have developed strong links with each other and encouraged a culture of collaboration and learning, which combines our strengths and assists us in delivering our statutory duties to the benefit of consumers and the economy.

Contributors to this document have included:



The Civil Aviation Authority (CAA)



The Financial Conduct Authority (FCA)



Legal Services Board (LSB)



Office of Communications (Ofcom)



Office of Gas and Electricity Markets (Ofgem)



Water Services Regulation Authority (Ofwat)



Office of Rail and Road (ORR)



Northern Ireland Authority for Utility Regulation (NIAUR)



The Water Industry Commission for Scotland (WICS)

# About this document

This document provides an overview of how UK regulators and regulated companies engage with consumers in regulatory decisions.

Regulators and regulated companies need to engage with consumers when they can't make choices between services or when choice alone doesn't drive companies to meet consumers' needs and regulatory intervention is required.

This guide:

1. Highlights the context for this work and some of the common challenges regulators face;
2. Visually lays out the structures and level of competition in different sectors. This shapes how regulators and regulated companies involve consumers, hear their views and take their interests into account when making decisions. For simplicity, we distinguish between more competitive markets where consumers have some choice, and less competitive markets where consumers and retail providers have limited or no choice because services are provided by a monopoly company; and
3. Shows how each regulator fits into this picture and explains their approach in more detail through individual profiles.

We would like this publication to become a reference tool for regulators, government, consumer groups and regulated companies.

<sup>1</sup> The other members of UKRN include: The Single Source Regulations Office (SSRO), The Financial Reporting Council (FRC), NHS Improvement (formerly Monitor) and the Payment Systems Regulator (PSR)

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# Overview

**As the UK regulators of utilities, transport, financial and legal services we have a common statutory role to protect the interests of consumers: consumers' interests are at the heart of the way we work and how we make regulatory decisions**

**Engaging with consumers is central to our work as regulators**

Regulators and regulated companies need to engage with consumers when consumers have limited or no choice over the services they receive, or when choice alone doesn't drive companies to meet consumers' needs. Regulators and regulated companies also need to demonstrate legitimacy in their policies and decision-making.

To do this, regulators and regulated companies engage directly with consumers to help ensure their short and long term interests are being met at efficient and affordable prices. This also increases transparency in regulatory decisions and helps to build consumer trust and confidence in a sector.

**We want to be more transparent in our different approaches**

We recognise that the markets we regulate are diverse and complex. To address these complexities, regulators tailor their approach to ensure consumers' views are heard within their sectors and that their current and future needs are taken into account.

This document is intended to be a snapshot of those approaches across UKRN members in 2017. It looks at how, as regulators, we engage with consumers and how we may require or encourage the companies we regulate to do so. This builds on UKRN member workshops held over autumn 2016 in which we discussed our experiences and shared knowledge of different approaches.

In this document we look at:

1. Context: the development of consumer engagement in regulatory decisions;
2. Across-sectors: approaches to consumer engagement across regulated sectors; and
3. Individual regulators' approaches.

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**THIS DOCUMENT IS INTENDED TO BE A SNAPSHOT OF THOSE APPROACHES ACROSS UKRN MEMBERS IN 2017**

Our approaches to consumer engagement reflect the structures and level of competition in a sector and are designed to address the particular challenges they present. In this guide, for simplicity we distinguish within sectors between more competitive markets where consumers have some choice between multiple providers and where services are provided by a single monopoly company, such as an infrastructure network. In the latter, regulators are increasingly incentivising regulated companies to engage with consumers, including by offering them opportunities to challenge companies' business plans. We highlight these and note some common challenges that remain, as well as regulators' on-going work to bring the consumer closer to decisions.

We would like this publication to become a reference tool to help:

- regulators, in sharing knowledge and experience;
- consumer groups, in their advocacy work;
- governments, in their engagement with regulators; and
- regulated companies, in developing their consumer strategies, including by drawing insights from other sectors.

# SECTION I: Context: the development of consumer engagement in regulatory decisions

## Regulators and regulated companies need to engage with consumers when they can't make choices between services or when choice alone doesn't drive companies to meet consumers' needs in the short and long term

### UKRN's work to date on consumer engagement

Understanding how consumers can and do engage with markets has been central to UKRN's work programme since its formation in 2014:

- In December 2014, we published our *Consumer engagement and switching statement*<sup>2</sup>, looking at how consumers engage and exercise choice in markets; and
- in September 2016 we published our report on the role of Price Comparison Websites<sup>3</sup> and we continue to work with the CMA on its study of digital comparison tools.

Building on this previous work, in this project, we have sought to explore the other side to this: how regulators and regulated companies can engage with consumers when they can't fully express their short and long term needs through choice.

Over autumn 2016, UKRN held workshops – working with Which? to provide a consumer perspective – to explore how regulators and companies involve consumers, hear their views and take their interests into account in our different sectors. This publication is intended to provide an accessible overview of the topic for wider stakeholders.

In a competitive market (with multiple providers), consumers can

express their preferences through their purchases. However, some regulated markets may have limited consumer choice and may not always work in consumers' interests, so regulators and companies need to find other ways to ensure consumers' interests are met.

In this document we broadly distinguish between two different types of markets: more competitive markets where consumers have some choice over their provider and markets where the service is provided by a single monopoly company, such as an infrastructure network.

This is explored further in section 2 and summarised below.

### Approaches to consumer engagement reflect the level of competition in a market and are designed to address the particular challenges faced.

#### More competitive markets – consumers have some choice

Consumers typically have some choice between multiple providers of a service in most regulated retail markets. However markets may not always work in consumers' interests and can be complex and challenging to navigate.

Regulators work to both empower and protect consumers in these markets – as such regulators engage with consumers to ensure policy is designed around consumers' needs.

#### Less competitive markets with a monopoly provider – consumers and retail providers have limited choice or no choice

Consumers have limited choice over who provides their residential water, letters or most commuter rail services.

Some retail providers have little or no choice as to which company they can use to access the infrastructure needed to deliver their services – there is only a single geographic monopoly provider (e.g. Network Rail, Heathrow Airport and energy transmission and distribution networks).

In these markets, regulators seek to mimic some of the outcomes of a competitive market in the interests of consumers. For example they may incentivise regulated companies to engage with consumers and set specific obligations on them to identify and meet consumers' needs, to prevent abuse by a monopoly company. Regulators also carry out consumer research and work with consumer groups and representatives within and outside of the regulator.

### Effective consumer engagement is now recognised as being an essential part of the regulatory process

In July 2014 UKRN produced a discussion paper *'Involving consumers in the development of regulatory policy'*<sup>4</sup>, looking at why effective consumer engagement matters and the different forms it may take. This focused on consumer engagement defined as *'a process of effective dialogue between regulators and consumers that ensures that regulation, and the outcomes it delivers, are designed around consumers' needs'*.

Since our 2014 publication, approaches to consumer engagement in regulated sectors have been explored by a range of academics and interest groups including:

- Centre for Analysis of Risk and Regulation at LSE's paper<sup>5</sup> on customer engagement regulation;
- New Energy and Water Public Interest Network (New-Pin's) work on the representation of the long term public interest in energy and water<sup>6</sup>;
- Essential Services Access Network on how the consumer voice can be better heard in the regulation of essential services<sup>7</sup>; and
- Perceptive Insight Market Research on customer engagement and examples of best practice<sup>8</sup>.

There has been a step change in how regulators encourage and incentivise companies to listen to their consumers over the past ten years, to bring the consumer voice

into business-decision making rather than regulated companies focusing their efforts on discussions solely with the regulator. Regulators individually continue to assess the effectiveness of their methods. Through UKRN and this project regulators have worked together to better understand how different methods of engagement are currently used across regulated sectors.

### The consumer landscape is evolving

Consumer expectations are changing in an increasingly interconnected world. This includes in regulated sectors, where consumers' attitudes and expectations are influenced by both their own preferences, the services they receive and by the markets they interact with in everyday life. For example:

**Technologically:** Digitalisation provides businesses with more data with which they can better understand consumer behaviour, leading to tailored services, and potentially increased consumer segmentation. Advances in technology are also enabling a shift from 'passive' consumers to 'active' consumers. Consumers have greater flexibility in how they choose and consume services and voice their experiences – positive and negative – more quickly and easily than ever before. Through social media and online forums consumers can reach a wide public audience, offering a new method and changing

expectations of how consumers can engage with companies<sup>9</sup>.

**Economically:** With an economic downturn over the past decade, we are seeing a pressure on real wages<sup>10</sup> and greater diversity in living and employment arrangements<sup>11</sup> and access to technology – recognising that consumers from across different backgrounds may move in and out of vulnerable circumstances<sup>12</sup>. The delivery of regulated services, not just at prices consumers can afford, but in a way that is sustainable for the long term, is ever more important.

**Politically:** Given the recent political changes and increased uncertainty, it is more important than ever that consumers can feel connected with and listened to in regulated sectors and that regulation reflects different consumers' needs.

**Locally:** Consumers' needs on a local, regional and national level may be evolving differently, influenced by wider external changes; for example – the potential impact of climate change on communities in different areas in future.

These changes have greater impact in some sectors than others – consumer engagement, tailored to understand the challenges of a sector, enables regulators and regulated companies to keep pace with these challenges to deliver what consumers need.

2. <http://www.ukrn.org.uk/wp-content/uploads/2016/07/20141217ConsumerEngSwitch.pdf>  
3. <http://www.ukrn.org.uk/news/today-we-have-published-our-report-on-price-comparison-websites/>

4. <http://www.ukrn.org.uk/wp-content/uploads/2016/09/20140728-InvolvingConsumersInRegPolicy.pdf>  
5. <http://www.lse.ac.uk/accounting/CARR/pdf/DPs/DP-82.pdf>  
6. [http://www.sustainabilityfirst.org.uk/images/publications/new-pin/New-Pin\\_-\\_Engagement\\_Discussion\\_Paper\\_-\\_FINAL\\_-\\_November\\_2016.compressed.pdf](http://www.sustainabilityfirst.org.uk/images/publications/new-pin/New-Pin_-_Engagement_Discussion_Paper_-_FINAL_-_November_2016.compressed.pdf)  
7. ESAN, November 2016 conference paper: *How can the consumer voice be better heard in the regulation of essential services?* <http://www.esan.org.uk/wp-content/uploads/The-FINAL-ESAN-background-paper-for-event-2-Nov-2016.pdf>  
8. [http://www.nienetworks.co.uk/documents/Future\\_Plans/4-NIE-Networks-Phase-4-literature-review-and-final](http://www.nienetworks.co.uk/documents/Future_Plans/4-NIE-Networks-Phase-4-literature-review-and-final)  
9. p.10 of <https://www.fca.org.uk/publication/feedback/fs16-10.pdf> page 10  
10. <http://blogs.lse.ac.uk/politicsandpolicy/real-wages-and-living-standards-the-latest-uk-evidence/>  
11. p. 6 of [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/537432/OTS\\_Employment\\_Status\\_report\\_March\\_2016\\_u.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/537432/OTS_Employment_Status_report_March_2016_u.pdf)  
12. [http://www.ofwat.gov.uk/wp-content/uploads/2016/02/prs\\_web20160218vulnerabilityfocus.pdf](http://www.ofwat.gov.uk/wp-content/uploads/2016/02/prs_web20160218vulnerabilityfocus.pdf)

**Regulators are increasingly incentivising companies to engage directly with their consumers and to create opportunities for consumer challenge**

**CASE STUDY:  
ENERGY AND WATER**

Across water and energy, for example, regulators are increasingly requiring regulated companies to engage with their consumers to inform what they should be seeking to deliver.

As part of this engagement, companies seek to understand the needs and expectations of their consumers in relation to (for example) price and quality, including long term environmental and societal outcomes. This has involved incentivising companies to undertake quality engagement as part of their business plans. In some cases, this has been complemented by providing an opportunity for a panel of consumer representatives to challenge this work either within a regulated company or within the regulator itself.

This aligns with the shift towards principles based regulation where regulators are putting greater emphasis on companies 'stepping up' and away from burdensome, prescriptive regulation that restricts innovation, including in the consumer space. It encourages companies to understand the individual needs of their consumers, recognising that these vary, particularly if the consumer is in circumstances that make them vulnerable.

Designed to change company culture by strengthening their focus on consumers, increasing the quality of engagement and making companies accountable, this has taken a range of forms, tailored to each sector.

- Ofwat: 2014 price review – Water companies were required to directly engage with customers and establish Customer Challenge Groups to review quality and effectiveness of engagement and how companies reflected this in business plans. This fed into Ofwat's assessment of companies' business plans.
- Ofgem: 2013 – Ofgem required regional energy distribution companies to evidence the quality of their engagement with consumers within business plans, with a Challenge Group to advise the regulator on the price control.

Where energy and water regulation is devolved to the nations, regulators have also looked to drive monopoly companies to more closely engage with needs of their local consumers, working closely with devolved Governments:

- Water Industry Commission in Scotland (WICS): for the 2015-21 Price Review a Customer Forum was established through agreement between

WICS, Scottish Water and the National Consumer Council, to negotiate and reach agreement on the outcome of the review by engaging directly with Scottish Water. The agreement was consistent with the regulators' ranges on key parameters and with Ministerial objectives for the industry; and

- Utility Regulator: 2015 – Consumer Engagement Oversight Group (CEOG) of NI Water, Consumer Council for Northern Ireland, Department for Regional Development (now Department for Infrastructure) and the Utility Regulator used a collaborative partnership approach to deliver research on consumer priorities to underpin NI Water's business plan and the Utility Regulator's determination of PC15.

These new models have broadly been recognised as driving change in regulated companies and regulators, to increase the importance of the consumer perspective within decisions. This is an iterative process on which regulators and companies continue to build and refine. Regulators have been learning from each other through UKRN – we hope this document provides companies, consumer groups and other stakeholders with an overview for further discussion.

**Regulators face some common challenges**

In light of this evolving consumer landscape, regulators, consumer groups and regulated companies face a common set of challenges that cut across most

of our sectors. Below we highlight some common challenges in shaping the engagement process, to produce better outcomes for consumers.

**COMMON CHALLENGES FOR CONSUMER ENGAGEMENT ACROSS ALL SECTORS**

<b>Form</b>	<ul style="list-style-type: none"> <li>• Identifying the right form of engagement for the challenge faced</li> <li>• 'Framing' the engagement activity and questions in the most appropriate way</li> </ul>
<b>Diversity/full range of views</b>	<ul style="list-style-type: none"> <li>• Recognising and considering the full range of consumer views over time – across age, socio-economic, equality and regional groups</li> <li>• Reaching out beyond well-known expert groups and individuals to bring in fresh voices</li> </ul>
<b>Timing</b>	<ul style="list-style-type: none"> <li>• Building in time for consumer engagement within policy making and decisions</li> <li>• Getting it at the right stages of the process, so engagement and input can influence and add value and is not a 'rubber stamp'</li> </ul>
<b>Evidencing impact</b>	<ul style="list-style-type: none"> <li>• Demonstrating the 'golden thread' of how consumer engagement in different areas is 'joined up' and has influenced plans and decisions</li> </ul>
<b>Resource</b>	<ul style="list-style-type: none"> <li>• Working with resource constraints within regulators and consumer organisations</li> <li>• Considering cost of consumer engagement, how it is paid for and the governance around this to avoid consumer 'capture'</li> </ul>
<b>Complexity of content/ specialist knowledge</b>	<ul style="list-style-type: none"> <li>• Consumer representatives having sufficient expertise and technical understanding</li> <li>• Articulating complex and technical issues in accessible forms to enable input</li> <li>• Trading-off different consumers' different priorities, especially where these differ by geography income or age groupings</li> <li>• Taking account of governments'/taxpayers' priorities, including where they pay towards the cost of services (e.g. in rail)</li> </ul>
<b>Outcomes</b>	<ul style="list-style-type: none"> <li>• Measuring a 'good' outcome: quality, value for money, sustainable, 'fair' across different consumer groups and over time</li> <li>• Measuring an individual company's contribution to 'good' outcomes (compared with other companies or wider circumstances)</li> </ul>

Where there is an absence of consumer choice and service is provided by a single monopoly company, regulators are shifting towards encouraging these regulated companies to lead

engagement with consumers and create opportunity for consumer challenge. Here regulators, consumer representatives and companies face a particular set of challenges.

