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Flexible and Responsive Energy Retail Markets

Dear Sir/Madam,

SmartestEnergy welcomes the opportunity to respond to BEIS' and Ofgem's joint consultation on flexible and responsive energy retail markets.

SmartestEnergy is the UK's leading aggregator of distribution connected generation, a first mover in the aggregation of demand and frequency services and an established electricity supplier to large businesses. Founded in 2001, SmartestEnergy now employs over 300 employees, has a turnover of over £250million and is investing significantly to expand its operation in the UK and overseas.

Please note that our response is not confidential.

Overview

Before a massive upheaval is undertaken, some consideration needs to be given to whether it is realistically possible to simultaneously allow easy access/development of smart technologies, whilst at the same time maintaining a level playing field.

We would urge minimal intervention. Thorough and transparent impact assessments need to justify all interventions to avoid the trap of "picking winners" and wasting money.

If the five key outcomes proposed are to be achieved, we believe that the increasingly important role Third Party Intermediaries (TPIs) have needs to be recognised. However, with that comes the need for greater scrutiny of TPIs and this would be best achieved through direct regulation/licensing.

Consultation Questions

We answer the questions below in the order in which they appear in the consultation document.

1. Do you agree with our vision for the future of the energy retail market, the outcomes we are seeking to achieve and our characterisation of the key challenges we need to overcome?

> It is difficult to disagree with the vision per se, but before a massive upheaval is undertaken some consideration needs to be given to whether it is realistically possible to simultaneously allow easy access/development of smart technologies, whilst at the same time maintaining a level playing field.
>
> Our comments on the five key outcomes are as follows:
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> ***"Wide choice of energy services** – The future market should support the development of innovative products and services that will deliver greater choice, better service and lower price for consumers."* – We think that the concept of a "lower price for customers" needs further definition; prices should be fair, reasonable and controlled, or at the lowest possible level in a competitive market. They should not be lower for the sake of being lower.

"Consistent consumer protection *– Consumers should be appropriately protected no matter what energy related products/services they choose to sign up to. Sectoral protection should be proportionate to risk."* – This should explicitly apply to the domestic and micro-business sectors only. As far as is possible, regulation should restrict itself to economic regulation with consumer protections used only as a last resort.

"Minimal market distortions *– Business should not face policy obligations/responsibilities that distort competition between different businesses or business models."* -- We would urge minimal intervention. The Price Transparency Remedy is an example of an intervention which was insufficiently nuanced for all the different business models across the market. Thorough and transparent impact assessments need to justify all interventions.

"Competitive prices for all *– Consumers should not face excessive prices or pay considerably more for their energy than the cost of supplying that energy. Excessive loyalty penalties should not return to the market."* -- We agree with the need for a fair and transparent allocation of costs, and these should be cost reflective by their very nature. However, if the wholesale market surges, these costs should be allowable for pass through.

"Customers in vulnerable situations receive required services *– Consumers in vulnerable situations should receive the support and services that they need consistently across the market, no matter who their supplier is."* No comment.

If these five key outcomes are to be achieved, we believe that the increasingly important role Third Party Intermediaries (TPIs) have needs to be recognised. However, with that comes the need for greater scrutiny of TPIs, and this would be best achieved through direct regulation/licensing rather than through suppliers.

2. Are there examples of new products, services and business models that would benefit current and future consumers, but are blocked by the current regulatory framework?

The industry is already moving to a world where greater use of half hourly data will allow for more efficient use of new technologies i.e. smart meters and half hourly settlement. Innovators may find the rules complex and the need to contribute to network costs seemingly unfair, but there are reasons why things are the way they are.

However, the single most important change that would be required to allow for decentralised energy systems to develop would be a fundamental overhaul of DUoS charging such that customers are charged on a much more locational basis (i.e. based on the distance their supply has travelled contractually) and not at generic GSP Group level. We can see, however, that at the present time this may be a step too far.

We suspect that Ofgem's TCR changes will prove to be an impediment in the future, as they are increasing the costs of contractual arrangements which do not use the transmission network through fixed charging and removing embedded benefits (such as BSUoS), when it is clear that embedded generation offsets the use of the transmission network.

The document states: "The only alternatives to becoming a licensed supplier are to use exemptions to the supply licence (which do not allow them to grow their business) or to partner with existing licensed suppliers who have little incentive to enable a new competitor." However, we would expect existing licensed suppliers to introduce innovative products themselves (or in partnership) if they are genuinely viable.

Innovation comes through technology and not through regulatory arrangements. In other words, we are of the view that there are no regulatory barriers; it is more the case that there is not currently sufficient investment.

