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## ICoSS response to Consultation on changes to Ofgem's guidance on applying for a gas or electricity licence

The Industrial and Commercial Shippers and Suppliers (ICoSS) group is the trade body representing non-domestic industrial and commercial (I&C) suppliers in the GB energy market. Our members collectively supply three-quarters of the gas needs of the non-domestic sector as well as over half of the electricity provided by non-domestic independent suppliers<sup>1</sup>.

We are providing a response to the consultation on the proposed changes to the definition of “*significant managerial responsibility*”. The proposed definition is as follows: “*We regard persons of significant managerial responsibility or influence to include those individuals who hold responsibility for, or manage, key business areas, particularly regulatory compliance, financial management, trading (where applicable), operations and business strategy. This may include advisors (where their role goes beyond providing advice to company decision-makers) and, in small new entrants may include the majority of staff.*”

The scope of this definition seems excessive and can cover individuals that are either team leaders or have no managerial role at all in smaller companies. Even though they are maybe the only individual looking at, for example regulatory issues, in smaller companies such individuals do not have the ability to make decisions that will bind companies or significantly affect their operations; only directors and/or owners of the company will have that capability. Treating such individuals as key decision makers in small companies discriminates against smaller suppliers, as in larger organisations such individuals will not be seen as key decision makers. It also



discriminates against non-domestic suppliers who will have fewer employees per KWh of energy supplied compared to domestic suppliers, and so have smaller numbers of staff.

It is our concern that this definition significantly extends that in the licence which refers to *(a) the making of decisions about how the whole or a substantial part of a licensee's activities are to be managed or organised, or (b) the actual managing or organising of the whole or a substantial part of those activities*. This definition implies that only directors/owners of smaller companies fall within its scope and we believe that it is Ofgem's intent to only consider such individuals for new entrants as well. Our concern is that this extended guidance will become the de-facto definition used when assessing ongoing licence compliance, not just for initial licence applications, resulting in an unwarranted increase in oversight of supplier operations.

We believe that the current licence definition represents a proportionate test for any new entrants and allows the size and complexity of any applicant to be taken into effect. The proposed paragraph 3.23 should be removed or amended to clarify that this definition only applies to new entrants.

Please feel free to contact me if you require anything further.

Yours sincerely



Gareth Evans

ICoSS