COMMON CHALLENGES – CONSUMER ENGAGEMENT – MONOPOLIES	
<b>Embedding consumer views</b>	• Encouraging and incentivising companies to take account of consumers' needs in their strategic and operational decision-making
<b>Remit</b>	• Identifying which aspects of a price control should be subject to consumer input or challenge and what the regulatory 'red lines' are
<b>Proportionality</b>	• Balancing burden (particularly costs) of engagement – ensuring it's proportionate to the outcomes expected
<b>Regulatory prescription and involvement</b>	• Establishing how far a regulator should be: – prescriptive in its requirements of a regulated company's engagement, or enable innovation – involved in any provider-led process
<b>Retail providers as proxies</b>	• Identifying how far retail providers can adequately represent consumers' views, or whether direct challenge and engagement is required
<b>Information asymmetry</b>	• Overcoming the asymmetry between information available to providers and information provided to consumers (including their representatives)
<b>Long term outcomes</b>	• Understanding consumers' future needs and public interest outcomes over the long term, including resilient services
<b>Trade-offs</b>	• Involving consumers in making difficult trade-offs between both different consumers' needs, and long term investment and public interest outcomes against short term cost reductions

To address these, regulators continue to develop and use a combination of techniques. They share learning through UKRN and benefit from valuable critique and input from consumers and academics.

## GOING FORWARD REGULATORS CONTINUE TO LOOK FOR WAYS TO BRING THE CONSUMER CLOSER INTO DECISIONS – PARTICULARLY FOR MONOPOLY COMPANIES

For example



In rail and for **ORR's** Network Rail price control beginning in 2019, the Network Rail local routes will have their own performance measures, which will be informed by what their customers (e.g. passengers, train operator) want from the service they receive. Currently, these performance measures are targeted at a company-wide level.



In water in England and Wales, **Ofwat** will build on PRI4. For PRI9 Ofwat is promoting a step change in consumer engagement, expecting companies to have a greater understanding of their customers, using innovative engagement approaches.



In the price control for Heathrow, the **CAA** is introducing a Consumer Challenge Board – which will be an independent body that will challenge and scrutinise Heathrow Airport Limited to ensure its business plans reflect the interests of consumers.



**Utility Regulator in Northern Ireland** has raised the expectation for continuous engagement with consumers and stakeholders, subject to annual reporting of outcomes across all network companies and regulated sectors.

## UKRN will continue to be a vehicle for collaboration, to showcase work in different sectors and understand what cuts across us all

Some challenges will be across sectors and will shape regulators entire approach to decision-making, as well as consumer engagement.

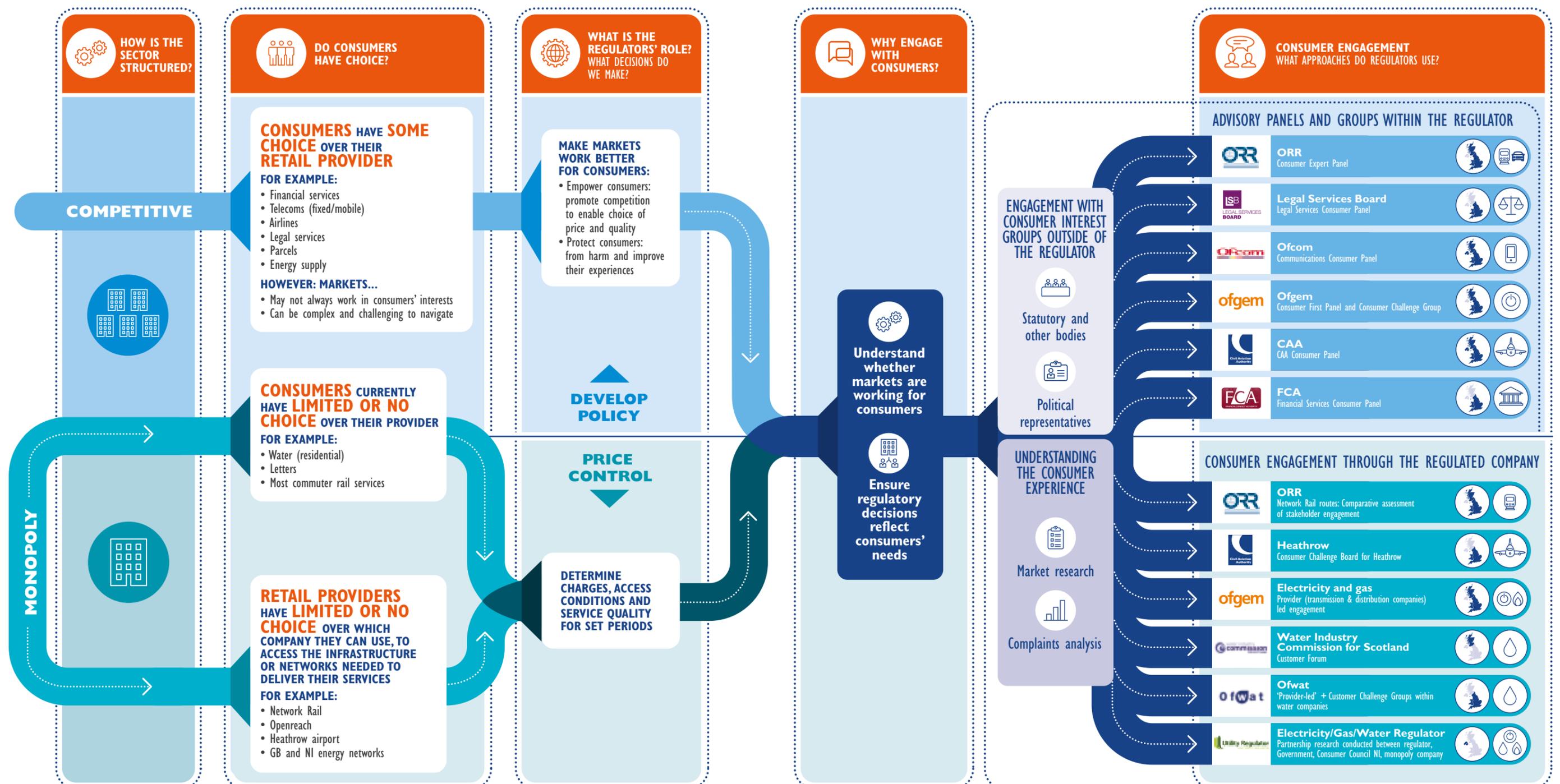
Through UKRN we are continuing to work together to build strong relationships internally and with our mutual stakeholders, to enable

better outcomes for consumers and the economy. For example, identifying and supporting consumers in vulnerable circumstances, understanding which consumers are switching across different markets or how regulators can work together on a consistent

approach to calculating the cost of capital. This document provides an opportunity to further collective understanding and collaborative working between consumers, regulated companies, governments and regulators.

# SECTION 2: Across sectors: how do UK regulators involve consumers, hear their views and take their interests into account?

To understand how sectors are regulated and how regulators take consumers' interests into account in regulatory decisions, we have broken the process down into key questions that can be asked of each sector. The level of competition in a sector and the role of a regulator shape regulators' approaches to consumer engagement. This is a simple snapshot that highlights examples across different sectors.



**Definition of consumers: in this document we focus on end-user consumers, typically households or individuals**

This document does not consider engagement with business customers, although we recognise that the needs of micro-businesses of 1-9 employees may also broadly reflect those of a households or individuals.

To understand how sectors are regulated and how regulators take consumers' interests into account, we have broken the process down into key questions that can be asked of each sector:

Our infographic shows this journey through market structures and different regulatory approaches to consumer engagement. Below we have laid this out in more detail (this is intended to be an overview rather than comprehensive).



**A. How is the sector structured?**

For illustrative purposes in our infographic we have highlighted two market structures within the sectors we regulate;

1. Firstly, more competitive markets where consumers have some choice between multiple providers; and
2. Secondly, less competitive markets where services are provided by a monopoly company and markets and consumers or retail companies have no choice over their provider (which, in practice, varies depending on the sector).

**B. Do consumers have choice?**

Ideally, the main way for consumers to express their views is through choosing their service provider, to receive a service that they want and can afford. The extent to which a sector is competitive and allows consumers, or retail companies, to exercise choice over who their provider is shapes our role as regulators. It also shapes what kind of decisions we each make and methods we and regulated companies use to understand consumers' views, particularly where they cannot express a choice.

- **More competitive markets – consumers have some choice**  
Consumers have some choice over their provider, and the quality and price of the service they choose in retail:
  - financial services;
  - fixed and mobile telecoms;
  - airlines;
  - legal services; and
  - energy supply.

However, each of these services have unique characteristics; from a diverse set of products in telecoms where consumers can personalise to a standard set of physical products in energy. These different market characteristics influence consumers' ability to interact with a market. Markets may not always work in consumers' interests and can be complex and challenging to navigate: For example:

- in-depth knowledge of service providers compared with their customers;
- time-limited products such as air travel and mobile phone contracts, naturally encourage consumers to regularly choose between service providers; and
- consumers are not required to regularly engage with other markets, such as utilities, where the product is more homogenous and less visible.

For some services, consumers or retail companies have limited or no choice over their provider – services are provided by a monopoly company – for example:

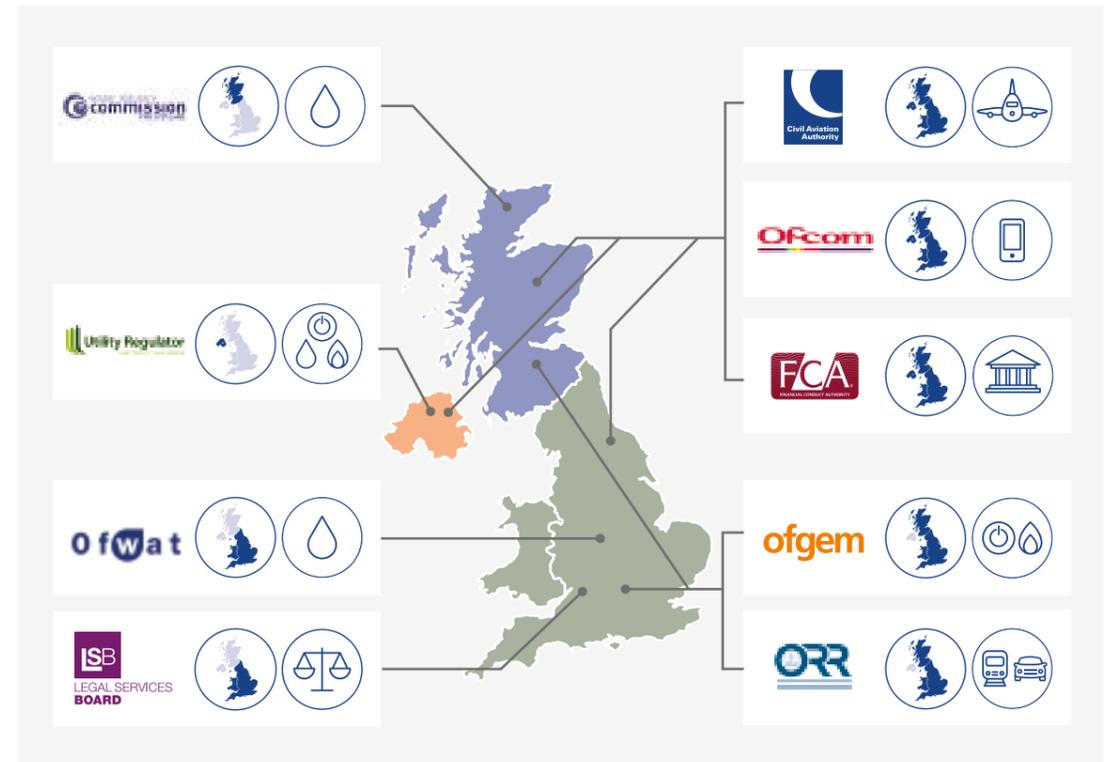
- **consumers have limited or no choice** over who provides their residential water services<sup>13</sup>, who delivers their letters and who runs their commuter rail routes (in most cases).
- **retail companies in sectors have limited or no choice** as to which company they can use, to access the infrastructure or networks needed to deliver their services. The providers of these services are monopolies, because of the significant barriers to building an alternative network e.g. cost, scarcity or practicability. For example:
  - in electricity distribution and transmission (regional monopolies);

- in aviation – some airports and air traffic control services;
- in rail – Network Rail which owns and maintain track infrastructure; and
- in fixed telecoms – BT Openreach which owns and manages the ducts and cables that connect most premises in the UK to the national broadband and telephone network.

This document focuses on where regulators have similar roles in regulating monopolies that deliver services to consumers or retail providers, but there are other parts of the value chain in different sectors, which have different levels of competition, some of which are subject to regulation e.g. wholesale financial markets that provide the capital behind retail services or electricity generation, both of which are broadly competitive.

Other factors can be key in shaping the competitiveness and structure of a market, for example:

1. Government intervention/public interest outcomes: for example, in rail, government owns the infrastructure owner (Network Rail) and funds much of its activities and it determines what passengers services can run, and by whom (through franchising);
2. Scarce resources: which are critical in shaping some markets such as water, energy and radio spectrum;
3. Place: including availability of local resources and geographical boundaries; for example, water and energy are devolved, whilst telecoms and financial services are UK wide (see map below). In some sectors regulators may seek to take account of consumers' local needs and preferences in decision-making and ensure companies do the same.



13. From April 2017 eligible businesses, charities and public sector organisations in England are able to choose who supplies their water and wastewater retail services.



### C. What is the regulator's role – what decisions do we make?

Regulators' roles are laid out in statute – see individual profiles in Section 3 for more detail – here we have divided them into:

#### More competitive markets where consumers have some choice

As markets may not always work in consumers' interests and can be complex and challenging to navigate regulators have a crucial role, primarily in:

1. Enabling and empowering consumers to make effective and informed choices – promoting competition and ensuring consumers are able to **access** information on markets, **assess** their options and able to **act** e.g. switch to their preferred provider; and
2. Improving the consumer experience and protecting consumers from harm; ensuring all consumers are treated fairly; and consumers in vulnerable circumstances receive sufficient support.

On an ongoing basis, regulators make decisions to review and develop policy in order to balance the needs of consumers and investors. They do this through supporting competition, enabling innovation, empowering consumers and introducing enforcement measures to protect against consumer harm.

### Markets with a monopoly provider – where consumers and retail companies have limited or no choice

Where monopoly companies own the crucial infrastructure that retail companies rely on, regulators set the terms and conditions for companies to provide their services to retail providers or consumers, and the prices they will pay for these services. In doing so regulators and companies have to deliver a resilient service that is fair and affordable. This is referred to as a price control, the approach and aims of which varies by sector – some, such as those for Openreach, are focused on enabling other providers to access the network and compete to provide retail services to consumers. Price controls are designed both to encourage companies to be efficient and to act in the interests of consumers, while remunerating investors fairly, in a way that facilitates ongoing investment in UK infrastructure. Examples of this include Network Rail, Openreach, Heathrow and Gatwick airports.



### D. What is the purpose of consumer engagement within regulatory decisions in a sector?

Across regulators, consumer engagement is crucial to ensure regulators and regulated companies:

- understand whether markets are working for consumers; and
- take decisions that reflect consumers' interests. The form of engagement will be specific to the decision being taken; as above, depending on whether it is for a particular nation or region, time-bound as in a price control or part of ongoing policy development.



### E. Consumer engagement: what approaches do regulators use?

Each regulator's approach to consumer engagement involves using a combination of different models, depending on the kinds of regulatory decisions it makes.

All regulators:

- have open consultations during the regulatory decision process, and consult on their forward work plan, enabling consumers and the public to comment and influence the regulatory agenda; and
- look to understand the consumer experience. We gather intelligence to identify and understand issues, forming an evidence base for any decisions<sup>14</sup>. This intelligence gathering can include:
  - market research – both ongoing tracker surveys and one-off in-depth surveys;
  - complaints analysis and social media engagement; and
  - letters from MPs.

