Richard Neudegg
Chief Corporate Affairs Officer
richard.neudegg@rvu.co.uk

Daniel Newport
Price Protection
Ofgem
10 South Colonnade
Canary Wharf
London E14 4PU

By email: priceprotectionpolicy@ofgem.gov.uk

29 October 2026

Dear Daniel

Uswitch's response to Ofgem's consultation on Market Stabilisation Charge activation

The Market Stabilisation Charge (MSC) is the wrong regulatory tool, reached for at the wrong time, proposed at the wrong levels and without a sufficient evidence base to support its activation. Uswitch urges Ofgem not to activate it.

We strongly opposed reinstating the MSC as a licence condition in our May response, and for the same reasons we do not support activating it now. We set out our overarching position below and respond to the consultation questions in Annex 1.

The wholesale price volatility caused by the conflict in the Middle East is real. We support Ofgem in closely monitoring the market and working with suppliers and other stakeholders to maintain stability. However, as the consultation itself acknowledges, this price shock is materially smaller than during the 2022 gas crisis, and does not require the same interventions to appropriately support households and the wider market.

The threshold for reaching for the 2022 emergency toolkit has therefore not been met. Even if the cap rises to around £2,190 in January, in line with current forecasts, it would be only around half the January 2023 cap level of £4,279 (at a time when the Energy Price Guarantee limited typical bills to £2,500), showing just how far we are from the pressure on energy bills that followed Russia's invasion of Ukraine. This is not a price spike that necessitates the level of regulatory intervention required in 2022–23.

More fundamentally, the post-2022 stability framework Ofgem has spent years building is designed precisely for moments like this, to keep suppliers and the market stable through periods of wholesale price volatility. We previously argued that reinstating the MSC as a licence condition in advance of any need to activate it sent the contradictory signal that even with capital adequacy, the quarterly changes to the price cap, the reformed cap methodology, and the SoLR Levy Offset all in place, Ofgem does not yet trust its own framework to do its job, undermining the credibility and stability of the regime Ofgem has built. This would be even more the case if Ofgem were to push ahead with activating the MSC at a time when the fundamentals of the market do not require it.

Ofgem's own evidence shows its activation threshold is met only marginally, and only in some scenarios. The consultation proposes activating the MSC where there is 'a reasonable prospect of a loss of £20–30 per dual fuel customer, across a typical supplier's customer base'. Ofgem's central scenario, which already assumes a 20% rise in wholesale prices followed by a fall of 75% of the way back to pre-conflict levels within a month, produces a loss of up to £21 per customer: the very bottom of that range. Its lower-switching sensitivity produces a loss of up to £13, below it. Ofgem's Capital Target expects suppliers to hold £115 of adjusted net assets per dual fuel customer, more than five times that central loss and more than three times the £36 loss in its longer-peak sensitivity. In aggregate, Ofgem's modelled supplier loss without an MSC of up to £0.5bn compares with the £6.8bn of capital domestic suppliers held in March 2026, against an aggregate Capital Target of £3.1bn. Where individual suppliers remain below the Capital Target, the proportionate response is closer supervision of those suppliers, not a market-wide charge on switching.

Activating the MSC would penalise exactly the behaviour that Ofgem, the Government, and industry should be encouraging. Ofgem's case for activation rests on the risk that households who have rolled onto the price cap will lock in cheaper fixed deals if wholesale prices fall, increasing suppliers' losses on energy already bought for them. This kind of market engagement is one of the most effective ways for households to respond to elevated prices, and, given that the wider regulatory framework should mean that responsible suppliers can absorb the potential loss in profits arising from this, it is behaviour that should be encouraged, rather than financially penalised by the activation of the MSC. On Ofgem's own figures, activation would take £65 of the £151 wholesale saving available to each switching household in its central scenario, and £134 in its longer-peak scenario.

We urge Ofgem not to activate the MSC. The regulator should trust the framework it spent years building, monitor closely, and engage with industry on contingency planning if conditions deteriorate further.

