

BEAMA welcomes the opportunity to respond to this consultation on the implementation of a load control licencing regime as part of the Smart Secure Electricity Systems (SSES) Programme.

Our role

BEAMA represents manufacturers across heating, EV charging, appliances, electronics, and wider electrical infrastructure. With deep experience in standards, regulation, and security, BEAMA is well placed to support government and industry in shaping governance that is practical, inclusive, and future proof.

BEAMA Response

The consultation is crucial in establishing a workable baseline from which the cyber security of energy smart appliances and their companies' systems and processes are resilient to cyber-attacks and makes them less easy targets for malicious actors.

General Comments:

Overall BEAMA and its members are supportive of the implementation of a licencing regime and Ofgem's role in that process, where we believe Ofgem's scope should be expanded to ensure consistency.

We would overall like to see Ofgem take a more consistent approach ensuring that applications are read by and assessed by trained Ofgem staff only and that any audits are likewise completed through Ofgem to ensure consistency in approach.

We have also expressed concerns to date regarding what businesses are actually in scope of the regulations and have yet to receive an adequate response over the last five years, and therefore we are unable to fully understand the impact of these regulations. Members estimate far more businesses will be in scope than DESNZ and Ofgem expect with forecasts ranging from several hundred to several thousand.

We highlight that the Security Governance Group should not have the power to review licence applications. Licence applications should continue to be reviewed by professional, trained individuals in Ofgem with experience over this. We see no reason why competitors should review each other's work. Should DESNZ decide this is necessary then we would encourage DESNZ to consider forming a group without businesses applying for the licences in the group, namely trade associations with staff that have demonstratable knowledge regarding the scope of the review.

We also highlight the proposed RFI's should be proportionate to ensure undue burden is not put on smaller businesses.

Lastly, we also call for Ofgem to ensure that there is a form of tacit authorisation or temporary licence granted where Ofgem is unable to assess the application ahead of the regulations coming into force. Or run a risk of a number of businesses closing operations in the UK, impacting the customer first and foremost. An outcome no one wants.

BEAMA Response to Questions

Question 1: Do you agree that the Licence Policy Principles, as well as Ofgem's Growth Duty, are the correct principles to guide the development of Ofgem's implementation proposals? Please provide reasons for your answer.

BEAMA agree with the licencing policy principles.

However, we would value an explicit reference to Ofgem's duty to ensure regulations do not inhibit sustainable economic growth. We suggest a fifth Licence Policy Principle:

"Licence Policy Principle 5: Ensure regulations do not unduly unbalance the market through over regulation on one business type or actor."

Question 2: Are there other measures Ofgem and DESNZ should consider in order to ensure the regime is proportionate and our approach minimises unnecessary burden? Please provide reasons for your answer.

Ofgem and DESNZ must ensure that that for businesses that come into scope of both the licencing and ESA regulations that proportionate consideration should be given to potential delays in compliance due to the significant product and internal changes that may be required to achieve compliance in the time frames provided.

We would also value clarity that where code compliance and system risk are concerned that the regulations should only apply where a business exercises discretion over electricity flow for the system, market or network objectives. This is critical in preventing advanced OEM-led optimisation systems from being inadvertently being drawn in to scope, which we believe is not the intention of the regulations.

Question 3: Do you agree with the proposed application form evidence requirements for each area? Please provide reasons for your answer, including any concerns with providing the requisite information and why.

Overall, BEAMA support the proposed drafting of the application form and required evidence. We note this form will likely require redrafting as the Government's consultation on changes to the grid and distribution codes will likely impact the final drafting. Any significant changes may impact on delivery time scales for members to achieve.

Question 4: Do you agree with the proposal for a 12-month transition period? Please provide reasons for your answer.

Overall, BEAMA are not supportive of this period without changes that guarantee service is not interrupted as a result of a decision not being made ahead of the regulations coming into force.

We would urge Ofgem and DESNZ to consider that a complete application allows a business to continue operation until a decision is made to avoid interruption of service should Ofgem be unable to complete their review of the application ahead of the regulations coming in to force.

Or an automatic temporary licence could be granted where Ofgem ahead of time are able to anticipate a delay in responding to the application.

BEAMA would be supportive of a voluntary process, aligning with our ask in the Energy Smart Appliances Regulations that extends to 24 months. This will allow Energy Smart Appliance Regulations manufacturers who are only now able to fully appreciate the full extent of the obligations being put on them to have sufficient time to hit operational maturity. With the ESA regulations coming into force parallel to these regulations there is already significant burden on manufacturers, and some smaller operators will need longer than 12 months to fully transition.

