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Ofgem

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Dear Louise

Non-Domestic Market Review – Statutory consultation on licence changes

Bryt Energy is an electricity supplier providing British business with zero carbon, 100% renewable electricity and our purpose is to lead Britain towards a net zero, sustainable energy future: having a positive impact on businesses, communities, and the planet. We are a Non-Domestic supplier only, focused on the I&C sector with a high proportion of supplied volume on Flex rather than Fixed contracts.

We welcome the opportunity to comment on Ofgem's proposed licence changes in relation to changes proposed to the standard licence conditions (SLC) for Non-Domestic gas and electricity suppliers.

We agree with the overall aim and intent of the changes to continually strive to embed a customer-centric culture and ensure all customers whatever their size are treated fairly. Therefore overall, we have no concerns with the direction of the changes as we fully support overarching principles of transparency, consistency, and fairness.

We do, however, have some concerns on some of the detail within the changes which are shown in our responses below to each specific question.

Q1: Alongside this consultation document we have published a draft impact assessment. Do you have any comments on the draft impact assessment published alongside this document, including the costs and benefits, competition impacts, and unintended consequences?

The impact assessment is logical and the rationale behind the calculations is clear.

There is a question on how accurate these costs are and whether they can be totalised since the costs and benefits will range hugely between suppliers and therefore the average one-off costs per customer are difficult to ratify. In terms of our own portfolio dividing by customers numbers would produce a much higher cost than by site due to our multi-site customer portfolio. This also has an impact on wasted costs i.e. any changes to bill displays etc could mean a multi-site customer receiving a lot of duplicated information when they only need it once.

Dividing the total costs by the number of customers benefitting from the new policies for these suppliers is also quite a broad measure as it's assuming all customers that the measure will now apply to will benefit. This doesn't account for the fact that some will not see any change in several areas where good customer service and transparency already exist.

The most significant costs from our perspective will be system related particularly around TPI service fee transparency with the final costs being dependent on the detail of the finalised changes i.e. if we are mandated to include this information on our billing information rather than our preferred option of including it on our quotation and contractual documentation which we are already implementing outside of this review. Some manual processes will also be required due to the difficulty in identifying different types of customers purely by system, the impact assessment doesn't differentiate between additional FTE costs for manual processes and system costs.

Considering the above, the impact assessment should acknowledge that the true costs and benefits are difficult to accurately predict, particularly considering the significant non-monetised benefits to consumers that are expected as a result of the proposed changes.

Q2: Is there anything that has not been included in the impact assessment that you believe should be included?

As per our comments above a split between system costs and FTE costs could be included. Additionally, when calculating the costs, the impact assessment doesn't state at what level the costs would have outweighed the benefits e.g. if total one-off costs for implementing the changes related to Standards of Conduct as shown in Table 3 were £3m rather than £1.5m would this have been seen to be too costly?

If the options are implemented as stated in the impact assessment are there any plans to review the accuracy of the forecasted costs against actuals to help in cost development/assessment for future changes?

Q3: Do you agree with our proposal to expand the Standards of Conduct to all Non-Domestic Consumers? Please provide a reason for your view.

Due to our current approach and treatment of all our customers we have no concerns in expanding the 'SOC' to all Non-Domestic customers. We already operate in line with the proposed expectations for Non-Domestic suppliers based on the applicable 'limbs' regarding behaviour towards customers, providing customers with information and our customer service processes.

Q4: Do you have any comments on our proposed draft licence text for SLC 0A?

As most of the changes relate to changing the ref from Micro-Business to Non-Domestic customers, we have no comments to make in this area.

Q5: Do you agree with our proposal to implement the SoC as soon as the updated licence condition takes effect? Please provide a reason for your view.

We agree with this proposal since our current approach/treatment of all customers is in line with the suggested changes.

Q6: Do you have any views on the updated draft Standards of Conduct Guidance?

The additional guidance is helpful where it defines the 'limbs' that are relevant to Non-Domestic suppliers and the examples provided of customer detriment.

Q7: Do you agree with our proposal to align with government proposals and expand the Gas and Electricity (Consumer Complaints Handling Standards) Regulations 2008 (CHS) to apply to Small Business Consumers? Please provide a reason for your view.

We have no general concerns with aligning these standards to Small Business Consumers as we treat all customers to these standards with the addition of ensuring any Micro-Business customers are aware of the 8-week Energy Ombudsman service.