We oppose the MSC and its activation at all. However, if Ofgem decides to activate it, it should do so on terms that reflect how much the market has changed since the MSC was designed in 2022:

- **A higher trigger and a lower sharing factor.** The 10% trigger and 85% sharing factor were adopted in 2022, when the cap still reset every six months and before capital adequacy, the reformed wholesale methodology and the SoLR Levy Offset were in place. With a quarterly cap roughly halving the value of hedges at risk, suppliers need less protection, and switching households should give up less of the savings a falling market offers. We set this out in our response to Q4.
- **A defined end date of 31 March 2027.** Ofgem expects the MSC to remain active 'likely at least until the end of winter (the end of March 2027)'. That date should be fixed for this activation, with any extension subject to fresh consultation on whether conditions still justify it.
- **Published activation and deactivation criteria.** The guidance should set these out, building on the £20–30 per customer threshold in the consultation.
- **Clear public communication.** Ofgem should make clear that no MSC charge applies unless wholesale prices fall sharply, so that households are not discouraged from switching now, when fixing could give them much-needed certainty and protection ahead of the January 2027 price cap.

We would welcome the opportunity to discuss this response further.

Yours sincerely,



Richard Neudegg
Chief Corporate Affairs Officer

Annex 1 – Answers to consultation questions

Q1. Do you have any comments on our description of the current market context?

As set out in our covering letter, the wholesale price volatility caused by the conflict in the Middle East is real, but this price shock is materially smaller than during the 2022 gas crisis and does not require the 2022 emergency toolkit.

Ofgem's own description of the market points to rising, not falling, prices. Wholesale prices are around 150% above pre-conflict levels and have climbed further since July, and the share of households on standard variable tariffs has risen by seven percentage points since April. The risk Ofgem is guarding against is therefore a future sharp fall, not a present one. More households on the cap also means more households who stand to benefit from re-engaging if prices do fall, which makes protecting the savings available to them more important, not less. Ofgem also notes that suppliers' hedging exposure peaks around the end of the Q1 cap observation window in mid-November. Under a quarterly cap, that exposure runs for a single quarter, rather than the six months it could run to when the MSC was first designed.

Q2. Do you agree that we should activate the MSC?

We do not support the proposal.

The MSC was introduced in 2022 as a transitional measure to compensate for the incomplete prudential and pricing framework that materially contributed to supplier failures in 2021 and 2022: there was no enforceable capital adequacy regime, no proactive financial responsibility framework, and a six-monthly cap with a wholesale methodology that did not adequately fund responsible hedging. In that environment, an inter-supplier transfer mechanism was a defensible workaround.

That environment no longer exists. Since 2022, Ofgem has built four pillars that address the underlying risk more directly than the MSC ever did:

- **Capital adequacy and the Enhanced Financial Responsibility Principle**. The Enhanced FRP introduced in April 2023 obliges every supplier to maintain capital and liquidity sufficient to meet liabilities as they fall due. The Capital Target of £115 per dual fuel customer (Adjusted Net Assets) came into force on 31 March 2025, supported by ring-fencing of Renewables Obligation receipts and powers to direct individual suppliers to ring-fence customer credit balances. Ofgem's own Supplier Financial Resilience Report 2026 shows the regime is working: in March 2026, domestic suppliers held £6.8bn of capital against an aggregate target of £3.1bn, more than twice the level required. This suggests that the primary tool for addressing the risk the MSC was designed for is already working effectively: suppliers are showing that they are, in line with these requirements, structurally able to absorb hedging losses, rather than relying on cross-supplier transfers funded by switching consumers.
- **The quarterly default tariff cap**. Since 1 October 2022, the cap has updated quarterly under a 3–1.5–12 indexation, with a reduced notice period. This roughly halves the value of supplier hedges at risk in a falling market and roughly halves the time available for switching to crystallise losses. This makes the dynamic that drove the 2022 case for an MSC - a sharp wholesale fall combined with a slow cap reset - materially less acute.

- **Backwardation costs and the wholesale methodology**. Backwardation costs were brought into the cap methodology from October 2022, and the wholesale cost allowance now explicitly funds responsible hedging behaviour. Ofgem's own ex post review of wholesale costs for October 2022 to September 2023 concluded that no adjustment to the cap was warranted. While that finding is specific to its period, it shows the reformed methodology working as intended under volatility. This removes one of the structural pressures on suppliers' hedging that existed when the MSC was first introduced.
- **SoLR Levy Offset and mutualisation reform.** The SoLR Levy Offset, in force since October 2025, addresses the consumer-cost-of-failure rationale originally used to justify the MSC. SoLR levy costs can now be recovered from failed suppliers' insolvency estates where assets remain, rather than being fully mutualised across all consumers. Combined with capital adequacy requirements that reduce failure risk in the first place, the consumer protection rationale for the MSC has been substantially displaced.

