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Dear Nigel,

Regulation of marketing to domestic customers

I am writing in response to Philip Davies' open letter of 3rd December, seeking views as to whether the Marketing Licence Condition ("the Licence Condition") should be retained within domestic Supply Licences for a further period of time.

We are pleased to be able to provide our views, both as a domestic energy supplier and a subscriber to the EnergySure Code of Practice ("the EnergySure Code") and associated accreditation scheme.

Doorstep selling remains a key marketing channel for suppliers, and we are keen to maintain consumer and stakeholder confidence in supplier performance in this area. The Licence Condition was introduced at an early stage in market opening in order to protect consumers from poor supplier performance in their marketing activities and we acknowledge that this provided an appropriate degree of regulatory protection at that time.

We are pleased to note that Ofgem recognises the significant improvement in supplier performance since then, demonstrated by the fact that the number of direct complaints to energywatch has fallen significantly in recent times. Indeed, as a fully engaged member of the EnergySure Code, ScottishPower's performance in direct sales has improved dramatically over time, with complaints to energywatch this year reducing by 80% when compared to the previous year. To that end we derive great value from the EnergySure Code and will continue to adhere to its requirements, which we believe provide greater consumer protection than that offered by the Licence Condition.

When Ofgem last considered the Licence Condition in 2006, it was of the view that the EnergySure Code was not sufficiently transparent so as to provide a viable alternative to the existing obligations, and therefore further work was needed in this area. This included in particular improved reporting of sanctions and increasing engagement with consumer bodies.

Since then, the EnergySure Code members have built upon existing good practice in a number of ways, seeking to meet Ofgem's expectations in this area. This has included inviting a number of stakeholders, including Ofgem and consumer groups, to review and discuss the independent 2006 AES Code Auditors report. Indeed, at

this session, Ofgem acknowledged the progress and effort exhibited by the members in improving performance and increasing transparency under the EnergySure Code.

In relation to the transition to the new consumer representation arrangements, ScottishPower is committed to working with Ofgem and other stakeholders to facilitate a smooth transition, including development of the new complaints handling standards. We recognise that the changes are substantial, however, we believe that with all parties working together to develop the new arrangements, and with continued support for the EnergySure Code, the risks to consumers will be minimised.

In addition to the EnergySure Code, the Energy Supply Ombudsman (ESO) scheme has been recently extended to incorporate all categories of consumer complaint relating to energy supply, including sales complaints. We agree with Ofgem's view in its review of the ESO, that the scheme is working well and we believe that it provides an excellent additional layer of protection for those customers who find themselves unsatisfied with a supplier's direct marketing approach. Suppliers are committed to working with Ofgem and the ESO to build upon the scheme's current success and deliver an improved service wherever possible, including through the introduction of new members. The scheme is ideally placed to help to ease customers over the transition period, ensuring that they still have access to third party complaints resolution if necessary.

Taking all these factors into consideration, we believe that the ground covered by the Licence Condition is fully dealt with by other measures and that effective protection for consumers will be retained and in some respects enhanced, regardless of the existence of the Condition. Accordingly we believe the Condition could be safely removed in April 2008 and that this course would be the most consistent with the principles of Better Regulation. However, if Ofgem feel that the Condition should be retained until 2009 to allow the changes in consumer representation to settle down, this would not cause us any concern. Indeed it would not, in practice, make any difference to the way we undertake sales activity.

If you require further information on anything within this response, please do not hesitate to contact me.

Yours sincerely,

Pamela Kelly
Regulation and Commercial