Building upon the work of the Essential Service Access Network in this space<sup>15</sup>, the range of models for involving consumers and understanding their reviews within regulatory decisions can be broadly divided into three groups. Below we have highlighted a selection of models from across different regulated sectors – this is a snapshot and not intended to be exhaustive.

Engagement can take place through:

1. Bodies outside of the regulator;
2. Panels and groups within the regulator; and
3. [Through] the regulated company.

These first two are used in both ongoing policy development and price control decisions, the third is increasingly being used by regulators within price controls.

## 1. Consumer interest groups/bodies outside of the regulator

### REGULATORS ENGAGE WITH A RANGE OF EXTERNAL SPECIALIST BODIES INCLUDING:

<b>Statutory, sector specific</b>	e.g. Citizens Advice (England and Wales), Citizens Advice Scotland – for energy, Consumer Council for Northern Ireland, Consumer Council for Water, Transport Focus, London TravelWatch
<b>Non-statutory Independent, cross-sector consumer interest groups</b>	Citizens Advice Bureau, Which?, Money Saving Expert and public interest groups such as New Energy and Water Public Interest Network (New-Pin)
<b>User/issue specific groups</b>	e.g. Age Concern, Step-Change
<b>Political representatives</b>	e.g. individual MPs, All Party Groups, select committees
<b>Sector specific</b>	e.g. Campaign for Better Transport, Manufacturing Northern Ireland

## 2. Advisory panels and groups within the regulator

### MOST REGULATORS HAVE A DEDICATED ADVISORY GROUP FOCUSED ON CONSUMER ISSUES, WHO ADVISE AND CHALLENGE REGULATORS AS POLICY IS BEING DEVELOPED, INCLUDING:

<b>Statutory Consumer Panels</b>	<ul style="list-style-type: none"> <li>• Communications Consumer Panel</li> <li>• Financial Service Consumer Panel</li> <li>• Legal Services Consumer Panel</li> </ul>
<b>Non-statutory advisory panels</b>	<ul style="list-style-type: none"> <li>• CAA Consumer Panel</li> <li>• ORR's Consumer Expert Panel</li> <li>• Ofgem's Consumer panels, including the Consumer First Panel and the Consumer Challenge Panel (for price controls)</li> </ul>

## 3. Through the regulated company

### IN RECENT PRICE CONTROLS ACROSS A RANGE OF SECTORS, REGULATORS HAVE SHIFTED TO PLACING THE ROLE OF ENGAGING WITH CONSUMERS TO UNDERSTAND THEIR VIEWS ONTO REGULATED COMPANIES. THE FORM VARIES BY SECTOR – MORE INFORMATION CAN BE FOUND IN EACH REGULATOR'S PROFILE:

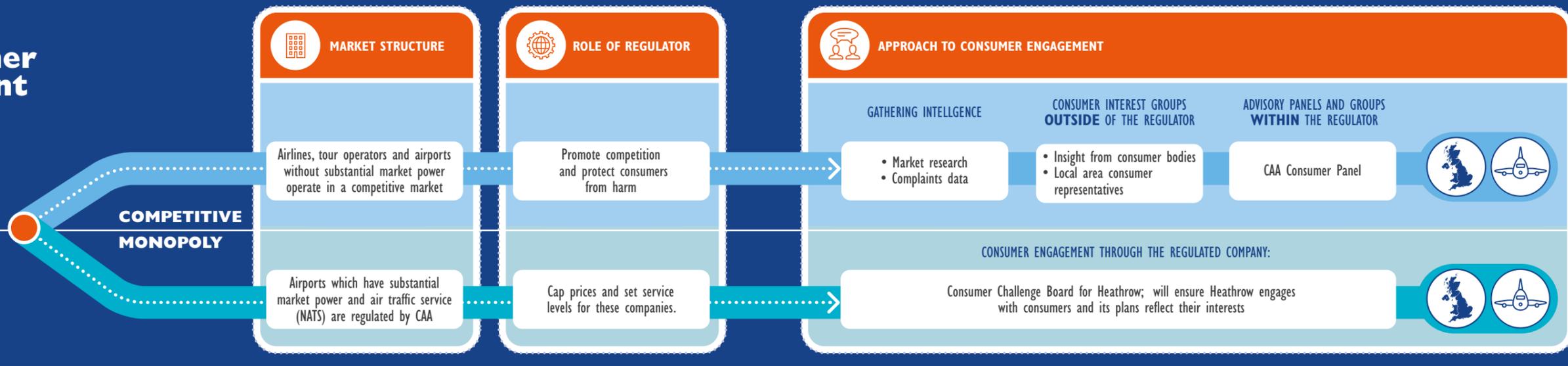
<b>ORR</b>	Network Rail routes: comparative assessment of the quality of stakeholder engagement; route-specific outputs (that could reflect local priorities)
<b>Utility Regulator</b>	Collaborative partnership research between regulator, government, local Consumer Council and network monopolies
<b>Ofgem</b>	Transmission and distribution companies assessed on quality of direct consumer engagement within business plans
<b>Heathrow</b>	Heathrow Consumer Challenge Board- independent body that will challenge and scrutinise Heathrow Airport Limited to ensure its business plans reflect the interests of consumers
<b>Ofwat</b>	Focus is provider-led engagement – water companies lead consumer engagement and have Customer Challenge Groups to scrutinise their business plans
<b>Water Industry Commission for Scotland Water</b>	Customer Forum negotiated settlement directly with Scottish Water, based on customer research and parameters and guidance set by the regulator

14. p.2 of <http://www.ukrn.org.uk/wp-content/uploads/2016/09/20140728-InvolvingConsumersInRegPolicy.pdf>

15. ESAN, November 2016 conference paper: How can the consumer voice be better heard in the regulation of essential services? <http://www.esan.org.uk/wp-content/uploads/The-FINAL-ESAN-background-paper-for-event-2-Nov-2016.pdf>

## Approach to consumer engagement

How does the CAA involve consumers, hear their views and take their interests into account?



### CAA'S ROLE

The CAA is the UK's specialist aviation regulator. We ensure that:

- the aviation industry meets the highest safety standards;
- consumers have choice, value for money, are protected and treated fairly when they fly;
- airlines and airports' environmental performance improve; and
- the aviation industry manages security risks effectively.

**Our duties cover civil aviation safety, licensing of airlines and air travel organisations, economic regulation, consumer protection and aviation security. Consumer Engagement is particularly relevant in the following two areas.**

#### 1. Economic regulation

- The CAA regulates airports which have substantial market power – currently this means Heathrow and Gatwick airports;
- We have a primary duty to further the interests of consumers (passengers and cargo owners);

- The CAA also regulates the UK's air traffic services provider, NATS; and
- The two regulated airports and NATS are subject to regulation through licence conditions.

#### 2. Consumer protection

- The CAA aims to safeguard those using airports, airlines and air travel organisers;
- We enforce passenger rights in relation to cancellations, delays and denied boarding and in relation to access to air travel for disabled people;
- Working closely with the CMA, the CAA takes the lead in the aviation sector for the enforcement of general consumer law covering unfair commercial practices and unfair terms in consumer contracts;
- The CAA oversees the arrangements for Alternative Dispute Resolution in the airline sector; and
- Finally, the CAA oversees compliance with the rules and regulations covering Air Travel Organiser's Licence (ATOL).

### THE STRUCTURE OF THE AVIATION INDUSTRY

The aviation industry can be divided into:

- retail services (provided by airlines and tour operators); and
- infrastructure/network services (air traffic and airport services), and Airport

operators provide airport infrastructure services to airlines, but the ultimate consumers of these services are passengers and those whose cargo is transported via the airport. Most airports in the UK are not regulated because we consider that they are likely to face sufficient competitive pressure arising from the ability of passengers and airlines to switch to other airports.

The CAA only regulates services where competition is not sufficiently effective. In practice, this means that we regulate both Heathrow and Gatwick as we have assessed that these airports have substantial market power.

The CAA also regulates the en-route element of air traffic control (provided by NATS) because it is provided by a monopoly. Terminal air navigation (tower services at airports) is a competitive market, and thus currently not subject to economic regulation.

The CAA also enforces competition law concurrently with the Competition and Markets Authority with regards to airport operation and air traffic services.

## We intervene in the retail market by working to protect consumers through ensuring compliance with sector specific and general consumer protection law

### Consumer choice in aviation

- Consumers can generally choose their airport, airline and travel company; and
- Airlines can also generally choose between airports.

Typically, airlines, tour operators and travel agents operate in a more competitive market and are not economically regulated by the CAA. We intervene in the retail market by working to protect consumers through ensuring compliance with sector specific and general consumer protection law. Compared to other utility sectors, passengers are more engaged in their travel choices, as air travel purchases tend to differ from one journey to the next and are not a daily occurrence.

The extent to which this choice translates into sufficient competition varies from airport to airport. In particular, the limited amount of runway capacity available at Heathrow and Gatwick airports means that the competitive constraints faced by these airports are likely to be currently weaker than those faced by other UK airports.

### The role of economic regulation in aviation

The role of economic regulation is to prevent dominant airports from abusing their position to the detriment of consumers. We do this by issuing a licence to those airports covering two key aspects:

- prices – capping the maximum level of charges that airports can levy on airlines; and
- service performance – we set standards of service for airports to meet, for example passenger queue times at security, availability of lifts and escalators, terminal cleanliness and so on. We monitor and incentivise Heathrow and Gatwick's performance on ongoing basis.

Heathrow's current licence sets price caps and service standards until December 2019. Gatwick's licence gives regulatory force to Gatwick's price and service quality commitments which run to March 2021.

NATS is regulated by a price control under the European Performance Scheme – the current five year regulatory period runs until December 2019.

### How consumer engagement informs policy development and price controls

The CAA uses market research and ongoing intelligence gathering (for example, through our consumer complaints team) to understand consumer views and interactions with the aviation market. We also engage with the CAA Consumer Panel, and other consumer groups. This engagement informs, for example, our decisions on airspace policy and price controls at regulated airports.



**CAA CONSUMER PANEL: CHALLENGING, INFLUENCING, INDEPENDENT**

The CAA also expects Heathrow, Gatwick and NATS to engage with and understand the views of airlines in developing their plans. Whilst the interests of airlines and those of passengers may not always be fully aligned, airlines can provide additional evidence on passenger preferences and expectations. That is also why the CAA places great importance in the constructive engagement between airports, NATS and airlines as part of its regulatory reviews.

Finally, the service quality regime at Heathrow and Gatwick incentivises the airport operator to increase passenger satisfaction measured by continuous passenger surveys.



## CASE STUDY: CONSUMER CHALLENGE BOARD AT HEATHROW; A STEP CHANGE IN CONSUMER ENGAGEMENT BY REGULATED AIRPORTS

**The Heathrow Consumer Challenge Board (CCB) is a newly constituted independent expert panel that will take a high profile in ensuring that the next price control review for Heathrow Airport (H7) is driven by a robust understanding of what consumers value. The CCB is being established by the CAA in partnership with Heathrow Airport Limited (HAL) and the Heathrow Airline Community under a terms of reference which were finalised in September 2016.**

For H7 we want to put the emphasis on HAL to engage with consumers and to demonstrate that its plans reflect their interests. Although HAL carried out some research for the Q6 review, we largely took responsibility ourselves for understanding what consumers value,

supplementing this with research into customer experiences and preferences that airlines provided. We used this combination of insight to help inform the design of the regulatory framework.

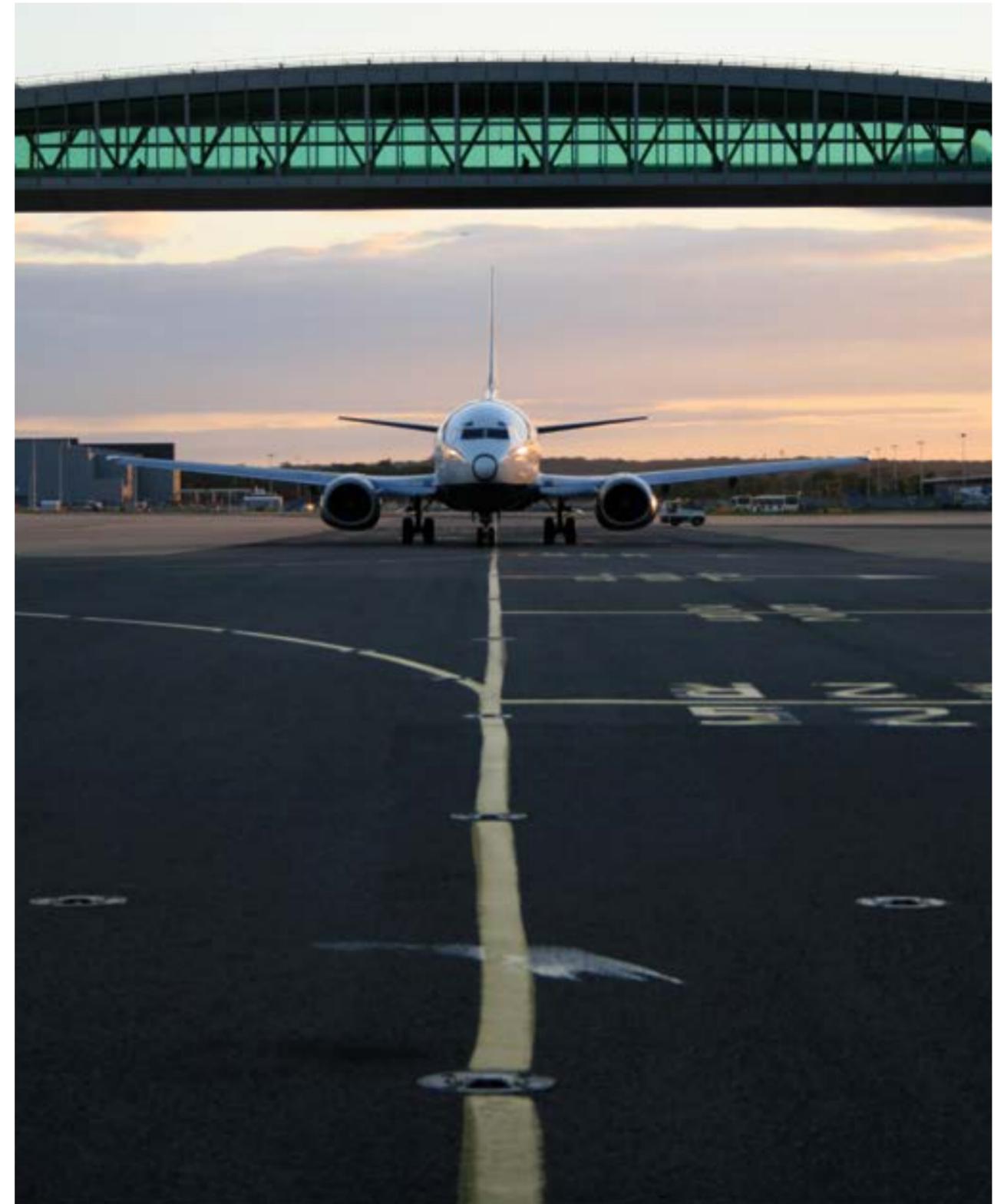
Our change of approach for H7 reflects our primary duty to further the interests of consumers and is consistent with the theory and practice of economic regulation towards the facilitation by regulators of greater engagement between regulated entities and end consumers.

The objective of the CCB is to provide us with a clear view on the overall quality of HAL's consumer engagement (including its use of insight into consumer preferences provided by the airline community and other parties) and how this engagement has been reflected in the development of HAL's business plan.