Ofgem itself has previously taken this view precisely. In July 2023, Ofgem's Chief Executive wrote that 'the market stabilisation charge under current market dynamics is soon expected to fall to zero', and that Ofgem would 'assess whether the market stabilisation charge is still needed'.[1] The MSC was allowed to lapse in March 2024 because the wider regulatory framework was becoming sufficient, and it has only matured since.[2] Activating the MSC would be a step backwards from a position Ofgem itself reached on the evidence in 2023.

If the regulator were to activate the MSC, it would need to explain what has changed about the framework, not what has changed about wholesale prices. The consultation does not provide that explanation.

In its May decision, Ofgem accepted that this framework reduces the risks the MSC addresses, but concluded that it 'does not remove them'. No framework removes risk entirely. The question is whether the residual risk justifies a charge on switching households, and Ofgem's own figures show that it does not: its central modelled loss of up to £21 per customer sits at the bottom of its own £20–30 activation threshold, and is less than a fifth of the £115 per customer Capital Target. Even its longer-peak sensitivity, at up to £36, is less than a third of it.

Ofgem's analysis is also inconsistent on switching. In May, Ofgem said it would not expect material negative impacts on competition 'provided that the impact on the number of customers switching is not large'. Its own analysis now shows the MSC taking £65 of a £151 wholesale saving per switching household in its central scenario, and £134 in its longer-peak sensitivity. A charge that removes between two-fifths and almost nine-tenths of the savings on offer cannot credibly be assumed to have a small impact on the number of customers switching. The condition Ofgem itself attached to its competition assessment is not met.

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[1] Jonathan Brearley, Chief Executive, Ofgem, 'Open letter on changes in the energy supply market and Ofgem's approach to regulation', 4 July 2023. https://www.ofgem.gov.uk/sites/default/files/2023-07/Open%20letter%20on%20changes%20in%20the%20energy%20supply%20market%20and%20Ofgem's%20approach%20to%20regulation.pdf

[2] Ofgem, 'Future of Market Stabilisation Charge post-March 2024', letter from Dan Norton, Deputy Director, Price Protection, 12 October 2023. Ofgem cited the minimum capital requirement, revised EBIT allowances and the enhanced Financial Responsibility Principle as reducing the need for the MSC. https://www.ofgem.gov.uk/sites/default/files/2023-10/Future%20of%20Market%20Stabilisation%20Charge%20after%20March%202024.pdf

Nor do we accept that the risks of not acting now are greater than the risks of activating prematurely. Ofgem proposes that activation could take effect with one working day's notice, and the charge applies only once wholesale prices have fallen at least 10% below the cap index. Ofgem therefore retains the ability to act on evidence of a falling market. Activating now, while prices are still rising, means suppliers will price a contingent charge into fixed tariffs against a risk that has not materialised.

We recognise that, in any framework, scenarios remain in which extreme wholesale price volatility could cause systemic stress. While we do not believe that threshold has been met, the appropriate response would be a strengthened capital framework upstream, one-off cap interventions where justified, and government action. An inter-supplier transfer funded by the consumers most actively trying to reduce their bills is not the right distributive design for a catastrophic event. Government intervention and the reformed SoLR machinery between them point to a better-targeted set of responses for genuinely extreme conditions.

We urge Ofgem not to proceed with activating the MSC. The right approach is to trust the framework that Ofgem has built, monitor closely, and engage with industry on contingency planning if conditions deteriorate further. If Ofgem nonetheless proceeds, it should do so on the terms set out in our covering letter and in our responses to Q3, Q4, Q5, Q7 and Q8.

Q3. Do you have any comments on our proposed MSC guidance?

We welcome the consultation setting out, for the first time, the threshold Ofgem considers would justify activation: a reasonable prospect of a loss of £20–30 per dual fuel customer. However, the draft guidance itself contains no activation or deactivation criteria. The licence condition confirmed in May 2026 simply provides that the MSC takes effect only once activated by the Gas and Electricity Markets Authority, with no link to the conditions Ofgem considers necessary to justify activation. We would suggest the guidance set out a published set of activation criteria, with a commitment from the Authority to have regard to those criteria when making any activation or deactivation decision.

Third-party intermediaries and consumer-facing stakeholders should be engaged alongside suppliers in the design of any guidance and parameter revisions. The MSC is ultimately paid for by consumers who switch, and it is intermediaries and consumer groups who see most directly how changes to the parameters affect the deals those consumers are offered and their decisions to switch.

