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Dear Pamela

### **Proposed Enforcement Guidelines on Complaints and Investigations**

We welcome the opportunity to provide comments on the above consultation document and have set out our responses below.

#### **Question: Do you have any views on the information that Ofgem will require complainants to provide when making a complaint?**

We do not have any particular comments and generally agree with the information that will be required from a complainant when making a complaint to Ofgem.

#### **Question: Do you have any views in the criteria that Ofgem is proposing to use to decide whether to commence an investigation?**

We agree with the criteria that Ofgem is proposing to use to decide whether or not to commence an investigation. However, we believe that Ofgem should review its role in overseeing each of the industry codes. In particular, given the development of competition to date, in both the wholesale and retail markets, we believe that Ofgem's involvement in every Code change is no longer necessary or appropriate and that certain subject areas should be 'demoted' to industry governance.

In addition, through the supply licence review Ofgem have amalgamated the industry code obligations into one licence condition. We would suggest that it would be appropriate to carry out a similar exercise for all other licences that contain obligations to comply with various industry codes and agreements to ensure consistency of wording. As part of that exercise, the licence conditions could also be redrafted to make it clear that Ofgem would take cognisance of the enforcement procedures of the various code administration bodies in any investigation of enforcement of the relevant licence condition.

#### **Question: Do you have any views on the process or timescales for investigations?**

In previous years the length of time of investigations has been an issue especially where the outcome of the investigation could impact the future direction/procedures of other market participants (e.g. Transco's metering investigation). We therefore welcome Ofgem's nine month target date for investigations and the proposal that it will review the timescales after the first year of the guidelines coming into force.

We note that Ofgem state that a provisional order may be made before a full investigation is concluded and without formal representations from the party concerned. We believe that this is unfair and disproportionate as it is essential that the party concerned is given the opportunity to make formal representations to the claim(s) made against them.

We also note that under the heading “*Statutory notice of intention to impose a financial penalty*” Ofgem state that a minimum of 21 days must be allowed for the making of written representations and objections. We would suggest that this minimum period of time should also apply to the Statement of Objections stage of the investigation.

I hope that the above comments are helpful, if you would like to discuss any of the above further, please get in touch.

Yours sincerely

Rob McDonald  
**Director of Regulation**