The work of the CCB should

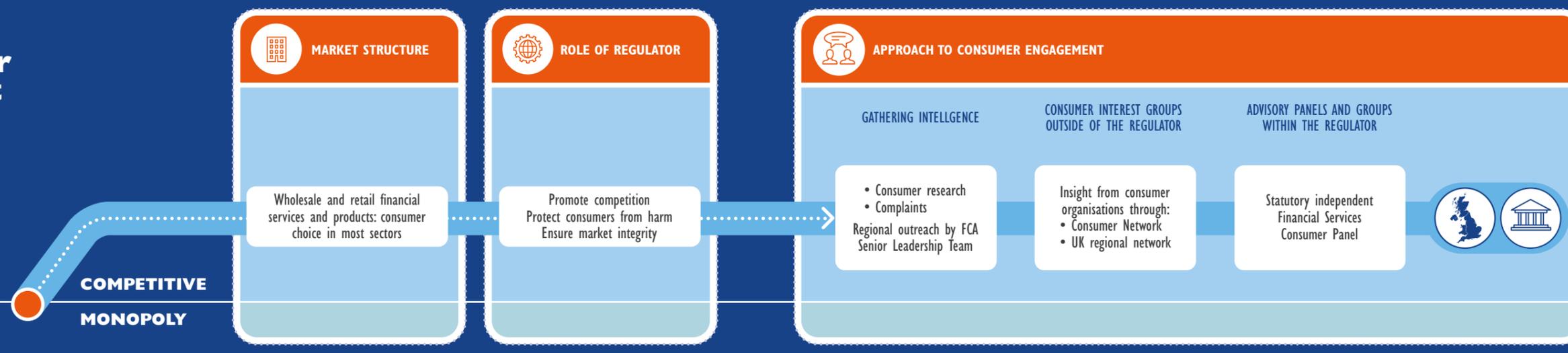
complement and enhance the existing regulatory framework including the process of Constructive Engagement between the airport and the airlines. We see the CCB particularly focusing on the consumer research and other inputs that we expect HAL to use in developing an appropriate and robust, consumer-focused outcomes framework for the H7 business plan.

The role of consumer engagement in airport regulation is particularly relevant in light of the Government's announcement in October 2016 that its preferred option for the expansion of airport capacity in the South-East of England is the Heathrow north-west runway. The CCB will have a crucial role to play in the coming years to ensure that there is sufficient independent challenge and scrutiny of HAL's plans from a consumer perspective.



## Approach to consumer engagement

How do the FCA involve consumers, hear their views and take their interests into account?



### FCA'S ROLE

Our aim to make markets work well – for individuals, for business, large and small, and for the economy as a whole.

We do this by regulating the conduct of more than 56,000 businesses.

We are the prudential regulator for over 24,000 of these firms and the Prudential Regulation Authority is the prudential regulator of banks, building societies, credit unions, insurers and designated investment firms.

### FCA'S DUTIES

Our strategic objective is to ensure that the relevant markets function well and our operational objectives are to:

- protect consumers – we secure an appropriate degree of protection for consumers;
- protect financial markets – we protect and enhance the integrity of the UK financial system; and
- promote competition – we promote effective competition in the interests of consumers.

Our work and purpose is defined by the Financial Services and Markets Act 2000 (FSMA). We work with consumer groups, trade associations and professional bodies, domestic regulators,

EU legislators and a wide range of other stakeholders. With this extensive remit, we use a proportionate approach to regulation, prioritising the areas and firms which pose a higher risk to our objectives.

How we achieve our objectives:

- we develop and implement **policy** – we set out what we expect from the firms and individuals we regulate, and consult with interested parties on our rules and guidance before they are published;
- we **authorise** firms and individuals – when deciding whether to authorise a firm or individual, we measure how well they will meet our expectations and the risk they pose to our objectives. If they do not meet our standards, we do not allow them to enter the market;
- we **supervise** financial markets, authorised firms and authorised individuals – where we identify risks to consumers and markets, or where competition is not working well for the benefit of consumers, we decide on an appropriate course of action to address it;
- we can use our **enforcement** powers – if we find poor practice, we have a number of enforcement powers to prevent consumer detriment and a loss of confidence in the financial markets; and

- in April 2015 we also took on **competition** enforcement powers as well as the power to refer a market to the Competition and Markets Authority for in-depth investigation.

In 2017 we will finalise our future Mission which will put in place a framework that allows us to better explain the choices we make as a regulator. We have a large and complex remit, and finite resources with which to fulfil it.

### THE STRUCTURE OF THE FINANCIAL SERVICES SECTOR

The regulated financial services market incorporates various sectors – some at the wholesale level and some at the retail including banking, lending, savings and investments, pensions and insurance.

Given the range of models at the wholesale level and the regulations that apply, it makes sense to focus on the retail sectors for the purposes of this document. And we define consumers very broadly, to include users of retail and wholesale markets. In order to better enable comparisons with other regulatory approaches this summary will consider the ways in which we take consumer interests into account at the retail level.

## WE AIM TO MAKE FINANCIAL MARKETS WORK WELL SO THAT CONSUMERS GET A FAIR DEAL



### PROTECTING CONSUMERS

We secure an appropriate degree of protection for consumers



### ENHANCING MARKET INTEGRITY

We protect and enhance the integrity of the UK financial system



### PROMOTING COMPETITION

We promote effective competition in the interests of consumers

## Putting consumers at the heart of financial services regulation

### Consumer choice in retail financial services sectors

Consumers have choice in most financial services sectors and are not confined to one supplier. The sectors are open to competition, subject to the restrictions of the regulations themselves.

### The role of regulation in retail financial services

The role of regulation in complex financial services markets:

- helps to protect consumers from being mis-sold or misled, and to redress any imbalance in bargaining power; and

- protects the overall integrity of markets, which all consumers need to access to participate in everyday life and which are closely connected to the performance of the wider economy.

The FCA has an important objective to secure an appropriate degree of protection for consumers.

- We are required to take account of the principle that consumers should take responsibility for their actions, while having regard to the differing degrees of experience and expertise that different consumers may have and whether they may be vulnerable in the situation; and

- We recognise that consumers may be more or less able to exert their individual competitive constraints on a product or service market, depending on their circumstances, affordability of the product range to them, financial capability and ability to access the market effectively.

– For example: the retail market for travel insurers is well contested and consumers have choice and are generally able to shop around. However those consumers who have certain health issues or disabilities may find they cannot secure insurance for travel at a price they can afford.

- In cases where consumers are more vulnerable – for example High cost short term credit – the market can be subject to more onerous intervention, such as a price cap, despite being open to competition on the supply side.

**How the FCA ensures consumers’ interests are taken into account when developing policy and interventions**

FCA uses a series of channels and methods to ensure consumers’ interests are taken into account when developing policy and interventions and to ensure good outcomes for consumers and reduce the possibility of unintended consequences. These include:

- Financial Services Consumer Panel – an independent body set up to challenge and share insight into consumer perspectives through policy development; and
- The FCA Consumer Insight Unit works to put the consumer at the heart of the regulator, bringing in consumer experience and intelligence by:
  - working in partnership with our consumer network – comprising many consumer organisations operating at national and local level;
  - enabling strategic regional and senior level engagement with consumer bodies;
  - outreach through financial capability fora to tap into grass roots network and experience of consumer issues;
- consumer Spotlight, a consumer segmentation tool which helps us understand which consumers are experiencing what issues in which sectors;
- gathering insights from a range of sources to reflect the consumer experience and identifying early signals of developing trends and issues; and
- considering the consumer experience through a framework of consumer expectations or principles such as vulnerability and access to look in more depth at consumer experience of financial services through a particular lens.

**CASE STUDY:  
UNDERSTANDING CONSUMERS AT RISK  
OF USING UNAUTHORISED LENDERS**

**We recently ran an innovative project to improve our understanding of the current practice and prevalence of unauthorised lending.**

Normally, we would survey firms and consumers in a market, but in a situation where the lenders are deliberately avoiding detection and consumers are hard to reach, this is not an option. So we worked closely with the Illegal Money Lending Teams and the relevant bodies in Northern Ireland. We built on their experience to identify known areas of activity and used their contacts to expand our networks and find advisors with knowledge of lenders and the consumers using them.

This preliminary work, alongside desk research, enabled us to develop an appropriate scope which we used to

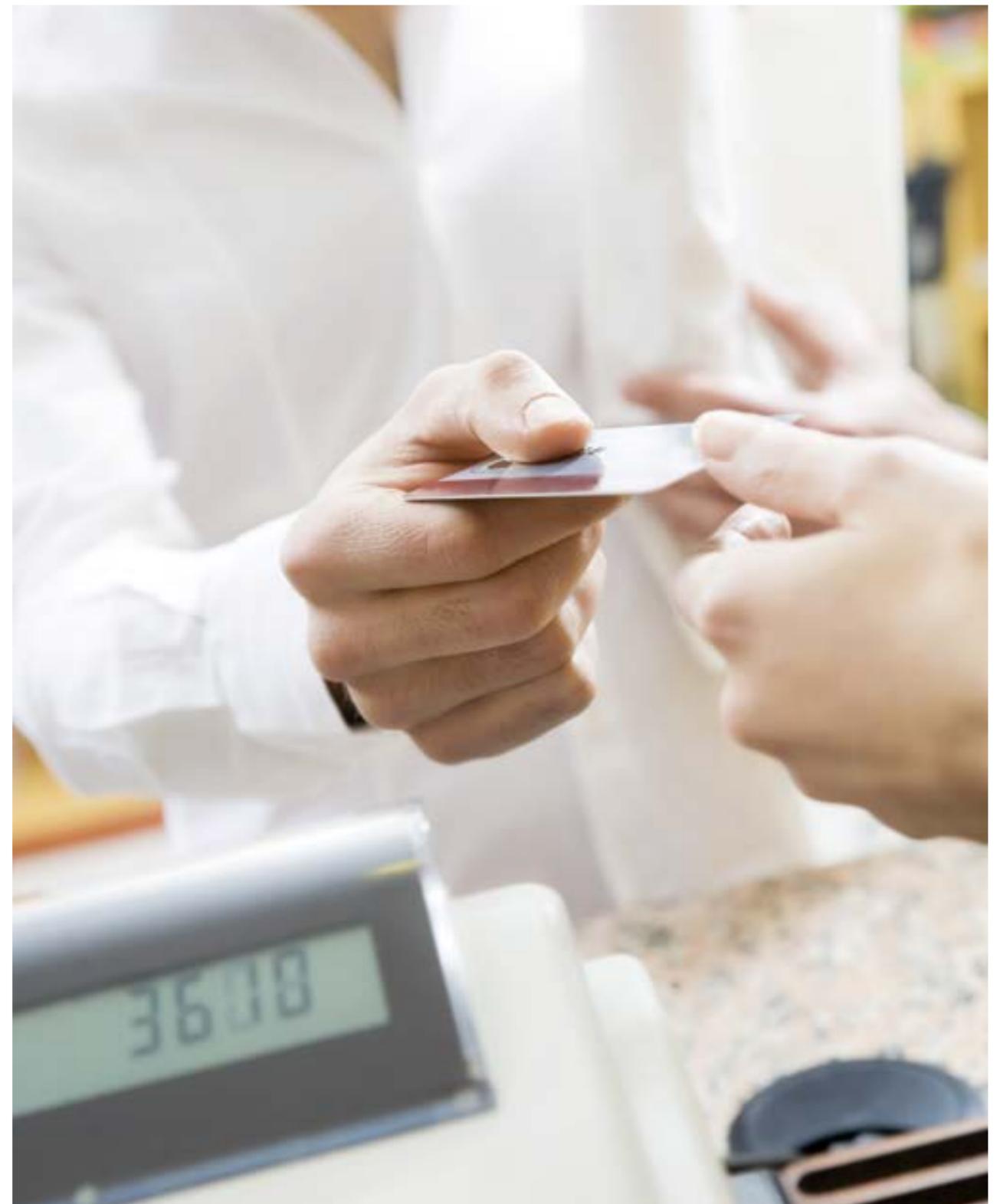
frame a series of roundtables around the UK in known hotspots of lending activity. We hosted 8 roundtables in carefully chosen areas around the country with over 70 people from more than 50 organisations that deal with consumers who had experience of unauthorised lenders, or may be aware of their operating methods. We identified a wider set of over 150 contacts with potential knowledge in this area through our UK consumer network and referrals from those we met on the roundtables. We designed a questionnaire for them, building on the roundtable findings, to consolidate our understanding.

Organisations including Citizens Advice, StepChange, MAS, the Illegal Money Lending Teams, local debt and money advice services, voluntary community charities, housing association advisers, credit unions and others

involved with consumers in desperate need, contributed to the discussions, on a non-attributable basis, in order to protect client confidentiality.

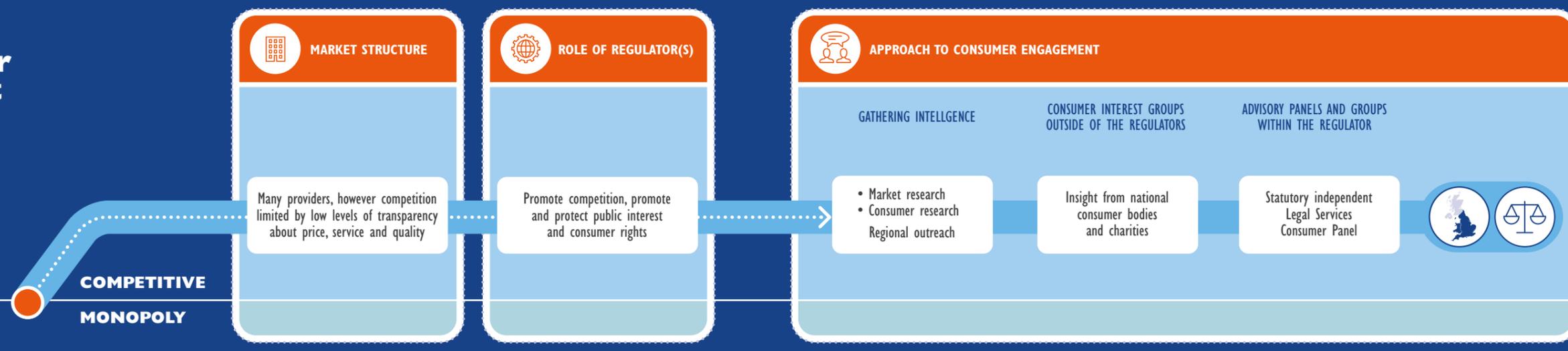
Through this process we were able to build a picture of the consumer experience and feed it into our understanding of credit markets and any unintended consequences of our interventions.

Next steps: FCA will continue to work to understand the range of consumers’ needs through strategic engagement with consumer bodies, its Consumer Panel and innovative work by the Consumer Insight Unit. In 2017, we will pioneer Consumer research including a major new assessment of the consumer experience of financial services and products.



## Approach to consumer engagement

How does the LSB involve consumers, hear their views and take their interests into account?



### LSB'S ROLE

The Legal Services Board (LSB) is the independent body responsible for overseeing the regulation of lawyers in England and Wales. Our goal is to reform and modernise the legal services market place by putting the interests of consumers at the heart of the system.

### LSB'S DUTIES

Our regulatory objectives include:

- protecting and promoting the public interest;
- protecting and promoting the rights of consumers;
- promoting competition in the provision of legal services; and
- encouraging an independent, strong, diverse and effective legal profession.

We share our regulatory objectives with the nine 'frontline regulators' of the legal profession, each of which has direct responsibility for the day-to-day regulation of the different types of lawyers and we oversee these frontline regulators and also the Office for Legal Complaints (the 'Board' of the Legal Ombudsman) which handles complaints about lawyers.

### THE STRUCTURE OF THE LEGAL SERVICES SECTOR

Individuals, businesses, the third sector, local and central government and other types of organisation may all be consumers of legal services.