Q4. Do you agree with our proposal to keep the MSC parameters unchanged?

The consultation proposes to retain the previous parameters, a trigger of a 10% price fall, with suppliers receiving 85% of the value of the stranded hedge beyond that point. In our response to the licence consultation, we called for a separate, dedicated consultation on the guidance and parameters in advance of any activation, rather than at the point of activation when consultation timescales will be compressed. Ofgem has instead consulted on the parameters alongside activation, within a two-week window. A separate consultation would have allowed stakeholders to engage with parameter design at a point when the discussion could be properly evidence-led, rather than rushed under live market pressure. The previous parameters should not be assumed to be appropriate to a 2026 activation given the changes in market structure,

the financial resilience framework, the wholesale methodology and consumer engagement levels.

If Ofgem proceeds, it should raise the trigger and lower the sharing factor. The 10% trigger and 85% sharing factor were adopted in May 2022, before the cap moved to quarterly updates, replacing Ofgem's original design of a 30% trigger and a 75% sharing factor.[3] The quarterly cap roughly halves the value of hedges at risk, and capital adequacy, the reformed wholesale methodology and the SoLR Levy Offset now sit alongside it. Ofgem itself rejects full compensation on the grounds that it would dampen switching and competition; the same logic supports a lower sharing factor now that suppliers are better able to absorb losses. Ofgem has also recognised this: in February 2023 it noted that 'there is potential for MSC parameters to be "looser" than they are currently set' and committed to 'consult on new parameters in the early spring', but the 10% trigger and 85% sharing factor were carried forward unchanged in its March 2023 guidance, which applied until the MSC lapsed in March 2024.[4] On Ofgem's own figures, the current parameters would take £65 of the £151 wholesale saving available to each switching household in its central scenario, and £134 in its longer-peak scenario.

Q5. Do you agree with maintaining the MSC trigger as a percentage value?

We do not object in principle to a percentage trigger, which scales with the level of wholesale prices. Our concern is its level. As set out in our response to Q4, the 10% trigger was designed for a six-monthly cap and a less resilient market. If the MSC is activated, the trigger should be set materially higher.

We note Ofgem's view that changing the format of the trigger at this stage would delay implementation. We do not think the MSC should be activated at all, but if it is, speed of implementation should not be the deciding factor in the design of a mechanism that directly reduces the savings available to switching consumers. If the format of the trigger merits review, that review should take place before any activation decision.

Q6. Do you agree with not including deferred allowances in the MSC calculation?

We agree. Including deferred allowances would move the MSC away from targeted mitigation of stranded hedging losses towards general compensation for suppliers losing customers, and would further increase the cost borne by switching households.

Q7. Do you have any comments on the notice period required for activating the MSC?

Ofgem's ability to activate the MSC with one working day's notice is, in our view, the strongest reason not to activate it preemptively. Ofgem can act on evidence of a falling market rather than in anticipation of one. If the MSC is activated, Ofgem should publish each weekly charge as an

[3] Ofgem, 'Decision on short-term interventions to address risks to consumers from market volatility', 16 February 2022, paras 3.60–3.61. https://www.ofgem.gov.uk/sites/default/files/2022-02/Short%20Term%20Interventions%20-%20Decision%20Document.pdf. Ofgem, 'Decision on changes to the Market Stabilisation Charge', 16 May 2022, in force from 25 May 2022. https://www.ofgem.gov.uk/decision/decision-changes-market-stabilisation-charge

[4] Ofgem, 'Extending the MSC and BAT beyond 31 March 2023', decision, 3 February 2023, paras 2.14 and 2.32. https://www.ofgem.gov.uk/sites/default/files/2023-02/Extension%20of%20MSC%20and%20BAT%20beyond%20March%202023-%20Decision.pdf. Ofgem, 'Market Stabilisation Charge Guidance (Version 4)', March 2023, section 2.4. https://www.ofgem.gov.uk/sites/default/files/2023-03/MSC%20Guidance%20%28Version%204%29%20%281%29_0.pdf

indicative amount per dual fuel switch, together with how far wholesale prices are from the trigger, so that suppliers and intermediaries can price and explain changes to consumers, and so that the consequences of Ofgem's decisions are open to public scrutiny.

