

Energy Suppliers,
Third Party Intermediaries,
Consumer Representatives and
Other Interested Parties

11 March 2022

Consultation on proposed market-wide derogation from SLC 22B for fixed retention tariffs

Further to the publication last month of our Decision on the short-term interventions (the "Decision Document")¹ to address risks to consumers from market volatility, this letter sets out the minded-to position of the Gas and Electricity Markets Authority ("The Authority") to grant all licensed domestic suppliers, "the Licensees", a derogation from Standard Licence Condition 22B (Requirements to make all tariffs available to new and existing customers) for fixed tariffs that are targeted at existing customers (i.e. fixed tariffs which are not open to new customers).

Intended purpose of the requirement to make all tariffs available to new and existing customers (SLC 22B)

SLC 22B has been introduced as a temporary mechanism – in combination with the Market Stabilisation Charge (MSC) – to help stabilise the domestic retail energy market and minimise consumer detriment. The policy intent is to temporarily reduce the likelihood of unsustainable price competition between existing suppliers in the event of wholesale prices falling quickly and significantly. By doing so, this measure will help to mitigate the prospect of large supplier losses and therefore higher costs and risks to consumers. It is also intended that this would limit price discrimination by suppliers and help to improve consumer trust and confidence in the retail market. This would improve access to cheaper tariffs for consumers who may be less willing or able to switch supplier, particularly those in vulnerable situations.

The derogation clause

In our Decision Document, we highlighted that the policy intention is to ban acquisition-only tariffs (i.e. those available to new but not existing customers). Through our statutory consultation, stakeholders brought to our attention that this policy measure would unintentionally impact the ability of suppliers to continue the practice of offering tariffs aimed at retaining existing customers ("retention tariffs"). Retention tariffs are competitive rates offered to suppliers' existing customers in reward for their continued loyalty in staying with their supplier (e.g. tariffs offered at the point an existing fixed tariff comes to an end).

¹[Decision on short-term interventions to address risks to consumers from market volatility | Ofgem](#)

We therefore introduced a derogation clause in SLC 22B to enable Ofgem to exempt from this rule any tariffs which do not affect the risks we are concerned about, and can otherwise be seen as being beneficial to customers. We specified that this could include tariffs that are targeted at existing customers only and gave the example that this could include fixed retention tariffs. We are also aware that some suppliers offer innovative tariffs that are trialled with existing customers first. In our Decision Document, we stated that in applying for a derogation, suppliers will need to make a case to justify why they consider the tariff in question should be exempt from this licence condition, taking into account the policy intent.

Reasons for a market-wide derogation for fixed retention tariffs

Our ongoing engagement with suppliers has revealed that many are intending to submit requests for a derogation from SLC 22B for the purpose of being able to continue offering fixed retention tariffs to existing customers only. We therefore think that a market-wide approach would allow for a more efficient and transparent process for all concerned

Conditions

This derogation applies in relation to SLC 22B (Requirement to offer all tariffs to new and existing customers) to all licensed domestic electricity and gas suppliers, only for the purpose of allowing them to continue offering – or offer new – fixed retention tariffs to their existing customers.

Your views

We would welcome feedback on our proposed approach by **no later than 24 March 2022**. Subject to feedback, we intend to publish our decision together with the derogation direction, with the intention for a market-wide derogation on fixed retention tariffs to come into effect from 14 April 2022 and last for the duration of SLC 22B (as may be extended by the Authority).

Other types of derogation requests

For all other types of derogation requests, ie those that do not relate to fixed retention tariffs, suppliers will still be required to apply to Ofgem for an individual derogation. To do so, suppliers should complete a derogation application template and explain the reasons for wanting to continue offering their specific tariff. Suppliers can obtain a copy of the derogation template, along with the procedure/guidance note, on our website.

Ofgem will assess these on a case-by-case basis against the policy intent and the anticipated consumer benefit. For suppliers wishing to continue existing tariffs after 14 April, we request that suppliers submit their derogation requests to retailpolicyinterventions@ofgem.gov.uk by no later than 18 March 2022. We will respond to derogation requests to confirm the outcome by no later than 7 April 2022, ahead of 14 April go-live date. For those received after 18 March 2022, we will respond to these as soon as possible.

Yours sincerely,



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