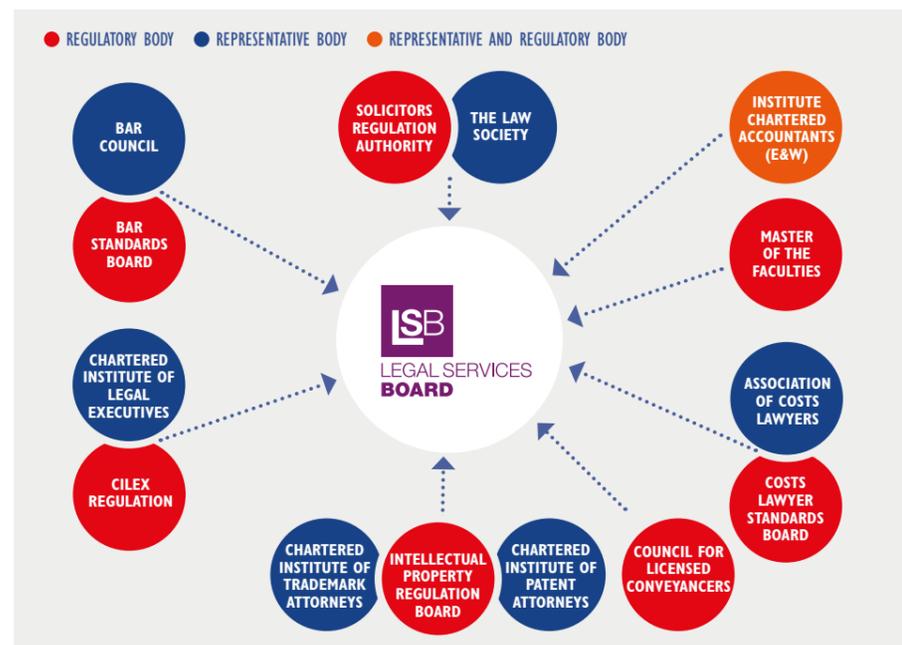
The UK-wide turnover in the sector was estimated at £32bn in 2015, while the retail sector (serving individuals and small business consumers) is estimated to be £10-11bn.

Legal services providers (national or local), cannot carry out specific legal activities (known as the 'reserved' legal activities)

unless they are authorised by a frontline regulator. The nine frontline regulators each regulate different types of lawyers, with the most common being solicitors and barristers.

The Legal Services Act introduced the concept of alternative business structures which permit external ownership of law firms.

Unregulated businesses may provide legal services which are not reserved activities such as will writing, and divorce advice. There is a separate regulator for immigration advice\*.



\*The Office of the Immigration Services Commissioner (OISC).

### Consumer choice in legal services

Consumers can choose their legal services provider, although intermediaries (e.g. estate agents, mortgage lenders) play an important role in some parts of the market. The government awards contracts to a limited range of providers offering legal services funded by legal aid. Consumers are increasingly shopping around for legal services providers, however overall the figure remains small with just one in four actively comparing and an even smaller number acting on those comparisons. Despite consumers apparently having lots of different providers to choose from, competition is limited by low levels of transparency about price, services and quality. Consumers typically have significantly less information about the type of service they will need, and how to judge the quality of the services, than those providing the service. This can lead to some consumers not obtaining the legal services they need at all. And switching providers once a provider has been engaged is also costly for a consumer, both in terms of gathering the required information to choose effectively, but also because of the potential impacts on the case or transaction for which the service is provided.

### The role of regulation in legal services

The regulation of legal services is centred on our regulatory objectives, which have both a public interest role and a consumer protection focus. The regulators deploy a range of different regulatory tools to achieve these objectives. These tools are used at various points including:

- before the service is provided (e.g. entry standards); and
- after the service is provided (e.g. redress mechanisms).

### How the LSB ensures consumers' interests are taken into account in regulatory decisions

The consumer perspective in the legal sector has historically been under-researched and, since our inception, we have pushed to improve this situation. But there is always more to be done. To understand consumers' views better and reflect them in policy-making, we:

- commission a range of quantitative and qualitative research with individual and small business consumers, as do some of the frontline regulators;

- publish the underlying raw data from all our quantitative research for use by others to both inform regulatory decisions and for other purposes (such as new entrants using our data to develop service offerings);
- press the frontline regulators to engage more with consumers through our reporting on the extent of their activity in this area, and publicising the insights from our own consumer research; and
- publish a triennial market evaluation, which draws together consumer research and other material to assess whether desired market outcomes are being achieved.

The Legal Services Consumer Panel is a statutory consumer panel established to represent consumers' legal services interests, and it has powers to make representations and provide advice to us. We also request advice from the Panel and engage with other consumer organisations to understand the user perspective. These include national consumer bodies such as Citizens Advice and Which?, but also a range of charities including the Deaf Studies Trust and Mencap.

**In the future LSB will continue to challenge frontline regulators to improve their consumer engagement**

Going forward, as well as commissioning our own surveys and obtaining advice from our independent statutory consumer panel, we will continue to challenge and support the frontline regulators to deepen and widen their approaches to consumer engagement. A key focus in the next year will be to achieve greater market transparency following the CMA's market study so consumers can play a more active role in driving competition.



**CASE STUDY:  
GROUND-BREAKING RESEARCH INTO THE  
LEGAL NEEDS OF SMALL BUSINESSES**

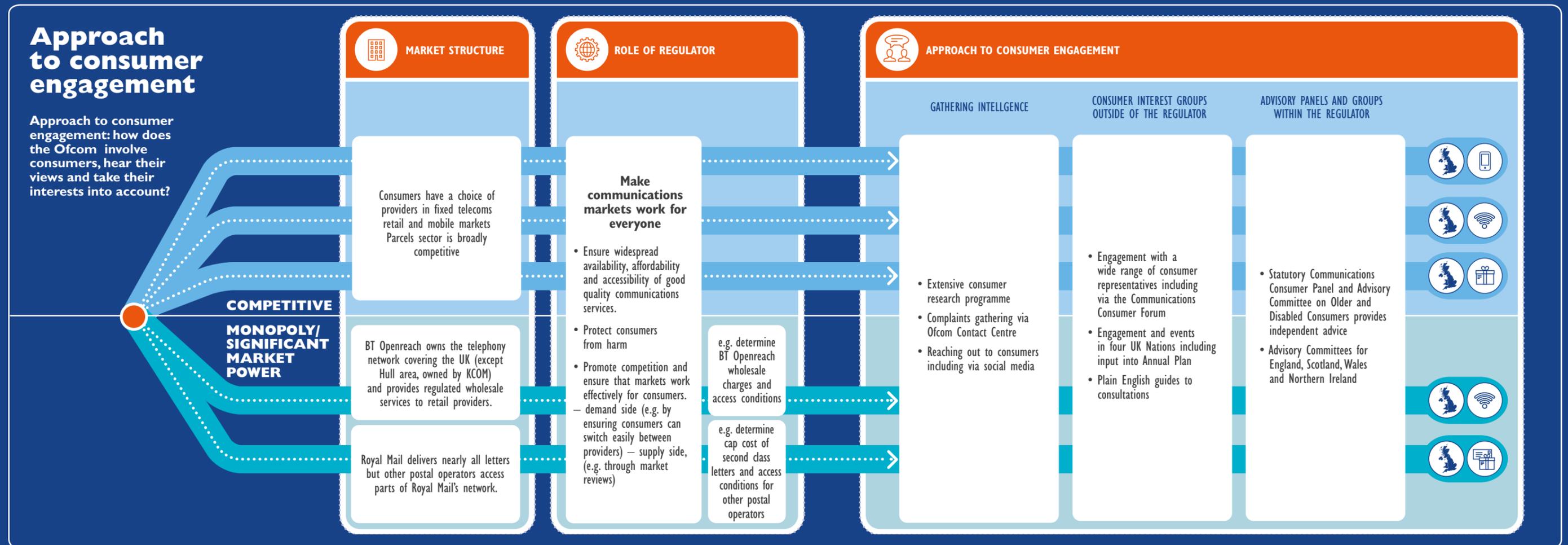
**We have commissioned large scale independent research into the legal needs of small businesses.**

This ground-breaking work, which is soon to start its third phase, assesses how small businesses respond to legal issues, and the reasons why they respond in the ways they do. For the first time, this provides

insight into how small businesses perceive legal services, and identifies the levels of unmet legal need. Tailored briefings prepared to accompany the main report challenge policymakers, frontline regulators and providers developed new service offerings to better meet consumers' needs. The Competition & Markets Authority (CMA) drew heavily on the second

wave to inform their 2016 market study. The CMA's legal services market study found that the legal services market was not working well for consumers and made a series of recommendations for the regulators in this sector to enable consumers to more effectively make choices and drive competition.





### OFCOM'S ROLE

Ofcom is the regulator for TV, radio and video-on-demand sectors, fixed-line and mobile telecoms and postal services, plus the airwaves (i.e. radio spectrum) over which wireless devices operate.

### OFCOM'S DUTIES

- To further the interests of citizens
- To further the interests of consumers in relevant markets, where appropriate by promoting competition.

Amongst other things, in performing its duties Ofcom must have regard, as far as relevant, to the needs of:

- persons with disabilities;
- the elderly;
- those on low incomes; and
- the vulnerability of children and of others whose circumstances appear to Ofcom to put them in need of special protection.

Ofcom is also required to have regard to the different interests of:

- persons in the different parts of the United Kingdom;
- ethnic communities within the United Kingdom; and
- persons living in rural and in urban areas.

### BT COVERS THE WHOLE OF THE UK APART FROM HULL

### THE STRUCTURES OF THE COMMUNICATIONS AND POSTAL MARKETS

#### Fixed telecoms

The four largest fixed-line operators are BT, Virgin Media, Sky and TalkTalk. Collectively they have over 90% share of the residential market, with a long tail of smaller providers also offering services. The 'big four' compete across fixed-voice, broadband and pay-TV markets as well as increasingly for mobile customers (via wholesale arrangements they have with mobile network operators).

Openreach is a part of BT that owns and manages the ducts and cables that connect nearly all businesses and homes in the

United Kingdom to the national broadband and telephone network. BT Openreach covers the whole of the UK apart from Hull. BT is designated as the Universal Service provider in the UK apart from Hull, where KCOM is designated. Under its Universal Service obligations, BT must provide a fixed telephone line to any address in the UK (outside Hull) on reasonable request. Openreach was created as a business unit that is 'functionally separated' from the rest of BT in 2005 following Ofcom's telecommunications strategic review. BT is required to provide other communications providers access to certain parts of the BT network on an equivalent basis, i.e. under the same conditions as to BT's retail divisions. It does that via Openreach. A large number of communications

providers buy a variety of regulated wholesale services from Openreach, which allows them to provide telecoms services to consumers by using Openreach services to connect with their own networks. Virgin Media's cable network is available to nearly half of UK households and it is currently expanding its network so that it will be able to provide voice, broadband and TV services to around 60% of household by the end of 2019. There are also a number of other smaller end-to-end providers who specialise in fibre-to-the-premises connections.

#### Mobile telecoms

There are four mobile network operators (MNOs) – EE (which since 2016 is owned by BT), O2, Vodafone and Three – that

have licences to operate radio spectrum. There are a large number of virtual mobile network operators that provide services by using one of these four networks, including Virgin Mobile, Tesco Mobile, iD Mobile and Lebara.

#### Post

Royal Mail provides an end-to-end service covering the whole of the UK, universally providing collection, sorting, transport and delivery of letters. There are also many regulated postal operators who compete (as access operators) with Royal Mail on the collection, sorting and part transport of letters from business customers. Royal Mail provides 'last mile' delivery on behalf of several competitors (access operators) via its wholesale arm.

## For most providers, the only relevant conditions are the General Conditions of Entitlement, as these apply to anyone who is providing an electronic communications service or network

### The communications market offers a wide choice of tariffs and providers

Fixed and mobile operators compete for consumers by offering a wide range of services. Fixed operators offer standard and 'superfast' broadband, and a range of different call packages and pay-TV packages. Mobile operators offer pay-monthly or pay-as-you-go tariffs, SIM-only and handset-included tariffs, and have a wide range of call and data plans.

Services are frequently bundled together – in 2016 around three quarters of households bought a 'bundle' of multiple services from the same provider.

### Regulation applied to all providers of communications and postal services

#### Telecoms

Communications providers in the UK operate under the General Authorisation regime. Licences are not required for providing communications networks or services – everyone is 'generally authorised' to do so provided

they meet certain requirements. Ofcom's General Conditions set out the requirements for anyone who is providing an electronic communications service or network. These 23 General Conditions cover amongst other things:

- general access and must-carry obligations;
- various aspects of billing;
- dispute resolution;
- numbering;
- mis-selling and switching (i.e. number porting and migrations); and
- transparency of information.

We investigate non-compliance by providers and impose penalties where appropriate.

Companies that are not regulated in the way described above but which could have an impact on consumers include **price comparison websites** (which can be accredited by Ofcom) and providers of **alternative dispute resolution schemes** (which must be approved by Ofcom in order to be used by communications providers – all telecoms providers must be members of an approved ADR scheme).

#### Post

Royal Mail is the only postal operator which has an obligation to provide universal service. This is universal coverage, six days a week, delivery and collection of letters (5 days a week for parcels) and uniform pricing for universal service products.

Royal Mail is the only postal operator which has an obligation to provide universal service. This is universal coverage, six days a week, delivery and collection of letters (5 days a week for parcels) and uniform pricing for universal service products. Royal Mail is subject to a range of regulatory conditions including binding quality of service standards in respect of its universal services.

Ofcom can also impose regulatory conditions on other postal operators and the extent to which these conditions apply depend on the type of postal services provided. For full details consult the Ofcom website.

### The role of economic regulation

#### Fixed telecoms

In addition to the General Conditions which apply to all providers of electronic communications networks,

individual providers may also be subject to additional conditions, such as:

- SMP conditions (imposed as a result of a finding of Significant Market Power);
- access related conditions; and
- conditions imposed as a consequence of a provider being designated as a universal service provider.

As the owner of the UK's nationwide telephony infrastructure, we have designated BT as having significant market power in several markets for the delivery of wholesale services to communications providers. Under Ofcom's regulatory powers, Ofcom may impose remedies including an obligation to provide access to the network and price controls on BT Openreach's regulated products.

In addition to charge controls, Ofcom has set standards on quality of service in some markets.

#### Mobile

Ofcom sets a cap on the amount mobile operators can charge for terminating a call on each other's networks.

#### Post

Ofcom imposes some price controls on Royal Mail, including a safeguard cap for second class letters up to 2kg. This was set at 55p in 2012, increasing by CPI from 2013 onwards.

We also regulate the 'last mile' delivery services that Royal Mail provides to other postal operators via its wholesale arm.

### How Ofcom ensures consumer interests are taken into account when making decisions

To develop our policy programme and help reach proportionate regulatory decisions, Ofcom relies on:

- an extensive programme of market research. Ofcom's policy programme is underpinned by consumer research which includes regular surveys to track consumer outcomes and specific research to investigate issues and assess potential remedies;



- engagement with consumer stakeholders. The Communications Consumer Panel has a statutory role in providing advice to Ofcom. It consists of eight independent experts who work to protect and promote consumer interests, including via monthly meetings at Ofcom where it inputs into Ofcom's policy work. The Panel also incorporates the Advisory Committee on Older and Disabled Consumers. The Panel also drew up the Consumer Interest Toolkit which Ofcom uses to make sure policy work is focused on delivering for consumers. Ofcom also engages with a wide range of other consumer representatives, including via the Communications Consumer Forum, an informal forum which meets quarterly at Ofcom's offices, and for which Ofcom appoints an independent chair;

- Nations Advisory Committees. Ofcom appoints advisory committees to represent the interests of consumers in each of the UK's four nations. These are represented on the Ofcom Board;
- Ofcom's Consumer Contact Centre which logs consumer complaints and feeds into policy work; and

- consumer input in Ofcom consultations. Ofcom produces plain English guides for many consultations and encourages responses from individual consumers as well as consumer representatives, including by promoting them through social media. We hold events in the four UK nations to gain input into our annual work plan.

### Future developments

Ofcom is pressing forward in increasing consumer feedback on services available in the market. In November 2016 we launched our first crowdsourced research project for better mobile phone services. Mobile users can download an app and join a nationwide panel of volunteers who will help gather valuable information about mobile coverage, reliability of voice calls, mobile broadband performance and users' experiences and habits.

This will then feed into various Ofcom research projects, including a new study comparing telecoms operators' quality of service in spring 2017.

