

Impact Assessment and Consultation

Chapter 1 – Introduction and Objectives

Question 1: Do you think we have identified the relevant objectives in our review of the ring fence? If not what other objectives should we be considering?

Yes. You have identified the relevant objectives.

Chapter 2 The existing ring fence and issues arising

Question 1: Have we identified the key risks associated with any limitations of the existing ring fence conditions?

It is not Ofgem's remit to police the Companies Acts.

Paragraphs 2.21 – 2.24 are misconstrued. The risk that directors will not perform their duties under the Companies Acts is a risk that:

- (a) is enforceable by the Companies Act;
- (b) applies equally to executive and non-executive directors.

Therefore, appointing a majority of non-executives adds cost but does not address the risk.

There is also no evidence available from Ofgem to suggest that the presence of non-executive directors would have solved the issue Ofgem are trying to address.

Chapter 3: Our preferred approach

Question 1: Do you think we have set out enhancements to the ring fence regime that mean it would meet the identified objectives going forward?

With the exception of requiring a majority of non-executive directors, yes.

Question 2: Do you think our preferred approach places the right emphasis on the responsibilities of NWO directors and managers?

With the exception of requiring a majority of non-executive directors, yes.

Question 3: What are your views on the changes we have suggested to the various ring fence conditions? What additional costs might they impose on licensees?

With the exception of requiring a majority of non-executive directors, yes.

Question 4: Do you agree that NWOs should be required to have a majority of independent directors or should the requirement refer to a minimum number? Should any licensees be exempted from such a requirement?

No. All licensees should be exempt (see 3:1) and covering letter.

Question 5: Do you think that ultimate controller undertakings should be re-submitted at periodic intervals?

Yes, as part of price control licence modification agreement.

Question 6: Do you think that the arrangement of ring fence conditions ought to be consolidated within/across licences?

Yes

Question 7: Do you agree that changes to ring fence requirements should not be retroactive?

Yes

Question 8: Do you think that any of the proposals should be varied for different types of licensee, in particular for independent distributors?

No

Chapter 4: Alternative Options Considered

Question 1: Do you agree that these are the other broad options for change which could be considered or do you think there are additional options?

Agree, no further options need be considered.

Question 2: Do you think we have attached appropriate weight to drawbacks which might be associated with the 'back-stop' measures of price control reopening and special administration?

Yes

Question 3: Do you think we have attached the right cost/benefit arguments to the less/more intrusive options?

No comment

Question 4: Do you have any comments on the more stringent regulatory possibilities identified in this chapter?

All of the more stringent controls are inappropriate or unenforceable (or both).

Chapter 5: Impacts, Cost and Benefits

Question 1: Do you agree that the measures suggested in Chapter 3 (Our preferred approach) are proportionate in relation to perceived risks?

With the exception of requiring a majority of non-executive directors, yes.

Question 2: Do you agree that our proposals would be positive for competition in the provision of energy networks and for energy supply markets?

No comment.