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Submitted via email to: [Switchingprogramme@ofgem.gov.uk](mailto:Switchingprogramme@ofgem.gov.uk)

15<sup>th</sup> January 2021

**Consultation Response: Switching Programme and Retail Code Consolidation: Proposed Licence Modifications**

Dear Rachel,

Energy UK is the trade association for the energy industry with over 100 members spanning every aspect of the energy sector – from established FTSE 100 companies right through to new, growing suppliers and generators, which now make up over half of our membership.

We represent the diverse nature of the UK's energy industry with our members delivering almost all of both the UK's power generation and energy supply for over 27 million UK homes as well as businesses. The energy industry invests over £13.1bn annually, delivers around £85.6bn in economic activity through its supply chain and interaction with other sectors, and supports over 764,000 jobs in every corner of the country.

Energy UK welcomes a faster, more reliable and a more cost-effective switching process, which encourages heightened consumer engagement with the energy retail market and further facilitates market competition. Whilst we agree with the intention behind the programme, we, however, remain concerned about the overall complexity of the new switching arrangements, as highlighted in the above consultation. We are also concerned that Ofgem have not wholly considered the implications of its proposals for both consumers and suppliers. We would ask Ofgem to further consider the complexities of its proposals and the potential risks to both the programme and the market, including the potential for increasing volumes of Erroneous Transfers (ETs) and bad debt. Additionally, we have noted a number of areas which we believe could benefit from Ofgem providing additional design clarity and/or guidance to enable a smooth transition to the new switching process.

Rather than address the individual questions set out within the consultation or comment on the specific Supply Licence Condition (SLC) drafting, we have decided to focus on key concerns flagged by Energy UK members. We anticipate Energy UK members responding to the consultation in full.

**1) Debt Hopping**

We remain concerned about the potential for a significant amount of bad debt to build up as a result of the cooling-off grace period and short standstill time. Both have the potential to result in short-billing periods. Whilst we appreciate the consumer benefits of faster switching, we also note it creates the potential for the programme to be abused. Short-billing periods carry the risk of not being paid and the

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cost to suppliers of pursuing and settling short bills may not be proportionate. We believe the potential for bad debt presents a significant risk to the programme and ultimately the market and, therefore, to consumers.

We would, therefore, like Ofgem, in addition to proactively monitoring debt levels, to commit to intervene if levels of bad debt start to increase above a certain pre-agreed level. We note that the DTC provides Ofgem with a current benchmark for expected bad debts costs.

## 2) Contract Start

Whilst we acknowledge that Ofgem's proposed determination of the start of contract is aligned to favour the consumers' position and view, we are concerned that the determination proposal represents change from the current process.

Under the current process, there is time for a Price Comparison Website (PCW) to send data to the new supplier for validation before switching a supply. However, under the draft SLCs this will be much more difficult. We are concerned that this limit to a suppliers' ability to validate consumer data may increase the margin for errors, resulting in poor customer outcomes.

Whilst Ofgem has envisaged neither an increase in the volume of ETs, nor have identified any significant risks to consumers and/or suppliers, Energy UK believes there is a non-trivial risk of additional ETs as a result of the new proposals. This presents a significant risk to the programme, particularly as reducing the rate of ETs is a key programme aim.

Furthermore, we also question the consistency of the drafting with general consumer law. At the point when the consumer believes no further action is required of them, a formal agreement between the two parties (customer and supplier) may not yet actually be settled. We, therefore, believe Ofgem's proposed determination of contract start is not fully appropriate. As a minimum, the contract start should be determined when the formal agreement (offer and acceptance) between the parties has been made.

Additionally, we request Ofgem to clarify that if suppliers do not receive information in a timely manner from a broker, or if suppliers have reason to believe the information is incorrect, that suppliers can use the exemption under 14A.3(c) that 'the licensee does not have all of the information it requires in order to complete the Supplier Transfer....' to then complete the switch for a later date, but no later than 5 working days from receipt of the outstanding or correct information from the broker.

We believe that if Ofgem is to proceed with its current drafting, mitigating such risks will likely require PCWs introducing considerable changes to deliver data validation before sharing data with a supplier. In line with recommendations of the Customer Journey Forum, we, therefore, strongly believe that as a minimum Ofgem must actively onboard PCWs into the programme.

## 3) Cancellation Process

Energy UK appreciates that the new process around cancelling during the cooling-off period does provide consumers with an increased number of options. As more action is required on the part of the consumer, we are, however, concerned about the complexity of this new process, and the difficulty in explaining these changes to both supplier front line staff and consumers, particularly those in vulnerable circumstances.

In addition, we are further concerned that a variety of differing explanations of the new process from suppliers and PCWs may cause increased confusion amongst consumers and may hinder efforts to encourage greater consumer engagement with the energy retail market.

To help ensure a smooth transition to this new process we, therefore, suggest it would be beneficial for the programme to develop a common guidance, potentially including some standardised scripting, to be used by both suppliers and PCWs when engaging with customers.

Additionally, we recommend Ofgem to consider aligning and reducing the grace period for offering equivalent terms by Supplier A and Supplier B. This would make the proposals much easier to communicate to customers and remove some of the complexities Ofgem are introducing.

#### **4) Annulment Requests**

We note that the draft rules are only applicable in relation to one type of ET. It is unclear to Energy UK why this is the case. We believe, under a 5-day switching process, broadening the right to make annulment requests to other types of ETs could help minimise ETs rates, a key aim of the programme. However, whilst we see benefit in the annulment process as part of a 5-day switching process, we do, question what, if any, use it will have in a 1-day switching environment – suppliers will simply not have the time to make use of the process. It is, therefore, likely to have limited long-term use as a tool to minimise the volume of ETs. It is important Ofgem deliberate on this as part of their decision-making process when considering moving to a 1-day switching process.

#### **5) Transition**

Ofgem should provide further guidance on what additional assurances they would be looking for from suppliers should an error occur and a supplier has moved to 1-day switching during the 5-day switching transition period.

#### **6) Wider Changes**

Finally, it is important Ofgem clarify when they expect to take forwards the other consequential changes to the regulatory environment necessitated by the Faster Switching Programme - for example, GSOP timelines. As a point of principle, early design clarity is crucial to both Ofgem and suppliers' ability to deliver this project. It is, therefore, vital Ofgem provide complete clarity on the full design as soon as possible.

I trust these comments are of use to Ofgem. However, if you would like to discuss the above in further detail, please contact me at [Paige.Truelove@energy-uk.org.uk](mailto:Paige.Truelove@energy-uk.org.uk).

Yours Sincerely,

Paige Truelove

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