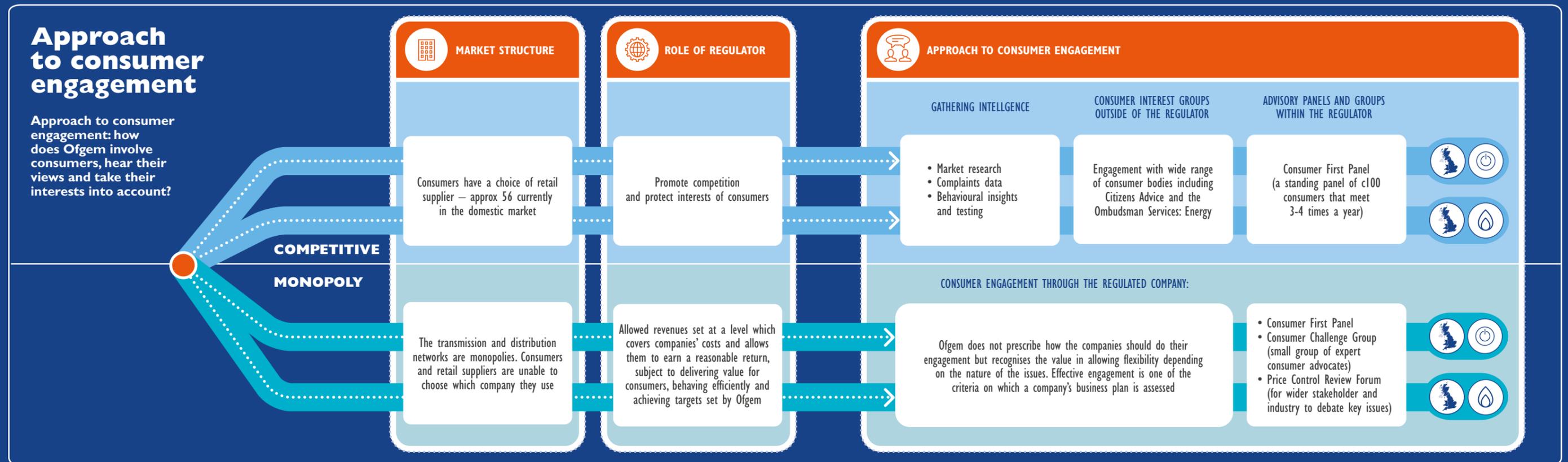
## CASE STUDY: HOW OFCOM'S WORK ON CALLER LINE IDENTIFICATION DEVELOPED WITH THE COMMUNICATIONS CONSUMER PANEL

In its responses to Ofcom's draft annual plans for 2015/16 and 2016/17, the Communications Consumer Panel/Advisory Committee on Older and Disabled People raised the issue of nuisance calls, and expressly encouraged Ofcom to support the provision of free caller line identification (CLI) for consumers.

Ofcom is currently consulting on requiring that, where CLI data is provided, it is valid and any telephone number presented or displayed to the called party is diallable and uniquely identifies the caller. We are also proposing to add new conditions requiring telecoms providers to inform their subscribers if CLI facilities are not available and preventing them from

levying additional charges for access to or use of CLI facilities.

Finally, we are proposing to require that all telecoms providers should, where technically feasible, take reasonable steps to identify and block calls on which invalid or non-diallable CLI is provided, in order to reduce the number of nuisance calls being made on which invalid or non-diallable CLI is used.



### OFGEM'S ROLE

Ofgem is the electricity and gas regulator for Great Britain. (GB) Our principal objective is to protect the interests of existing and future electricity and gas consumers. We work to promote value for money, security of supply and sustainability for present and future generations. We do this through the supervision and development of markets, regulation and the delivery of government schemes.

### OFGEM'S DUTIES

In carrying out our functions we must have regard to the need to:

- secure that all reasonable demand is met where economical to do so;
- secure that companies are able to finance activities; and
- contribute to the achievement of sustainable development.

We must also have regard to the interests of individuals who are disabled or chronically sick, of pensionable age, with low incomes or live in rural areas, as well as to those of other consumers.

### STRUCTURE OF THE ENERGY SECTOR IN GREAT BRITAIN

The GB energy sector is split between the competitive wholesale and retail markets, and the monopoly distribution and transmission networks.

#### Retail

The full rollout of competition in the retail market began in the late 1990s. In the following years, following horizontal mergers, the number of gas and electricity suppliers reduced to six. However, in recent years these six large suppliers have lost market share due to a significant growth in the number of independent suppliers, with now over 50 suppliers in the market. These new entrants have a variety of business models, such as not-for-profit, renewable and local supply schemes.

### Networks

The gas and electricity network used to be state-owned. It was privatised in 1986 for gas and 1990 for electricity. Today the gas and electricity transmission and distribution sections are owned by separate companies, and there are different owners in different parts of Britain. The exception is gas transmission, which is owned and operated by National Grid Gas.

### THE FULL ROLLOUT OF COMPETITION IN THE ENERGY MARKET BEGAN IN THE LATE 90S

TODAY

**48** active suppliers

compete in the domestic energy market (at September 2016)

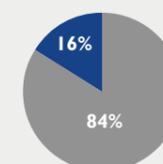


**40** provide both gas and electricity

**6** solely supply gas and 2 electricity

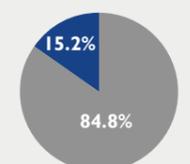
#### Domestic market shares

##### Gas



16% – active small and medium suppliers  
84% – active large suppliers

##### Electricity



15.2% – active small and medium suppliers  
84.8% – active large suppliers

## We are committed to regulating the retail market through an increasing reliance on principles and removal of prescriptive rules

### Consumer choice in energy

#### Retail

Consumers have an increasing amount of choice of who supplies their energy. Switching hit a six-year high in 2016, with around 15.8% switches across gas and electricity customers. Of these switches, nearly half (47%) were to small or medium sized suppliers. This switching is being driven by increased consumer choice both in suppliers and products, as cheaper deals become available and suppliers compete for customers. Price comparison websites enable consumers to compare tariffs and switch online.

#### Networks

Because the networks are monopolies, consumers cannot choose which company to use.

### The role of regulation

#### Retail

Ofgem regulates suppliers to promote competition and protect the interests of consumers. We are committed to regulating the retail market through an increasing reliance on principles and removal of prescriptive rules. This focus on consumer outcomes should drive

increased competition, innovation and offer consumers protection as they engage in the market.

#### Networks

We regulate the monopoly networks via price controls, as there is no realistic way of introducing competition across the whole sector. Price controls set the amount of money (allowed revenue) that can be earned by the network companies over the length of a price control. These companies recover their allowed revenues from charges to suppliers, who in turn pass these costs through to customers. The revenues cover the companies' costs and allow them to earn a reasonable return, subject to them delivering value for consumers, behaving efficiently and achieving their targets for reliability, customer service and environmental performance set by Ofgem. Alongside this, we encourage companies to innovate to cut costs for consumers and help the network meet Britain's future energy needs.

#### How Ofgem ensures consumers' interests:

- are taken into account when developing policy
- inform how and when we take action

#### Retail

Engagement with consumers and consumer bodies is critical to targeting our policy development and compliance activities.

Our Consumer First research programme helps us to understand the priorities, views and experiences of a wide range of consumers, including those considered harder to reach. We also commission independent qualitative and quantitative consumer research, and review evidence from a variety of other organisations.

We also engage consumer bodies and experts to help shape our retail policy, for example:

- regularly sharing data and discussing emerging issues with Citizens Advice and the Ombudsman Services: Energy;
- holding events such as our recent Consumer Group Forum; and
- including consumer representatives on our recent 'Challenge Panel' which quizzed suppliers about what they are doing to treat their customers fairly.

#### Networks

As part of a major review of our approach to price controls "RPI-X@20" initiated in 2008, we proposed enhancing consumer engagement— by both Ofgem and the network companies as detailed in the case study on the next page.

## CASE STUDY: USE OF CONSUMER FIRST PANEL TO HEAR CONSUMER VIEWS FIRST HAND

Set up in 2009, Ofgem's Consumer First Panel is made up of everyday domestic energy consumers who meet 3-4 times a year in a range of locations across Great Britain to deliberate on, and feed into, key policy issues.

Specific topics for discussion are determined throughout the year in

line with our emerging priority insight needs. Panellists and Panel locations are refreshed every year, so we continue to capture authentic and fresh consumer perspectives.

The workshops are usually around 3 hours long and use deliberative approaches. This enables Panellists to understand more about how energy

markets work, which means they can offer a more measured and informed view about key issues and policy options we're considering. To date the Panel has discussed a diverse range of policy issues, which are often complex and require us to get beyond 'top of mind' responses to really understand consumer attitudes.

## CASE STUDY: APPROACH TO CONSUMER ENGAGEMENT BY ENERGY NETWORKS – "RPI-X@20" PRICE CONTROLS

### Consumer engagement by network companies

Ofgem did not prescribe how the companies should do their engagement -recognising the value in allowing flexibility depending on the nature of the issues. However, effective engagement was one of the criteria we would assess in deciding whether to "fast track" a company's business plans. Ofgem also made clear that this engagement should not just be a one-off exercise around the setting of the price control – we'd expect companies to continue that engagement and we introduced an incentive to encourage them to do so.

### Ofgem's engagement as a regulator

In terms of our own engagement, we looked to build on the changes from for the previous distribution price control (DPCR5) as part of the wider Consumer First programme. This involved using

- the Consumer First Panel (a standing panel of around 100 customers)
- a Consumer Challenge Group (a small group of expert consumer advocates who met regularly with Ofgem and the Authority throughout the process and served as a critical friend)
- a Price Control Review Forum (where wider stakeholder and the industry would meet to debate key issues).

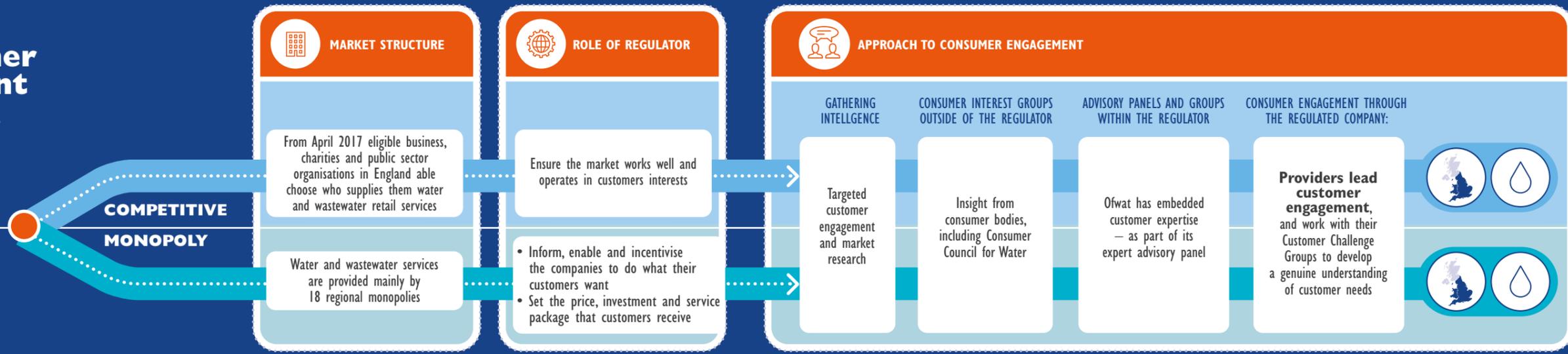
This built on a programme of consumer research (e.g. on willingness to pay) in past price controls.

In January 2017, Ofgem published a paper on Consumer engagement in the RIIO Price Control Process, which considered in detail Ofgem's experience in RIIO and the lessons to be drawn. <https://www.ofgem.gov.uk/publications-and-updates/consumer-engagement-riio-price-control-process-paper-maxine-freerk>



## Approach to consumer engagement

How does the OFWAT involve consumers, hear their views and take their interests into account?



### OFWAT'S ROLE

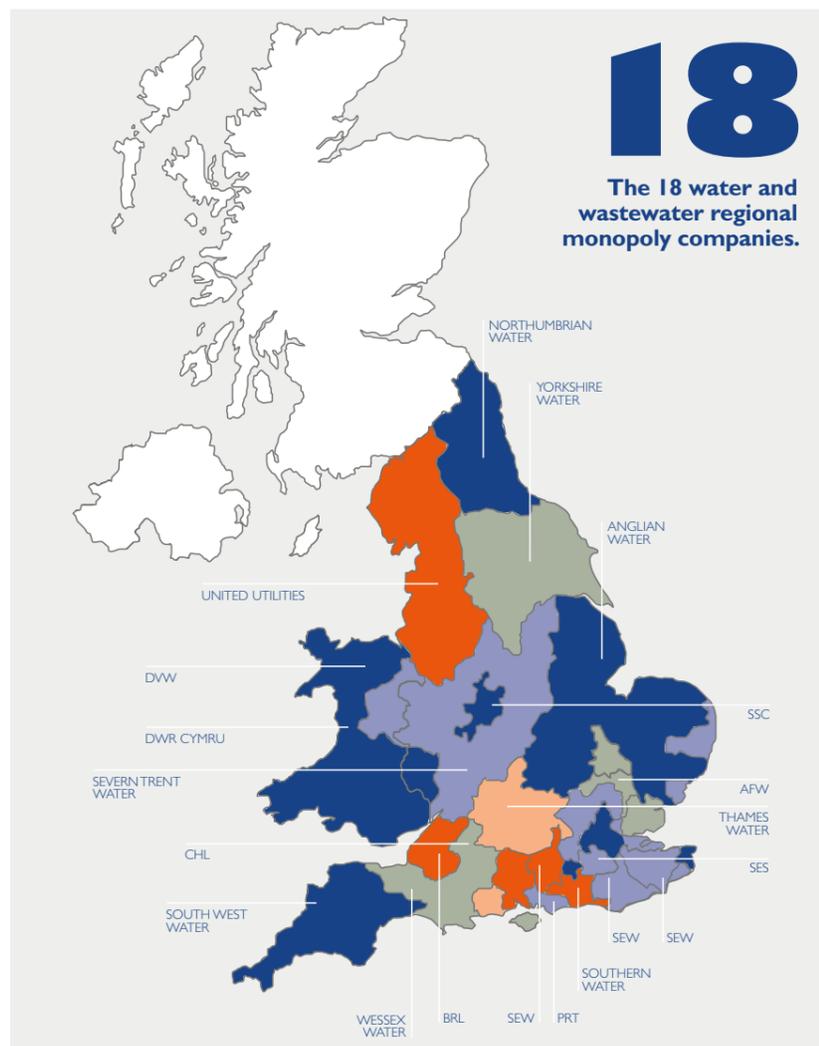
As the economic regulator of the water sector in England and Wales, Ofwat's role is to help the sector build trust and confidence with customers and wider society.

### OFWAT'S DUTIES

Ofwat must exercise and perform relevant powers and duties in the manner which it considers is best calculated to, amongst other things, further the consumer objective, which essentially is to protect the interests of consumers. Consumers include but are not limited to individuals who are: disabled or chronically sick; of pensionable age; with low incomes; residing in rural areas; and customers whose premises are not eligible to be supplied by a licensed water supplier.

### THE STRUCTURE OF THE WATER AND SEWERAGE INDUSTRY

The water and wastewater sectors are run by regional monopoly companies. There are 18 in England and Wales.



These companies provide water resources (wholesale activities), treatment and distribution (network activities) to residential and business customers. Residential customers also receive their retail services from these regional monopoly companies

### Consumer choice in the water and sewerage sector

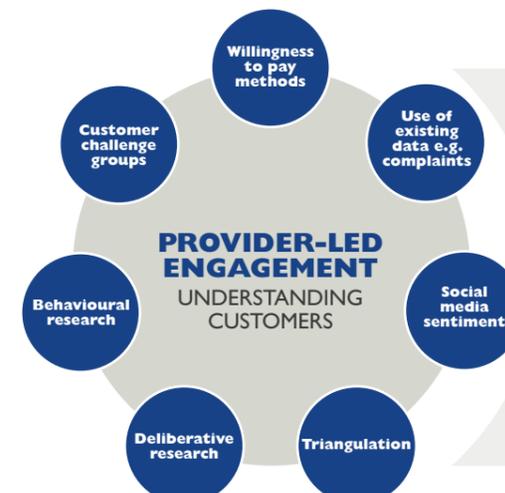
- Household consumers cannot choose their provider for water or sewerage services.
- From April 2017 more than 1.2 million eligible businesses, charities and public sector organisations in England are able to choose who supplies their water and wastewater retail services.