Question 5: Do you agree with our proposed application process for certain licensed suppliers? Please provide reasons for your answer. Note, please refer to the DESNZ Licensing Consultation for a specific question on licence condition derogations.

BEAMA agree, this is a proportionate process.

Question 6: Do you agree that the proposed application process for certain licensed suppliers should apply to licensed domestic suppliers, and not licensed suppliers who supply non-domestic customers only?

Not answered.

Question 7: Do you agree with our proposed application process for non-licensed suppliers? Please provide reasons for your answer.

BEAMA agree, this is a proportionate process.

Question 8: Do you agree that the proposed application process for different types of applicants is proportionate and reflects the SSES purpose and Licence Policy Principles? Please provide reasons for your answer.

Yes, BEAMA agree overall that this process is proportionate and reflects the different information already available to Ofgem depending on the business.

Question 9: Do you agree that our proposed timelines for licence application processing are reasonable? Please provide reasons for your answer.

BEAMA reiterate our answer to question 4. We would value guarantees that there will not be an interruption to a business's service because of Ofgem being unable to arrive at a determination ahead of the regulations coming into force. We would also ask that Ofgem publish the following to support this process and create a transparent, clear process:

1. A clear and easily understandable service standard for licence determinations.
2. A commitment that applicants will not be exposed to illegality due to processing delays.
3. A transparent escalation mechanism for when timelines slip.

Question 10: Do you agree with our proposal that tacit authorisation should not apply to the load control licence? Please provide reasons for your answer

This is a complex issue. BEAMA members would need protection from being unable to legally continue business operations should application not be reviewed in the expected time frame. Tacit authorisation is one way to guarantee this does not occur. An alternative is that a temporary licence is granted should Ofgem be unable to fulfil their obligations and upon Ofgem completing them a full licence is granted, should that be their decision.

Question 11: Should Ofgem reconsider the question of tacit authorisation in future? Please provide reasons for your answer.

BEAMA believe the issue of tacit authorisation should warrant further discussion. There must be protections in place should Ofgem be unable to reach a verdict in time for the regulations to come into force.

Indeed, we believe as per our answer to question 10 that Ofgem should immediately establish one of:

1. Tacit authorisation where a decision is not issued within a defined timeframe; or
2. A formal interim/temporary licence mechanism pending determination

Either would bring with them the assurance businesses need that the application to achieve becoming licenced won't inadvertently lead to business disruption.

Question 12: Do you agree with the proposed approach to compliance-related monitoring? Please provide reasons for your answer.

Overall, BEAMA understand the principles informing this decision but see quarterly RFI as overly burdensome and would prefer a risk-based approach to reporting. Indeed, we suggest the following:

- Annual reporting for lower risk/smaller licensees;
- Quarterly reporting only for higher-tier operators;
- Event-driven reporting for material changes or incidents.

This will avoid an undue financial and resource burden on smaller operators.

Question 13: Do you agree with the proposed approach to market insights-focused monitoring, and are there any additional market indicators we should consider tracking? Please provide reasons for your answer.

Overall BEAMA agree that the data proposed for collection is good data to have collected. We would naturally assume that as part of this the energy controlled by load controllers/flexibility service providers will be monitored regardless to ensure businesses sit with in the right category of licence.

Question 14: Are the proposed RFIs proportionate and manageable? Please provide reasons for your answer.

No, BEAMA does not see these as proportionate or manageable as they stand. Quarterly collection would require more full-time staff to take on this responsibility. For SME's this would not be appropriate. This is why we have suggested in our response to question 12 a risk-based approach that avoids penalising SME's.

Question 15: Please estimate the costs for your organisation for responding to the proposed RFIs. In the impact assessment accompanying the DESNZ Licensing Consultation government estimated indicative costs of approximately £7,000 to £24,000 per annum. Is this estimate appropriate? Please provide reasons for your answer

Overall, the costs estimated per annum are far lower than what is expected. Even a full-time staff member on minimum wage after national insurance contributions, pension etc would be far in excess of £24,000 per annum. In addition to the additional software/tracking tools required to measure the KPIs. There will likely be an additional cost to this, either an upfront fixed cost or a revolving cost on subscription for example.

Question 16: Do you agree with our proposed risk-based and proportionate approach to compliance under the load control licensing regime? Please provide reasons for your answer.

Overall, BEAMA strongly support the strategic priorities outlined in the consultation. We would however have concerns that the treating customers fairly priority may be interpreted in different ways. We would have concern over having the same level of consumer requirements put on flexibility service providers as energy suppliers. Energy suppliers have an obligation to the customer to ensure electricity and heat are provided. However, a consumer is entering into a voluntary agreement with a flexibility service provider to enter into a service that saves them money but does not impede on the supply of electricity or heat, so this priority requires a greater level of proportionality in recognition of this.