We do have a concern/question if this proposal is put in place which is whether the Ombudsman has confirmed that they are confident that they will be able to be sufficiently resourced and be able to make required changes to processes to accommodate the potential increase in queries? This should include expanding their industry knowledge in terms of the different types of supply and contracts some businesses may have and be able to still prioritise the most vulnerable customers that require support where they are not financially capable of receiving other support.

Will there be any overarching independent governance of Ombudsman activities?

We would like to also raise a concern with the definition of a 'Small Business Consumer,' in particular the volume of electricity or gas consumed.

The definition of a 'Small Business Consumer' currently proposed states:

A Non-Domestic consumer is defined as a Small Business Consumer if they:

- employ fewer than 50 employees (or their full time equivalent) and has an annual turnover no greater than £6.5 million or balance sheet total no greater than £5.0 million; or
- uses no more than 500,000 kWh of electricity per year: or
- uses no more than 500,000 kWh of gas per year.

As an electricity only supplier we don't have any data on Gas consumption and therefore, based on an initial reading of the definition, we would not have sufficient data to correctly define customers as small, if for example a customer only qualifies via their gas consumption. We presume the definition is intended to work on each fuel separately, so a customer could qualify as a Small Business Consumer for gas but not for electricity. In our opinion the definition could be clarified to make this distinction clearer.

Q8: Do you have any further comments on the proposed drafting of the CHS Statutory Instrument text?

No further comments as most of the changes are to add ref to Small Business Consumers.

Q9: Do you have any comments on the proposed implementation timeline of 3 months from the date of decision?

We will need to make some system changes to be able to flag which of our customers come under the new definition of a Small Business Consumer and change off-system processes for identification of Small Business Consumers following industry processes such as a COT. These system and manual changes could be difficult to achieve in 3 months and we would push for a longer implementation period of at least 8 months in line with the suggested timeframe for the TPI changes. In parallel to this as per our response to Q7 will the Ombudsman be confirming this timeframe is workable for them?

Q10: Do you agree with our proposal to require suppliers to inform their Micro and Small Business Consumers (if this is applied) that they can access, and how to contact, Citizens Advice and Citizens Advice Scotland? Please provide a reason for your view.

We have no objection to the proposal to flag these services to our Micro or Small Business Consumers. In line with our response to Q7 the concern we do have is whether Citizens Advice are confident that they will be able to be sufficiently resourced and able to make changes to any processes to accommodate the potential increase in queries. This should include expanding their industry knowledge in terms of the different types of supply and contracts some businesses may have whilst still being able to prioritise the most vulnerable customers that require support where they are not financially capable of receiving other support.

Q11: What measures would suppliers intend to take to meet the obligation to signpost Small Business Consumers to Citizens Advice, and how would this impact costs?

We will need to make some system changes to be able to flag which of our customers come under the new definition of a Small Business Consumer and change off system processes for identification of Small Business Consumers following industry processes such as a COT which would incur additional costs at the outset. Following this we will be able to signpost these services to customers in line/in addition to our existing signposting of our complaint's procedure etc.

Within the Complaints section on our company website (which is signposted on our bills) we reference that independent advice is available for Micro-Business customers and sign post them to Citizens Advice using the full suite of contact methods they provide. This includes the Citizen Advice phone number and website link. If these changes are passed, we will amend our website accordingly.

Q12: Do you have any comments on our proposed draft licence text for SLC 20.5A and 20.4A in the gas and electricity supply licences respectively? The proposed definition of Small Business Consumer includes Micro-Business Consumers. However, do you think it would be preferable to explicitly set out in the licence condition that suppliers should signpost Micro-Business Consumers and Small Business Consumers to Citizens Advice for the avoidance of doubt?

We think that as the two definitions will remain, they should be explicitly referenced in the licence text to ensure consistency.

Q13: Do you agree with our proposed implementation timeframe of 3 months from the date of our final decision?

The answer to this question mirrors that of Q9 in that we will need to make some system changes to be able to flag which of our customers come under the new definition of a Small Business Consumer and change off-system processes for identification of Small Business Consumers following industry processes such as COT. These system and manual changes could be difficult to achieve in 3 months and we would push for a longer implementation period of at least 8 months in line with the suggested timeframe for the TPI changes. In parallel to this as per our response to Q7 will the Citizens advice need to confirm that this timeframe is workable for them?

Q14: Do you agree with our proposed change? Please provide comments to support your answer.

