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Dear Annette

**Making markets work for consumers. The regulation of gas and electricity sales and marketing: a review of standard licence condition 48.**

I refer to the above consultation document published by Ofgem in August. It reviews the regulation of direct selling to residential consumers (ie domestic consumers). Within the document, issues are also raised in reference to marketing to non-domestic consumers, particularly small and medium sized enterprises ("SMEs"). Shell Gas Direct (SGD) is a supplier to industrial and commercial consumers (I&C) including to SMEs. We therefore restrict our comments to issues raised regarding this market.

We were surprised that within this document – which was largely about the domestic market – Ofgem raised the issue of extending the marketing licence condition to cover I&Cs, in particular SMEs. SGD is concerned that more than 10 years after the opening of competition to I&C consumers, extending the scope of competition is being considered. While we note that Ofgem has had feedback from some I&C consumers suggesting that there can be problems with marketing for SMEs, we have not been aware of this being raised before. Complaints statistics published by energywatch provide no breakdown of the source of these complaints. We cannot judge, therefore, the extent of the problem. SGD has not had any issues raised with us regarding our practice and we are concerned that any such proposal would only impose compliance costs on responsible suppliers.

The I&C market differs in many ways from the domestic market, including in the level of protection offered to businesses and to domestic consumers. This is true not only of electricity and gas markets, but throughout the economy. There is extensive consumer legislation in place, some of which is covered by this document, which for the most part is focussed on individuals. Any imposition of this requirement to the I&C market would clearly be a move away from Ofgem's professed desire to move to 'light touch' regulation.

Pressure from sales people, and in some cases inappropriate selling, is a common experience for those running small businesses. It is not a phenomena introduced with energy market competition but also covers the sale of photocopying machines, insurance, stationery, etc. If Ofgem considers this issue to need further consideration, it will need to be specific about the ways in which electricity and gas I&C supply markets differ from other markets that lead to more extensive regulation being required.

The first step in helping these consumers must be education. We note that energywatch has recently advertised for a position focussing on the I&C market and it

may be useful in the first instance to look at publishing advice in this area. It would also be helpful to know the extent to which misselling in the I&C market contributes to energywatch's overall complaints level.

The regulatory impact assessment contained in this document in this paper clearly only refers to the domestic market. If further consideration is to be given to extending the marketing licence condition to the I&C market, this will be a significant new area of work and we would expect a robust full regulatory impact assessment to be made before proceeding further.

Shell Gas Direct does not support extending the marketing licence condition into the I&C market. We remain concerned that there has been pressure to consider SMEs to be "like domestics" which is inappropriate and not aligned with the approach taken by the Utilities Act and previous legislation. We consider that information for I&C consumers should be considered before extending the remit of the regulator in this market.

If you have any queries on the above, please do not hesitate to contact me on the above telephone number.

Yours sincerely

Tanya Morrison  
**Regulatory Affairs Manager**