Furthermore, the current wording of the draft regulations leaves some ambiguity that may impact on FSPs and consumers. There is currently potential ambiguity between:

- ESA regulations, which mandate smart capability and only allow temporary opt-out of certain behaviours; and
- FSP licence conditions, which require voluntary participation and exit rights.

We'd therefore recommend the Government answer the following in their response to this consultation:

Can a consumer operate an ESA in full regulatory compliance without being party to an FSP contract?

Question 17: Are there additional factors we should consider when determining the level of compliance engagement for different types of licensees (eg new entrants vs licensed suppliers)? Please provide reasons for your answer.

BEAMA believe that Size of company; Number of customers affected; Length of time operating and Severity / impact of issue would also be appropriate factors to consider.

Question 18: Do you support the proposal to use informal account management relationships to support licensees into compliance in the early years? Please provide reasons for your answer.

Yes, BEAMA support this, particularly where SMEs are concerned.

Question 19: Do you agree with the proposed priority areas for compliance engagement? Please provide reasons for your answer.

Overall, these priority areas are reasonable, but our thoughts in response to question 16 regarding a proportionate approach to treating customers fairly remain. In addition to our concerns regarding ambiguity in the current wording of the draft regulations.

Question 20: Do you agree with our proposal to align enforcement under the load control licensing regime with Ofgem's existing enforcement approach, outlined in the Enforcement Guidelines? Please provide reasons for your answer.

BEAMA agree that this is a sensible approach which should make easier Ofgem's ability to meet the demands put on them by these regulations.

Question 21: Do you agree with our proposed enforcement approach for multiple licence holders?

Yes, where preexisting relationships already exist with in Ofgem in relation to an ongoing licence obligation then it makes sense for these relationships to remain the primary point of contact during this application.

Question 22: Are the regulatory requirements for different types of Load Controller sufficiently clear? Please provide reasons for your answer.

Overall, BEAMA agree that the requirements are clear.

Question 23: Do you agree with the proposed approach to cyber security assessments for load control licence applications? Please provide reasons for your answer.

No, BEAMA do not agree with it all. Our point of disagreement concerns the role of the Security Governance Group. There are significant concerns from our members that having competitors review their application is not a desired outcome of this consultation. There are also concerns raised over how a rejection by the Security Governance Group would be shown to the applicant, and whether the applicant would have to start their application again from the back of the queue which may delay an application significantly and result in them having to cease operations should a decision not be reached in good time.

Furthermore, as Ofgem are reviewing the applications in year one and have staff who are trained to do so, we feel the process would be quicker, more efficient and more consistent if only done through Ofgem. There is a concern that whereas Ofgem's practices remain the same, the expertise of the Security Governance Group may be more changeable if members leave to join new organisations. There is also a concern that the group would simply not be able to meet regularly enough to process the applications in a sufficient time period, given we believe those in scope has bene vastly underestimated and Ofgem are likely to get hundreds of applications which industry volunteers will not have the time to review.

Question 24: Do you agree with the proposed approach to cyber security monitoring and compliance? Please provide reasons for your answer.

BEAMA does not entirely agree. The Security Governance Group will have competitors being able to access each other's security data. This will inevitably lead to less complete applications to remove sensitive data which will make the job of assessing the applications harder. It would be more appropriate for Ofgem to continue doing this role instead.

Should the Government proceed with the Security Governance Group's role as drafted, which we do not feel they should, there should be appropriate governance thresholds in place:

- Explicit confidentiality safeguards;
- Clear separation between regulator oversight and competitor visibility;
- A defined right of reply or clarification process if applicants dispute SGG input.

We feel this would allow for greater confidence in the process. However, we would still question the purpose of the group given the high time cost of using one vs allowing Ofgem to continue with trained staff to process the applications and seeing a complete picture without concerns around competition.

Question 25: What would you suggest is a reasonable equivalent of a CRA Audit? Please provide reasons for your answer.

A CRA is not well explained in the consultation. For those members seeing this for the first time it has led to some confusion. We understand from reading the National Cyber Security Centre website that it is an audit from the perspective of assessing against the CAF profiles. This audit would be independent, done by a third-party consultancy type service, meaning it would be more impartial than the proposed Security Governance Group.

However, this is a paid service, and so we would be cautious of putting additional costs on our members. It is unclear with the current application processes why this step is necessary. For example, as part of the application process applicants submit a remedial action plan, demonstrating how they may achieve complete compliance with CAF. The output of a CRA Audit would achieve a very similar result. If this was an optional way of completing that process, this may be beneficial to businesses who don't already have the capacity to complete it but have additional funding available.