3. Are there current or emerging harms to energy consumers which are currently out of scope of the regulatory framework? Do these differ for domestic and non-domestic consumers?

We believe that TPIs (domestic and non-domestic) and purveyors of energy saving equipment (main concern would be for domestic) need to come within the scope of the regulatory framework. In a world of greater competition and innovation, these parties will have a greater role to play, but customers will be in greater need of protections.

4. Would it be beneficial to allow suppliers to specialise and provide products and services to targeted groups of customers? If so, how can this be delivered while balancing the need for universal service?

> No. A supplier ensures that all parties involved in the process of producing and transporting energy get paid. There will always be a need for this role. Parties who are wishing to specialise are not wishing to fulfil this role, but to be a party which is paid for the service it offers.

5. Are incremental changes to regulation sufficient to support the energy transition and protect consumers? Or does this require a more fundamental reform, such as moving to modular regulation?

> Modular regulation sounds like an interesting prospect but implementing changes to support the energy transition would mean that the current licence would stay more or less as it is. The add-ons which are required are little to do with current supply i.e. the additional protections required for brokering services and ensuring that energy saving equipment does what it says on the tin.

6. Are there any other potential market distortions we should be considering as part of our review?

> We are concerned that the way the rules currently exist allow for suppliers with embedded generators in exporting GSP Groups to be denied embedded benefits. However, there is an advantage for incumbent suppliers in these areas to continue to pay the embedded benefits to the generators they have contracted with, and not to pass the benefit on to their sticky domestic customer base. This is anti-competitive.

7. Would removing the thresholds for the Energy Company Obligation and Warm Home Discount help remove imbalances in the retail market, and could this be done without significantly increasing barriers to supplier entry or expansion in the retail market?

Removing the thresholds would probably not help remove imbalances in the retail market. Whilst the thresholds are somewhat "clunky", they do reflect the reality that smaller suppliers will have a higher cost to serve and removing them would increase the imbalance between small and large suppliers in the retail market.

8. How could the delivery burden on suppliers from the Energy Company Obligation be reduced, for example through the introduction of a buyout mechanism?

A buy-out mechanism could work, but the buy-out cost would have to be higher than the cost to deliver the obligation, otherwise no supplier would bother with physical installations of energy efficiency measures. However, as a social policy we believe that this should be implemented through (local) government funding. It is not appropriate that the cost should fall on other electricity customers.

9. What effect does the range of Energy and Climate Change Policy Levies have on the retail market?

Clearly, such arrangements make being a supplier extremely complex and off-putting to a small company that may want to come to the market with a niche offering.

10. What actions could government take to reduce any negative impact of Energy and Climate Change Policy Levies?

No comment.

11. Do you agree that now is not the time to make further changes on system and network cost recovery, metering and access to data as part of this retail market review?

The document states the following: "There are clear advantages to the recovering of network and system costs via the bodies through which energy is purchased, and recovering these costs is unlikely to represent a significant administrative burden for suppliers. As such we have not identified any areas for reform of these obligations in the context of the retail market review."

The biggest issue for suppliers is the fact that they still have to pay the distributor in full, even if the customer has gone bust or refuses to pay.

We are of the view that P332 should be allowed to progress, so that data collectors, data aggregators and meter operators can be held to account directly under the Balancing and Settlement Code (BSC). This, we believe, would be consistent with the general thrust of this review which is looking to relieve the burden on suppliers.

12. What total costs do suppliers face with regards to bad debt and supporting consumers who struggle to pay for their energy?

No comment.

13. How could any potential distortions related to high cost-to-serve customers be addressed, for example by the provision of additional support services for customers struggling to afford their energy?

No comment.

14. Would addressing market distortions (for example size-based obligation thresholds for some policy schemes, supporting those who are struggling to afford their energy bills) help reduce incentives for suppliers to adopt pricing strategies that lead to excessive prices for loyal consumers? If so, to what extent (providing quantitative evidence, where possible)?

No comment.

15. What are your views on the measures being considered to address loyalty penalties in different markets? What approach or – combination of approaches – would be most effective in the energy retail market?

The domestic energy markets should operate like car insurance i.e. all customers would be on a fixed one-year deal which would have to be actively renewed. This would have a very positive effect on competition; customers in the car insurance market know that if they do not shop around periodically they will end up paying more than necessary and fixed one year contracts in the energy markets will bring about the same level of consciousness.

16. What other approaches could be adopted to ensure loyalty penalties do not re-emerge?

No comment.

17. What protections or support may be required to engage consumers in vulnerable situations in the future market?

No comment.

Should you require further clarification on this matter, please do not hesitate to contact me.

Yours sincerely,

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