We are promoting the development of two new markets – sludge and water resources – where there is potential to unlock substantial benefits for customers, companies, investors and the environment. We will also encourage more competition in the financing and provision of new infrastructure by third parties. The UK Government asked us to review the costs and benefits for extending competition to residential customers. We published our findings in September 2016).

It will be for the Government to take a decision on whether or not to introduce competition in the household retail market.

### Role of regulation: Price reviews

- One of the ways we protect customers is to:
- determine the overall service package that customers receive; and
  - the revenue companies can recover from their customers to supply that service package.



Focus on companies using customer engagement to drive their business decisions

Quality of direct customer engagement feeds directly into assessment of company business plans



### OFWAT'S MAIN FOCUS IS ON INFORMING, ENABLING AND INCENTIVISING PROVIDERS

Ofwat has embedded customer expertise and will engage with customers and their representatives more widely where relevant to gain customer insight.

We do this by requiring extensive customer engagement by companies. When we set price controls we must balance the interests of consumers with the need to make sure efficient companies can finance the delivery of water and sewerage services. We also need to make sure they are able to meet their legal obligations, including their environmental and social duties

We currently set wholesale price controls for the water and sewerage companies every five years. We last set them in 2014. These price controls apply to customers' bills and the services they receive between 2015 and 2020. We are now preparing the methodology for our next price review (PR19).

### Customer engagement to inform regulatory decisions

We focus on ensuring that companies deliver the outcomes that matter to customers. We encourage companies to better understand customers and their preferences to ensure that they have an increased role in decision making. We inform, enable and incentivise good quality customer engagement that drives decision making and the development of high-quality business plans that reflect customer preferences. Ultimately, it is for companies, working with their Customer Challenge Groups, to deliver these. Ofwat's main focus is on informing, enabling and incentivising providers. That is not to say Ofwat will not engage direct with customers, their representatives, and more widely, where relevant to customers and customer insight. And, consistent with our duties, we will step in to protect customers if necessary.

#### What understanding customers' needs and requirements means



## CASE STUDY: CUSTOMER ENGAGEMENT IN PR14

**The focus on customer engagement and outcomes was a key success of the 2014 price review (PR14) and an important feature that we propose to retain for PR19.**

PR14 was the biggest ever customer conversation in the water sector. In total, companies engaged directly with more than 250,000 customers. They then developed a set of outcomes that their customers said they wanted and were willing to pay for. These outcomes related to better customer service; more efficient use of water; the long-term resilience of water supplies; and a cleaner environment, both now and in the future. The companies made 522 performance commitments to deliver those outcomes.

As part of PR14, we asked companies to set up independent Customer Challenge Groups (CCGs), which included customers and their

representatives; local authorities; businesses; and environmental groups.

CCGs played an important role in helping to scrutinise companies' business plans. They challenged the quality of the customer engagement process and how well the company's proposed outcomes and outcome delivery incentives reflected its customer engagement and customers' priorities; and provided independent reports to us during the price review process.

Ofwat is looking to further promote consumer engagement in the sector

We are changing the way in which we regulate these services. Our new approach brings even greater expectations of companies to understand their customers and deliver outcomes over the long term. This means companies finding out what matters most to their customers now and in the future, and delivering this.

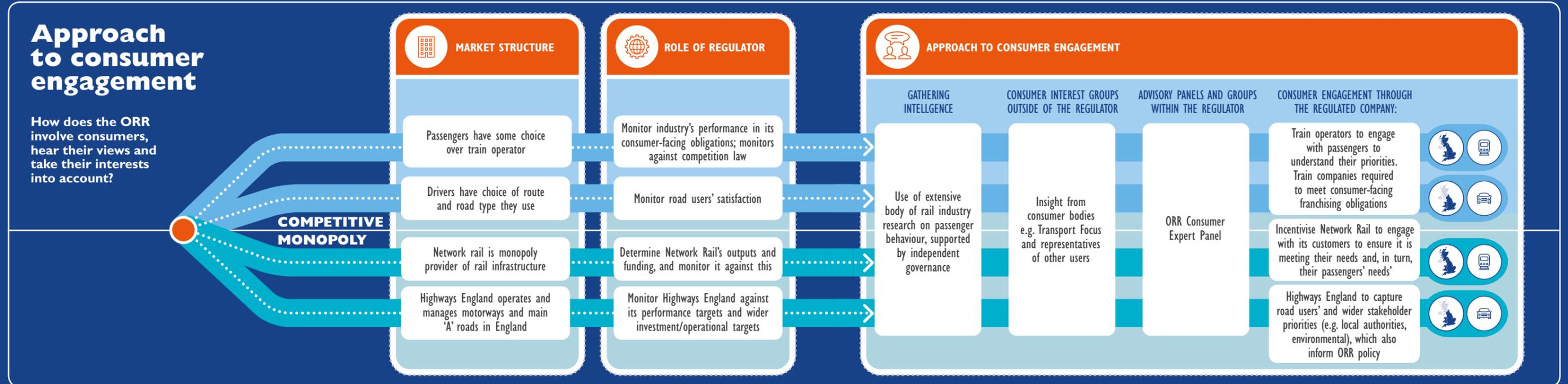
We expect companies to understand

the needs of all their customers, including customers in circumstances which might make them vulnerable. This requires more diverse approaches to understanding customers' priorities, needs, requirements and behaviours. This understanding should inform the development of business plans and performance commitments that deliver resilient services that customers want, need and can afford.

We have put in place additional principles for customer engagement, to help drive a focus on customers over the long term and we will continue to inform, enable and incentivise the industry to push the frontiers of customer engagement.

For example, we are exploring the idea of customer participation – going beyond the idea of 'engagement' to better find out what customers want, and into recognising customers as an integral part of the water and waste water value chain.





### ORR'S ROLE

The Office of Rail and Road is the economic and safety regulator for Britain's railways. This involves regulating Network Rail (the owner and operator of much of GB's rail network); overseeing competition and consumer rights issues; and regulating health and safety standards across the whole industry.

We also monitor the performance and efficiency of Highways England's management of the Strategic Road Network, based on requirements set by government.

### ORR'S DUTIES

ORR has a large number of statutory duties. In undertaking our economic functions in rail, our duties require us to (amongst other things) take account of:

- users of railway services and;
  - those providing railway services.
- We are also required to have regard to the interests and/or views of:
- the Secretary of State for Transport and;
  - devolved and local transport authorities (e.g. TfL).

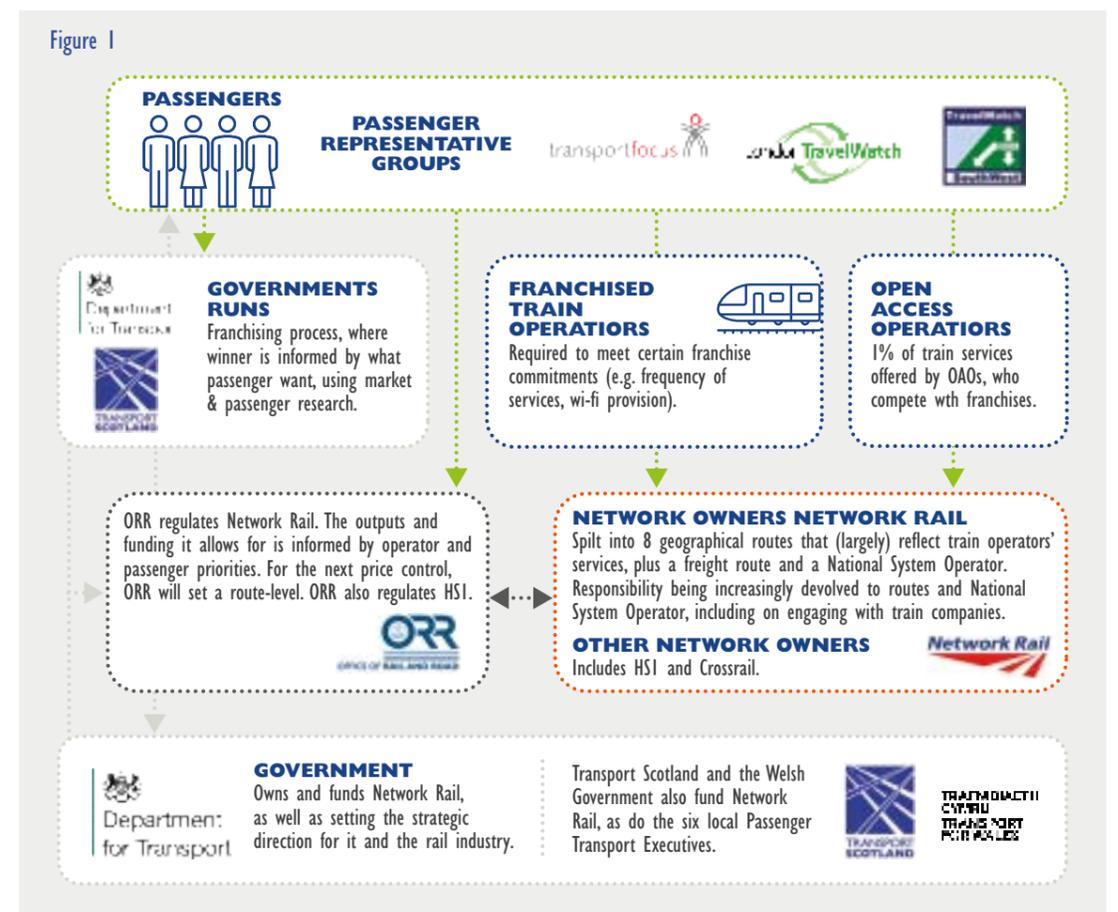
### THE STRUCTURE OF THE RAIL SECTOR

As illustrated in Figure 1 (see opposite), the rail industry is structured along the following lines:

- most rail services are provided by franchised train operators, who have won the right to operate trains on certain routes based on the fares, service and payments made to/from governments. Open Access Operators, who are not subject to a franchise, also operate train services;
- most of the national rail infrastructure (e.g. track, major rail termini) is provided by Network Rail, which is owned by government;
- Governments run the franchising process and provide the strategic direction and some funding to the railways; and
- ORR regulates the rail industry, including Network Rail.

### ORR REGULATES NETWORK RAIL; OVERSEEING COMPETITION AND CONSUMER RIGHTS ISSUES; AND REGULATING HEALTH AND SAFETY STANDARDS ACROSS THE WHOLE INDUSTRY

Figure 1



### The role of economic regulation in rail

As the economic regulator, an important aspect of our role is regulating Network Rail. This involves;

- determining the detail of what Network Rail must deliver;
- the funding it requires; and
- the incentives it and train companies need to encourage effective performance.

In turn, we hold Network Rail to account to ensure it delivers what was agreed, taking enforcement action where necessary.

We are currently developing our thinking on Network Rail's outputs and funding for Control Period 6, which we expect to run from 1 April 2019 for five years.

We also make sure train operators have fair access to the network.

### Enforcing consumer and competition law

We also monitor (and enforce, where necessary) the industry's compliance with competition and consumer law. This includes monitoring train companies' complaints handling and service to disabled passengers (for example), regularly undertaking passenger research to help us do that.

### How consumer engagement informs our decisions

In regulating Network Rail and in monitoring train operators' compliance with consumer law, as well as developing our associated policy approach, we:

- engage closely with train operators and with passenger representative groups, including through **industry fora, bilaterals and formal consultations**;
- commission research on passengers' views, including with **Transport Focus**;

- use the extensive body of research into passenger behaviour and preferences; (including that developed through the franchising process); and
- test our policies with **independent advice provided by our Consumer Expert Panel**.

### Monitoring Highways England

We monitor road users' satisfaction and we work with Transport Focus and Highways England to understand their priorities. We also advise and assist the government in understanding how Highways England is performing. For the government's next Road Investment Strategy, which will set out what investment should be delivered by Highways England between 2020 and 2025, we are helping to define how Highways England should capture stakeholders' priorities and take account of these views in setting investment priorities and levels of operational performance for the network.

## CASE STUDY: HOW ORR EXPECTS NETWORK RAIL TO ENGAGE WITH CONSUMERS NOW AND IN THE FUTURE: COMPARATIVE ASSESSMENT OF STAKEHOLDER ENGAGEMENT BY ROUTE

**Train operators are Network Rail's customers, and they engage with each other through a range of formal industry processes and bilateral relationships.**

Train operators, in turn, principally manage the relationship with passengers and freight users. The franchise process typically also provides a way for passenger engagement and views to feed into service specifications.

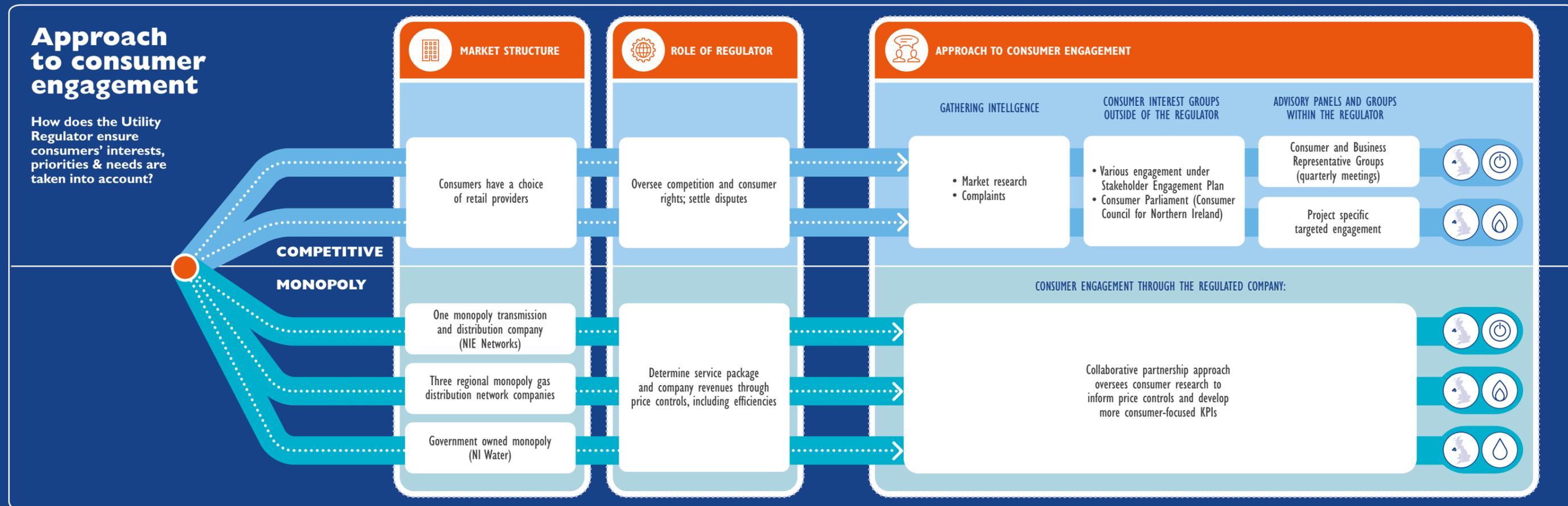
For Control Period 6, we want Network Rail's engagement strengthened, including by:

- making the local Network Rail routes more accountable for the service they provide to train operators (including how it is helping to meet passenger-related priorities in the franchise agreement) by setting outputs on each Network Rail route and holding them to account on what they deliver;

- improved transparency (including more comparison between route businesses) and updated route governance mechanisms that provide a means for train operators and passenger representatives to challenge Network Rail routes on their service; and
- assessing the quality of each route's stakeholder engagement, including how they have made use of research on passengers' priorities in informing their approach.



