



Maureen Paul  
Ofgem  
10 South Colonnade  
Canary Wharf  
London  
E14 4PU

Email: [retailpolicyinterventions@ofgem.gov.uk](mailto:retailpolicyinterventions@ofgem.gov.uk)

Date: 23 December 2022

**“Statutory Consultation on extending the MSC and BAT beyond 31 March 2023” consultation – So Energy Response**

Dear Maureen,

So Energy is a leading energy supplier providing great value 100% renewable electricity to homes across England, Wales and Scotland. We have consistently been recognised by our customers and the wider industry for our outstanding customer service since we were founded in 2015, including being a Which? Recommended Provider in 2020. In August 2021, So Energy merged with ESB Energy, and our combined business now supplies over 300,000 domestic customers. As one of the last challenger suppliers left in the market, and one that is backed by ESB’s resources and expertise, So Energy is able to provide a unique view on the energy market and future reform.

We welcome the opportunity to provide our view on the need to extend short-term inventions such as the Market Stabilisation Charge (MSC) and the ban on acquisition-only tariffs (BAT). As outlined in our previous responses, we once again support the extension of both measures and would welcome extension of the BAT permanently, although we note that this is not within the scope of this consultation and will be considered at a separate time. In the absence of this, we support the current proposal to allow a mechanism to consider an annual rolling extension to the BAT as we believe that once wholesale prices stabilise, the BAT will be a necessary measure to ensure fairness and competition in the market.

**Overall, we support the extension of both the MSC and BAT until March 2024.** We continue to believe that the BAT represents the best possibility of providing competitive pressure on the pricing of default tariffs by linking them to the existing competitive pressure applied to acquisition. The BAT also increases trust in the market – by ensuring that no consumers are shielded or excluded from the best possible deals – at a time where we need to address the growing distrust by consumers. The BAT also reduces the ability of suppliers to aggressively and unsustainably target new consumers; incentivises suppliers to de-risk their hedging strategies; as well as creating a fairer market – all of which will make suppliers more resilient in the future.

Moreover, we believe that the continuation of the MSC should be tied to the wholesale price – as long as prices remain high and the risk of a massive unanticipated fall in SVT demand remains, the MSC should be in place. Any removal should be done with enough advance notice to allow suppliers to adjust their hedging strategies.

We have provided answers to each of your questions, below:

1. Do you agree that Ofgem should modify supply licence standard conditions SLC 24A and 22B so as to maintain powers to operate the MSC and the BAT until 31 March 2024, with powers given to the Authority to renew this annually?

The BAT should be an enduring feature of the energy retail market in order to increase fairness, trust and stability in the market. In the interim, allowing the Authority to renew the operation of the MSC and BAT is sensible. For the measures to be effective and to manage volume risk, suppliers

need to be given sufficient notice that the MSC and BAT will be extended. Ofgem has not afforded us sufficient notice in the past. This needs to improve. We believe 4 months' notice is needed in order to fit in with the hedging windows of the quarterly price cap.

2. Do you agree that this should continue to include, in the case of the MSC, the existing power for the Authority to terminate it early?

Yes, as outlined above whilst we support the MSC in the current context, it should not become an enduring feature and is only necessary whilst wholesale prices continue to be high. However, it is important that if the MSC is terminated early, enough advance notice should be given to allow suppliers to adjust their hedging strategies. Indeed, we do not think the MSC and BAT are interlinked and in a world where the MSC is no longer needed, we still believe the BAT would be necessary.

3. Do you have any comments on the proposed drafting of the changes to the supplier licence standard conditions?

Ofgem should insert a 4 month notice period into the drafting around extending the MSC and BAT in order to provide certainty to suppliers for their forecasting, trading and hedging.

It may be sensible for Ofgem to provide themselves with further flexibility in the drafting such that it is possible to extend the MSC and BAT to a mid-point in a given year. If Ofgem provides 4 months' notice on an extension, that means notifying on 30 November 2023 that the MSC and BAT would be extended to 31 March 2025. We can see a case where Ofgem would prefer to extend to 30 September 2024 instead. Shorter extensions are fine provided a 4 month notice period is provided for.

4. Do you agree that we should extend the market-wide derogation from SLC 22B for fixed retention tariffs?

We agree. Our concern is that loyal customers will miss out on the best offers in the market through market segmentation and predatory pricing. The derogation is not an issue in this respect.

5. Do you have any comments on the analysis presented in section 2?

We agree that the Energy Price Guarantee (EPG) has had a stabilising effect insofar as it reduces the incentives for customers to switch. However, the Government has generated uncertainty for suppliers by consulting on the possibility of making new fixed tariffs subject to the EPG. The Government's ability to amend the EPG design with little notice continues to be a source of uncertainty. The Government has said the EPG will end in April 2024. We believe it is important to have an enduring BAT in place for when the EPG ends so as to create a fairer market when switching will become more viable. We are also pleased to note that "most parties" continued to support the continuation of the BAT.

6. Do you have any comments on the draft impact assessment presented in section 3?

We note that your estimates on the quantified impact of the MSC and BAT as being "likely to be a gain in excess of £1billion for consumers... by avoiding incentives for companies to under-hedge." We believe this is important as by allowing acquisition-only tariffs, some suppliers would be applying risky strategies that rely on incentivising customers through loss-making tariffs whilst having no guarantee that they will continue to be customers in the future. This practice, we believe, harms the market by allowing suppliers to participate in risky hedging strategies.

We hope you find this input helpful. Please don't hesitate to contact us should you require any additional information or clarity on our views.

Yours Sincerely,

Paul Fuller  
Regulation Manager