Our position on the proposal to expand the current Micro-Business requirement to cover Small Business Consumers (which states that any TPI we are working with who work with Micro-Business customers should be members of a Qualifying Dispute Settlement scheme) has not changed from our previous consultation response.

As the TPI sector is not regulated and the consultation is seeking views on proposed changes which relate to managing the relationship between TPIs and customers, we don't believe it is appropriate for us to confirm agreement or not.

If there are issues between those two parties, then we are unclear why license conditions are going to be imposed on another party, i.e. Suppliers, potentially because we are the only available licensed party.

Noting the above, in principle we are not opposed the expansion of the redress scheme to cover Small Business Consumers.

Q15: Do you agree with the wording of the proposed licence condition changes outlined in Appendix 1?

The change of wording is logical considering the proposed changes. We note that a reference to "gas" rather than electricity has been added into 20.5D(b) on page 85.

Q16: Do you have any comments on the suggested implementation timescale of 8 months?

As this is an expansion of the existing requirements for Micro-Businesses, 8 months should allow sufficient time to make the necessary changes.

TPIs that have already been through this process are best placed to comment on timescales, but there should be two basic categories of TPI: those that serve Micro-Business customers and need to widen their registration to cover their Small Business Consumers and secondly those TPIs that do not serve Micro-Businesses and would therefore be entirely new to the process.

Q17: Do you agree with our proposed expansion of Third-Party Cost transparency to all Non-Domestic customers? Please explain your answer.

We strongly support the disclosure of commissions to all Non-Domestic customers. We are already assessing how we can voluntarily move to full disclosure of commission on all contracts on this basis – many of our contracts, especially on Flex, already disclose the commission.

Q18: Do you agree with our proposed methodology of displaying Third Party Costs? Please explain your answer.
Q20: Do you have any views on whether to retain the presentation of a lump sum for Micro-Business Consumers and to have only a cost per unit for all Non-Domestic consumers?

We have grouped Q18 and Q20 together as our answer covers both. Our view has not change following the initial consultation in this area last year.

We agree that commission should be disclosed as it is incurred, e.g. as a unit rate (p/kWh for example) if that is the case, or as a fixed charge per day or month. This is our view for Micro-Business Consumers also as converting all commissions into an estimated annual spend will not allow the customer to know whether their TPI's commission is fixed or varies with volume/demand. Such a calculation is also open to manipulation through the use of estimated consumption and can be confusing when contract lengths vary. We would therefore support the removal of the requirement to present commission costs as a lump sum to Micro Business Consumers.

Disclosure of the exact and complete commission mechanism will give the most accurate picture and illustrate to the customer how the TPI is earning their fee. We support full disclosure of the commission arrangements including timing of payments to the TPI (especially in contrast to collection from the Customer over the contract) and any commission schemes that could be classed as "success fees." These disclosures would cover scenarios where a TPI is paid up front, but the customer is paying their Supplier monthly in arrears and those where a TPI receives additional payments once they have secured a minimum level of sales for a particular Supplier. Our reason for making these recommendations is to ensure that TPIs are incentivised to make decisions in the best interests of their customers, rather than potentially prioritising their own commercial interests to the detriment of customers. We would expect these proposals to be welcomed by all reputable TPIs who are already competing on the value of their service to customers. We believe it is important that disclosure occurs within the quoting and contracting process, to ensure that all customers are in full possession of the facts when agreeing to contracts. We are strongly opposed to the disclosure of commission within customers' bills. Firstly, this is after the fact in terms of the customer's decision point and therefore the usefulness of the information is reduced. Secondly, the changes required to billing systems could be substantial and therefore costly, plus it could confuse bills for Fixed product customers especially. To clarify we strongly agree and recommend that TPI costs should be included as part of the quoting and contractual documentation provided to customers, not as part of billing information.

Q19: Do you agree that our proposed timescale for implementation is achievable? Please explain your answer.

As stated above if the changes are made as currently stated the changes required to billing systems would be substantial and therefore costly. As a minimum the timescale should match the timescale for the implementation of the redress scheme changes of 8 months, but our preference would be 12 months from decision date if the bill display requirements remain.

Q21. Do you have any views on the proposed wording of the supply licence conditions, in relation to this policy? Note that is SLC20.6 in the electricity supply licence and SLC20.7 in the gas supply licence.

Our view in line with our comments above would be to amend the SLC wording to state that commission should be disclosed as it is incurred, and to remove the obligation to present the total commission cost to Micro Business Consumers.

Yours Sincerely

Simon Moore
Regulatory Manager