Although statutory consultation timing requirements may not always be appropriate for fast-moving market conditions, this should not mean the absence of meaningful consultation. For instance, this consultation has run for under two weeks. For any future activation or reactivation decision, we would urge Ofgem to commit to a minimum consultation window of four weeks, full publication of the evidence base, a full impact assessment, and direct engagement with intermediaries and consumer groups alongside suppliers.

Q8. Do you agree with our proposed approach to deactivating the MSC?

We believe the absence of a fixed sunset clause or review point after any activation of the MSC is a serious flaw in the proposed approach. The ability to deactivate the MSC following consultation is no substitute for the certainty that would be provided by a clear sunset clause, an agreed set of market conditions that would cause the MSC to end by default, or both. This would ensure that the MSC is only in effect when it is genuinely needed - which is not currently the case - and give far greater clarity and certainty to consumers and other market actors as to when it would end.

We therefore urge Ofgem to set a fixed end date of 31 March 2027 for this activation, clear trigger points for future activations to end, and require all future extensions to be subject to a fresh consultation that explicitly considers whether the conditions justify the MSC remaining in effect. This aligns with Ofgem's own expectation that the MSC would remain active 'likely at least until the end of winter (the end of March 2027)', while giving consumers and the market certainty.

Q9. Do you have any comments on our draft impact assessment?

We have significant concerns about the distributional and dynamic impacts of activating the MSC on consumers.

The MSC penalises households aiming to reduce their bills by reducing fixed tariff savings available to engaged consumers. Suppliers price the MSC into fixed tariffs, so that consumers who actively switch in response to falling wholesale prices receive a smaller share of the price reduction. While the consultation acknowledges the fact of this dynamic, it does not appreciate its consequences. Switching savings are the primary mechanism by which consumers exercise control over their energy bills, and historically have been the principal disciplining force on supplier pricing behaviour.

The framing of 'engaged' versus 'disengaged' consumers that underpins the consumer impact analysis is outdated. Following the 2022 crisis, many more consumers became actively engaged with their energy bills and have stayed engaged. Ofgem itself recognises this, as the consultation accepts that being on a standard variable tariff does not mean a consumer is disengaged, and its own modelling assumes that 17% of the entire customer base could switch to a fixed tariff in a market where wholesale prices are falling. Yet the impact assessment still treats switchers as a small, atypical group whose savings can be reduced without significant aggregate consumer impact. That is no longer a fair characterisation of the market, and it is not consistent with Ofgem's own evidence.

Ofgem's own figures also show that the MSC does not reduce the cost to consumers; it concentrates it. While Ofgem notes that Table A1 is simplified, in each of the three scenarios it sets out the maximum cost to consumers is up to £0.2bn. Activating the MSC places all of that cost on engaged households, through a transfer of up to £0.2bn from switchers to suppliers. Ofgem's description of the previous MSC as costing less than £2 per domestic consumer averages the charge across the many households who never paid it. On Ofgem's own modelling, the charge would fall on those who switch, at £65 per switching household in its central scenario and up to £134 in its longer-peak sensitivity.

The MSC dampens competitive pressure on suppliers more broadly. Even setting aside the direct savings effect, it reduces the incentive for suppliers to pass falling wholesale prices through into competitive fixed tariffs. Combined with the Ban on Acquisition-only Tariffs, which remains in place, this weakens established suppliers' incentive to offer cheap fixes, leaving smaller challengers to drive competition in a market where prices are falling. However, those are the very suppliers who would then be penalised for doing this through the MSC. Ofgem itself acknowledges in the consultation that the BAT could soften established suppliers' incentives to offer cheap fixed tariffs.

We believe the argument in the consultation that activating the MSC could support market investability is incorrect, and would in fact make the market less investable. New entrants and growing challengers are, by definition, gaining customers from other suppliers, and therefore pay the MSC to incumbents losing their market share, a structural transfer from new capital to incumbent capital at precisely the strategic moments - falling wholesale markets - when a competitive entrant should win more customers. Entry to the supply market since the Supplier Licensing Review has been minimal. The draft impact assessment does not explicitly consider the effect of activation on new entrants. An active MSC adds a further structural disincentive to competitive entry while Ofgem and Government are publicly committed to unlocking the benefits of greater competition.

On Retail Energy Code arrangements, we note that REC arrangements would be required to deliver inter-supplier payments. Set-up and ongoing costs should be transparent and reported, and proportionate to the contingent nature of the licence condition. We would welcome confirmation that these costs, and the payments made under any activation, will be published.