# UTILITY REGULATOR (NORTHERN IRELAND)



## UTILITY REGULATOR'S ROLE

In Northern Ireland, water and energy are devolved to the Northern Ireland Assembly. The Utility Regulator is responsible for regulating the electricity, gas, water and sewerage industries in Northern Ireland, protecting the short- and long-term interests of consumers. The wholesale electricity market on the island of Ireland is regulated by the Single Electricity Market (SEM) Committee, which is also a statutory committee of both the Utility Regulator and the Commission for Energy Regulation in the Republic of Ireland.

## UTILITY REGULATOR'S STATUTORY OBJECTIVES

- Protect the short and long-term interests of electricity, gas, water and sewerage consumers, with regard to price and quality of service;
- Promote a robust and efficient water and sewerage industry, where appropriate, to deliver high quality services;

- Promote competition, where appropriate, in the generation, transmission and supply of electricity; and
  - Promote the development and maintenance of an economic and coordinated natural gas industry.
- The Utility Regulator also takes into account the needs of vulnerable consumers and aims to contribute to the promotion of sustainable development.

## THE UTILITY REGULATOR PROTECTS THE SHORT AND LONG TERM INTERESTS OF CONSUMERS

## STRUCTURE OF THE ENERGY AND WATER SECTORS IN NORTHERN IRELAND

The energy sector is split between wholesale and retail markets, with a single monopoly transmission and distribution company – NIE Networks, operating with the System Operator for Northern Ireland (SONI):

1. Wholesale costs come from the generation and the raw cost of energy:
  - in the electricity market wholesale costs account for about 60% of the domestic price paid by consumers and retail costs make up the largest percentage of bills; and
  - in the gas market, although this varies per network area, wholesale costs account for about 55% of the domestic price paid by consumers.

2. Network and policy costs make up around 30% of the domestic price paid by consumers in the electricity market and about 35% in the gas market. These costs cover the transport of electricity and gas from the generator to the point of consumption.
3. Supply costs arise from the individual suppliers' operational expenditures and make up around 10% of the final electricity and gas bills. Where there are dominant suppliers, the costs are regulated. This encourages suppliers to keep their prices below the regulated price in order to gain and retain customers.

As competition grows, and consumers shop around for better deals, the Utility Regulator continues to review the supply market to make sure it works in the best interests of consumers. Current supply companies (as of October 2016) include

4. six domestic suppliers in the electricity market and two domestic suppliers in the gas market although not all of these suppliers are licensed to operate in all sectors.
4. The water and wastewater sector is run by a single, integrated regional monopoly – NI Water, which is a Government Company (or GoCo), owned by the Department for Infrastructure and regulated by the Utility Regulator.

## Across the regulated networks we aim to achieve a degree of consistency in customer satisfaction, by introducing new consumer measures

### Consumer choice in energy and water in Northern Ireland

Consumers choose their retail electricity and retail gas suppliers, but not their wholesale supplier, nor the network used to deliver gas and electricity to their homes. Consumers have no choice over their water and wastewater services.

### The role of regulation in energy and water in Northern Ireland

Our mission is to protect the short and long term interests of consumers of electricity, gas and water. Our vision is to ensure value and sustainability in energy and water.

### How the Utility Regulator ensures consumers' interests are taken into account in regulatory decision-making

To understand consumers' and stakeholders' views and reflect them in its policymaking the Utility Regulator uses:

1. Collaborative research with regulated network companies, the local consumer representative council, which is the Consumer Council for Northern Ireland (CCNI), as well as government departments (Dept for the Economy as parent department for energy and the Dept for Infrastructure for water);
2. Direct consumer research with local consumers regarding policy decisions, for example, in bringing in new Guaranteed Standards of Service and setting Overall Standards of Service across the three regulated sectors of gas, electricity and water; and

3. Engagement with consumer groups and/or statutory bodies for the sector such as AgeNI, CCNI, (Police Service of Northern Ireland) PSNI, Which? and Citizen's Advice.

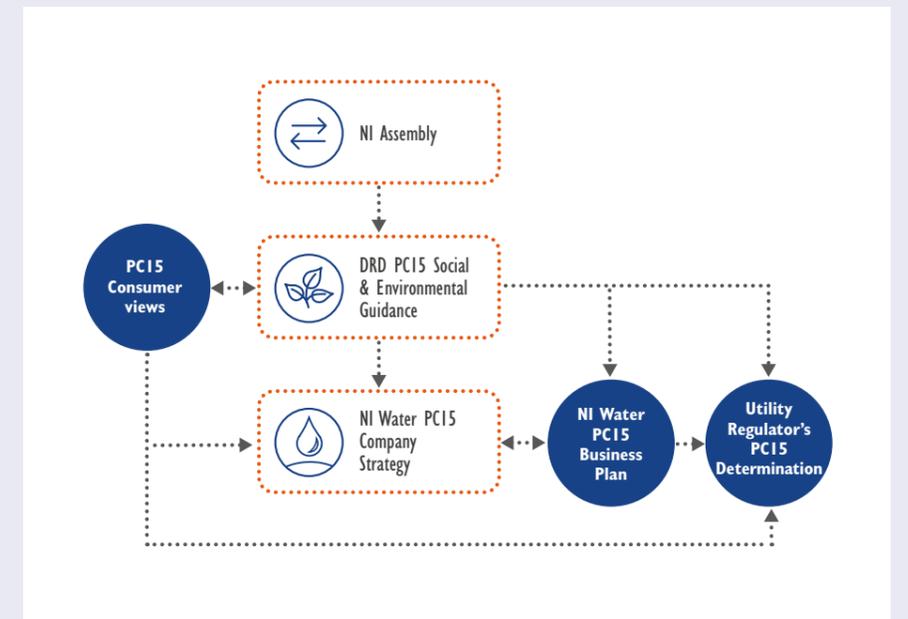
Across the regulated networks we aim to achieve a degree of consistency in customer satisfaction, by introducing new consumer measures. Through the use of

reputational incentives, we also report companies relative performance within our annual Cost and Performance Reports. Where companies compete for customers, either in the energy supply business or when attracting conversion to gas supply, the decisions over the extent and depth of consumer engagement is left largely for the individual companies concerned.



## CASE STUDY: UTILITY REGULATOR'S PARTNERSHIP MODEL OF CONSUMER AND STAKEHOLDER ENGAGEMENT IN WATER

- The Utility Regulator has used consumer research to inform two previous price controls of NI Water (PC10 and PC15). The latest price control adopted a collaborative partnership approach to deliver research on consumer priorities and Willingness to Pay (WTP), using a local market research company (Perceptive Insight Market Research) and academic input on WTP from Queen's University, Belfast.
- The Consumer Engagement Oversight Group (CEOG) pooled resources from the Utility Regulator, NI Water, the CCNI and the Department for Infrastructure ('the department'). The research informed the department's Social & Environmental Guidance which the Regulator had regard to when coming to its decision.
- NI Water used the research to underpin its investment proposals in the areas of the business where there was need for change and improvement in service delivery across the price control.



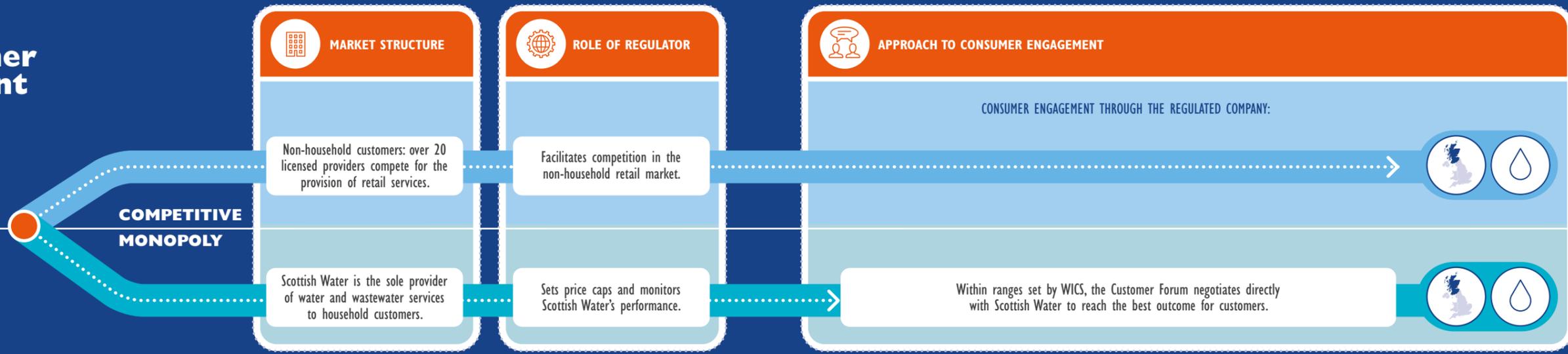
- The schematic diagram above indicates the information flow from PC15 Consumer Views to eventual PC15 determination by the Utility Regulator.

- The Utility Regulator has to continue the roll-out of its preferred collaborative partnership approach to consumer engagement across its other regulated sectors.



## Approach to consumer engagement

How does WICS involve consumers, hear their views and take their interests into account?



## WICS ROLE

The Water Industry Commission for Scotland (WICS) is the economic regulator for the Scottish water industry. WICS is a non-departmental public body with statutory responsibilities. WICS aim is to manage an effective regulatory framework encouraging the Scottish water industry to provide a high quality service and value for money to customers.

## WICS DUTIES

WICS has a statutory duty to promote the interests of customers. WICS principally does this by setting prices for water and sewerage services that deliver Ministers' objectives for the water industry at the lowest reasonable overall cost. WICS monitors and reports on Scottish Water's performance and, since 2008, the role has involved facilitating competition in the Scottish water industry, for non-household retail customers.

## WICS HAS A STATUTORY DUTY TO PROMOTE THE INTERESTS OF CUSTOMERS

## THE STRUCTURE OF THE SCOTTISH WATER AND SEWERAGE INDUSTRY

The provision of water supply and sewerage services in Scotland is a natural monopoly. Scottish Water is a publicly owned corporation who provides the infrastructure and the supply service to both the household and non-household markets.

1. Scottish Water offers water and wastewater services directly to household consumers.

2. The non-household market is competitive: Scottish Water acts as the wholesaler by supplying water and sewerage disposal to licensed providers, who then compete for the provision of retail services to non-household customers. There are over 20 licensed providers currently operating in the market.

### Non-household market.

Scottish Water acts as a wholesaler supplying water and sewerage disposal while Licensed Providers are responsible for customer facing services.

### WATER SUPPLY



### SEWERAGE DISPOSAL



### Competitive retail activities

- Billing
- Customer contact
- Administering new connections
- Payment handling
- Meter reading
- Switching

## WICS consumer-centric regulation model – enabling the Customer Forum to negotiate directly with Scottish Water

### The role of regulation in the Scottish water and sewerage industry

#### Price

- WICS sets prices using incentive-based regulation; every six years, sets the maximum amount that Scottish Water can charge its household customers for water and sewerage services.
- Price limits are based on Scottish Water's overall cash requirements, consistent with maintaining a

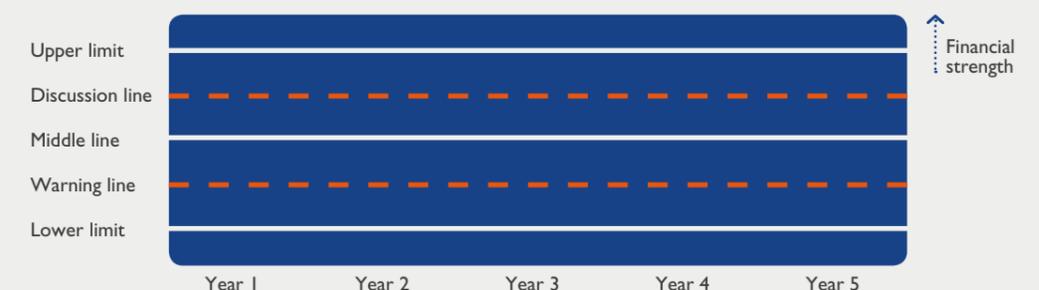
robust level of financial strength that allows for its sustainable financing.

- The financial tramlines are essentially a cap and a collar on the financial strength that Scottish Water can have. If Scottish Water's financial strength reaches the upper limit, there is an opportunity to share outperformance with customers, either immediately or in the future. If financial strength breaches the lower limit, the commission would

take appropriate action to ensure the company is in a better position in the future. The aim is to put Scottish Water more in control of the management of its finances whilst increasing transparency of its financial performance.

- WICS is also responsible for issuing licenses and setting the fees that Scottish Water can charge licensed providers for wholesale services.

### Financial tramlines monitor the financial strength of Scottish Water and help identify and pass on outperformance to customers.



### Quality

- WICS monitors the performance of Scottish Water in key areas such as customer service, investment and costs. WICS uses a number of tools and incentives to challenge Scottish Water to improve in each of these areas.

### Investment flexibility

- Within the regulatory control period, WICS has introduced a rolling investment cycle, updated every three years, to provide Scottish Water with the necessary flexibility to plan improvements in the most efficient way.

In assessing Scottish Water's future investment requirements and monitoring its delivery, WICS works closely with the other key industry stakeholders such as Scottish Government, the Scottish Environment Protection Agency (SEPA), the Drinking Water

Quality Regulator (DWQR) and the consumer advocacy body, Citizens Advice Scotland (CAS).

### How does WICS ensure consumer interests are taken in account in regulatory decisions?

The Commission chose to involve customers directly in the Strategic Review of Charges (SRC) 2015-21 through the creation of a Customer Forum. The Customer Forum is an independent group tasked with identifying and understanding customers' priorities – within the context of the price review process – and seeking to get the best outcome for customers by negotiating directly with Scottish Water.

WICS Determination incorporates the minute of agreement between the Customer Forum and Scottish Water.

### Taking forward consumer engagement in water in Scotland

The customer engagement model adopted in the SRC 2015-21 was considered to be highly successful and WICS is keen to build on this and incorporate the lessons learnt from the experience. For instance, WICS wants to further develop the outreach of the engagement process and facilitate engagement with a wider range of geographic communities and interest groups.

A tri-partite agreement for the creation of a Customer Forum for the next Strategic Review Period (2021-27) has been put in place between WICS, Scottish Water and Citizens Advice Scotland. Once set up, the Customer Forum will begin the task of identifying customer priorities for the next regulatory period.

## CASE STUDY: Customer Forum approach in SRC 2015-21: why and how

There were a few motivating factors for opting for a new regulatory approach to the 2015-21 price review, these included the following:

- there was a need to make Scottish Water more directly accountable to its customers;
- it was becoming increasingly difficult to use conventional regulatory techniques to identify performance gaps; and
- a desire for improved transparency in the regulatory process and increased customer legitimacy in charges.

In September 2011, the Customer Forum was established through a cooperation agreement between Consumer Focus Scotland (now part of Consumer Futures), Scottish Water and WICS. The Forum had nine members and was

charged with the task of negotiating and reaching agreement on areas of price control by engaging directly with Scottish Water. The agreement had to be consistent with Scottish Ministerial objectives for the industry and within acceptable ranges for all key parameters to the price review (e.g. ranges on prices, investment etc.) as set out by WICS in advance of the negotiating process.

Prior to the negotiation, the Forum worked with Scottish Water and Consumer Focus on a programme of customer research. Based on the priorities and preferences unveiled during this research, the Forum looked at all the potential trade-offs in Scottish Water's business plan and reached an agreement directly with the company on the regulatory settlement, thereby securing the most appropriate outcome for customers.

We facilitated the negotiation by making it clear that if the Forum were able to reach agreement with Scottish Water (and provided the agreement was consistent with the ranges set by the Commission) then we would be minded to accept the agreement as part of our determination. This facilitated the negotiation process building trust between parties in the whole process.

The negotiation resulted in a business plan that reflected customer priorities and allowed for:

- increased transparency and legitimacy in the process;
- price stability and a move to Consumer Price Inflation;
- increased investment in areas of customer priority; and
- less resources required by the regulator.