Question 26: Do you agree with the inspection process outlined for the cyber security of below 300MW Load Controllers? Please provide reasons for your answer.

Overall BEAMA are supportive of the process outlined but also recognise that for many businesses who will be approaching this for the first time. For organisations

operating across complex, multi-vendor ecosystems this will be particularly difficult. Many flexibility services rely on layered architectures that include OEM devices, cloud platforms, third-party integrations, communications networks, and legacy systems already deployed in consumers' homes. Demonstrating full CAF alignment across this end-to-end environment can involve:

- detailed risk assessment and architectural review
- remediation or redesign of existing systems
- supplier and supply-chain assurance activities
- independent testing, certification, and audit

These activities are often sequential rather than parallel, meaning timelines can extend beyond initial expectations, especially where changes must be coordinated across multiple technology providers or firmware update cycles.

Therefore, we would ask this is moved to **24 months** in line with our previous asks to ensure that adequate time is given to reflect the potentially long process that manufacturers may face to compliance. Noting that 24 months could be hit for most or all manufacturers, particularly where they are able to deploy existing best practice like EN 18031:2024 to help demonstrate compliance.

In addition, we note that Ofgem may ask the licensee to appoint its own auditor and deliver the outcome and report to Ofgem. This may put additional costs on a business with the cost of an audit being potentially higher than an Ofgem audit. For the purposes of consistency in auditing, we would worry this process may also lead to inconsistent interpretations/rulings and would prefer Ofgem where possible to oversee the process.

There must also be more guidance published concerning how businesses transition from one licence threshold to the next. Would this for example require an entirely new licence application?

We would therefore value Government producing additional guidance on:

- How threshold transitions are handled (e.g. licence variation vs reapplication);
- What additional evidence is required when moving between tiers.

We believe this will be needed as businesses grow in size over the next few years and will save Ofgem and DESNZ time in the long run and provide clarity for industry.

Question 27: Do you agree with our proposed approach to licence modifications? Please provide reasons for your answer.

BEAMA would value some additional clarifications to this approach. The consultation states that “Licensees are expected to monitor updates and ensure adherence to the latest version of licence conditions”. We would like to understand how they are likely to receive updates. For example, would this be through a generic weekly newsletter? Or would this be through the point of contact a licensee has at Ofgem emailing them and letting them know of the changes? Where possible we would prefer the latter approach as there are a number of reasons why a generic notification may be missed.

We’d therefore like Ofgem to implement a dedicated, licensee-specific notification mechanism for compliance-impacting changes, rather than businesses having to read through more generic updates regularly, which are more likely to be missed, resulting in challenges to the regulator later down the line.

Question 28: Do you agree with our proposed process for the transfer of a load control licence? Please provide reasons for your answer.

Overall BEAMA agree that this approach in principle is workable if it allows for continuation of service without interruption to the customer.

Question 29: Do you agree with our proposed approach to extending/restricting a licence? Please provide reasons for your answer.

BEAMA agree that this is sensible approach to this situation. If a business is changing its business practices, then this should be reflected in their licence and provide the level of evidence that others already providing those services have when they applied.

Question 30: Do you agree with our proposed approach to revocation of the load control licence, including our proposal to include a revocation item on the basis of failure to comply with the NIS regulations? Please provide reasons for your answer.

Yes, BEAMA support this view. We would expect that businesses are able to comply with the regulations and or able to meet their obligations regarding enforcement practices, if they are unable to do so then they should not have a licence.

Question 31: Do you agree with our proposed approach to cost recovery for the load control licensing regime? Please provide reasons for your answer.

BEAMA recognise that cost recovery must be approached in a proportionate way. If a business has a large market share, say 40% of the market and another business has only 2% then likely the amount of time Ofgem would take to complete

audits/review applications etc would be less for the smaller business and that should be reflected in what they see when it comes to cost recovery by Ofgem.

It would be beneficial for Ofgem to therefore publish further details:

- The fee calculation methodology;
- Drivers of variable costs;
- How SMEs are protected from disproportionate administrative burden.

These would allow businesses doing this for the first time especially to have greater financial clarity and also allow for operators within a business to have confidence in their decisions to proceed down a licencing route without undue cost risk.

It would also be good to understand how Ofgem plan to reflect the role of the Security Governance Group in their cost recovery. Given the group is planned to deliver on an activity Ofgem would have been doing in year 1, will this result in the overall cost to Ofgem being less in year 2 and how will that be reflected?

However, we would still strongly urge Ofgem to not proceed with using the Security Governance Group for this purpose. Utilising Ofgem's own experienced staff instead to assess applications.

END