REC
RETAIL ENERGY CODE COMPANY

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Sent by email to: retailpriceregulation@ofgem.gov.uk

Dan Norton
Deputy Director, Price Cap
Ofgem

3 January 2023

Dear Dan,

Re Price Cap – Programme of Work

Thank you for the opportunity to comment on Ofgem's proposed programme of work on the price cap. This response represents the views of the Retail Energy Code Company (RECCo) and is not confidential.

The Retail Energy Code Company (RECCo) is a not-for-profit, corporate vehicle ensuring the proper, effective, and efficient implementation and ongoing management of the Retail Energy Code (REC) arrangements. The REC has the broadest coverage of energy industry market constituencies and stakeholders, and seeks to promote trust, innovation and competition, whilst keeping positive consumer outcomes at its heart. It sets out the rights and responsibilities of industry parties for the consumer facing processes it manages and has implemented a new technical and performance assurance framework to help build confidence and trust, by ensuring standards are followed consistently by good industry performance. We are committed to ensuring that RECCo is an "*intelligent customer*", ensuring efficacy and value-for-money of the services that it procures and/or manages on behalf of REC Parties.

As Ofgem points out, the original policy intention of the default tariff cap was to protect less engaged consumers from the adverse effect of the so-called loyalty penalty, not to prevent suppliers from being able to recover their efficiently incurred costs or to insulate all domestic consumers from fluctuations in wholesale prices. That original policy intent remains laudable, though it has had a significant and unintended adverse effect on retail competition.

In an effective market, consumer protection is delivered through competitive pressures to increase quality and find efficiencies that can be passed through to consumers in the form of lower prices. Regulatory policy, including the price cap, must therefore balance the immediate effect of prescriptive backstop regulation, against stymieing normal competitive pressures, including those which provide consumers with a genuine choice and opportunity to change supplier. This may include an informed willingness to pay a premium, rather than necessarily be a race to the bottom of unit price comparisons. We recognise that any decision on whether to retain the tariff cap is for government rather than Ofgem, and therefore welcome the proposed programme of work to review the methodology while it remains in effect. However, we would welcome a clear exit strategy roadmap, which may include the conditions which Ofgem and/or BEIS would expect the market to exhibit before making any recommendations to the Secretary of State regarding the termination of the cap

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and a return of consumer choice. In the meantime, we agree that this programme of work should be undertaken to review the price cap methodology so that it better reflects the risks faced by suppliers and their ability to manage them. We believe a key element of this is the review of suppliers' operating costs, as we believe that some costs which should legitimately be included within the cap for suppliers are currently excluded. We would therefore urge Ofgem to consider this a greater priority and for it to form part of its ongoing work on financial resilience, rather than the low priority inferred by the current *Winter 2024/25* delivery.

This review should appropriately include all non-discretionary costs faced by suppliers, including the operation and change costs of licence-backed industry codes, such as the REC. Whilst such industry code costs may in the past have been seen as relatively small in comparison to many of the allowable items, they are not insignificant and are increasing. Part of the increase is due to such codes becoming increasingly responsible for the delivery of industry programmes and/or services which may previously have been delivered centrally by price-controlled licensees, or event Ofgem itself. A current example is the delivery of Market-wide Half Hourly Settlement as a Balancing & Settlement Code programme and its consequential impacts on the REC, which will increase cost to REC Parties. Another is cost-recovery for operation of the Central Switching Service. Whilst we recognise the pressure to limit any increase in tariff cap allowances, we consider that the inclusion of industry code costs within the price cap methodology would:

- ensure that the cap is more accurately cost-reflective;
- provide greater transparency of programme costs; and,
- facilitate more targeted cost-recovery, mitigating any skewed incentive that may be created by the price cap methodology to bundle essentially unrelated costs together with those allowed for the operation of the network.

We are happy to discuss any of the points raised in further detail.

Yours Sincerely,

Jon Dixon
Director, Strategy and Development,
Retail Energy Code Company.