

## ESTA RESPONSE TO:



## **The Retail Market Review – Findings and initial proposals Ofgem**

Issued: 21 March 2011

Closes: 1 June 2011

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### **ESTA Energy Services and Technology Association**

ESTA is the UK Industry Body representing suppliers of products, systems and services for Energy Management. The 120 members cover Energy Consultants, meter, AMR and controls manufacturers through to full Energy Services/Contract Energy Management.

ESTA is engaged with UK Government policies on Energy and Climate Change, The Green Deal, Energy Performance of Building Directive, Part L Building Regulations, Display Energy Certificates, Carbon Reduction Commitment, Energy Services Directive and the roll-out of smart and advanced meters. It also provides UK input to developing international energy management standards and Chairs several BSI committees.

ESTA members are key to the realisation of a low carbon, secure and affordable energy future. Our members provide equipment, systems and services for energy management to reduce energy demand at source and including renewables.

Our response is a majority consensus of the members involved. Where ESTA members respond directly, they may offer differing opinions on some issues which we respect as expressing their own definitive view.

**Key points:-**

## ESTA

- ◆ welcomes Ofgem's findings that further action in the retail market is required in order to protect consumers and increase liquidity and competition.
  - ◆ is still concerned with supplier objections to transfer due to debt and TPI payment structures in the non-domestic sector. ESTA would encourage more transparency in this area to help combat current mis-use and mis-selling.
  - ◆ welcomes the steps being taken to increase market competition through the use of mandatory auctions via a specified amount of generating capacity. ESTA is concerned however regarding the range of products to be offered, consumers that could see their bills increase due to competition and the possibility of vertically integrated participants withdrawing from certain sectors of the retail market.
  - ◆ welcomes Ofgem's decision to look into supplier/customer communications and would encourage Ofgem to provide factsheets to be communicated with invoices by suppliers in order to allay interpretation fears.
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## The Retail Market Review – Findings and initial proposals

Response covering specific questions as laid out in the consultation.

### CHAPTER: Two

#### **Question 1: Do stakeholders agree with our findings of the Review in relation to causes of persistent consumer harm and barriers to entry in the energy retail markets.**

As noted we find that in the non-domestic large consumer sector there is concern over the use of supplier objections to transfer, especially when due to invoice disputes allowing a supplier to quote objection due to debt.

An overview of the tender for supply procedure and transparency of contracts would be recommended in order to streamline the process for consumers, suppliers and new entrants to the market especially where data is concerned.

With a more complicated electricity network being developed, it is imperative that customer data is provided in a way that consumers can provide tender information to all their chosen tender candidates for analysis and to receive quotes. This data should be freely accessible by the customer in order for the incumbent supplier not to have an unfair advantage in quoting when tender renewals take place.

Standard supply contract clauses for certain aspects would allow for the issue regarding TPI's to be resolved in that it should be transparent in the contract for the consumer to understand the payment structure (not payment amount) the TPI is working to. i.e. whether fee/percentage is being levied on the supplier as well as on the customer and also clauses highlighting pass-through costs and termination procedure to reduce the inclusion of evergreen clauses.

Mis-selling is down to the vigilance of the consumer, and whilst contract transparency would assist in this regard, Ofgem should look to bolster its review process should TPIs continually be mis-selling.

A final point would be to publish annually a supplier objections table outlining number of objections, those that are upheld and those that are withdrawn. A total figure should be included and also a figure based on objections vs volume in portfolio to provide some context.

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### CHAPTER: Three

#### **Question 9: Do stakeholders consider that our two proposed interventions (the MA and the MMM) could improve the ability of the wholesale electricity market to meet independent participants' needs, and will ultimately improve the likelihood of retail supply market entry?**

Greater access to the wholesale market should encourage market participation by new entrants and any positive move forward in this regard should be welcomed.

Ofgem should consider however the role vertically integrated participants play in this new scenario.

The majority of profit margin in the non-domestic sector is created through upstream generation and downstream energy and management services, the actual retail margins for supply considering the risks are quite low by comparison. The market would not want to see new entrants coming into the non-domestic arena and then see vertically-integrated companies withdrawing from the non-domestic retail market.

With microgeneration and local community schemes set to increase over the coming years, the pressures on energy retail need to be considered before rules are set for an unpracticable solution. Certainly, if greater liquidity leads to more competition but higher overall prices then it's objective has been lost.

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**Question 10: Subject to the results of our further wholesale market assessment, do stakeholders consider that both interventions could be necessary to meet the objectives stated in questions 8 and 9?**

Taking into consideration the concern regarding the possible contraction of the non-domestic energy retailers as noted above, increased liquidity and competition allowing in new entrants can only be a good thing for the market. Since the demise of Independent Energy and Bizz Energy the retail only model has not stacked up for new-entrant energy retailers in the non-domestic power market. The current proposals therefore do need to effect change.

A question should be asked however, if non-domestic consumers have been consulted as to the likely impact new entrants would make to the market. And if any differences in tender procedures are required in order for them to make switching easier.

The influx of risk contracts more than five years ago, stifled movement in the energy retail market as risk strategies required consumers to sign up for longer term contracts. Where consumers take on two to three year contracts competition in the retail sector will fall. This creates a situation where new retail suppliers need to be there for the long game and adequately funded in order to do so.

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**Question 12: On the basis that we could decide to take forward these interventions, do stakeholders have comments on the indicative design choices we have made, as set out in Appendix 2. In particular, views are welcome regarding our initial position on each of the following:**

**Volume requirements**

The impact on consumer profile and overall portfolio could change dramatically should 20% be prescribed. In effect vertically-integrated suppliers would revise current pricing policy for certain sectors within their portfolio to reduce their exposure in the traded market. The contracts that volume would eventually sit with would be of interest. Consumers would effectively play musical chairs which although would provide the perception of increased market competition may be forced rather than by choice.

**Product requirements**

The concern above is to some degree dealt with in a product offering, although a greater understanding of products vs volumes is required and needs to be generator specific for this concern to be alleviated.

**Frequency**

The market through experience should regulate the frequency. Monthly auctions compared to quarterly may provide the necessary intelligence in order to smooth out any wrinkles going forward.

**Governance arrangements**

A separate body set up to govern would be welcomed as long as transparency, accountability and regular reviews are established.

**Participation**

Increased prices or allowing retailers to withdraw from certain parts of the market needs to be taken into consideration. The thin end of the consumer wedge should not be the target for increased cost, therefore subsidising some of the risk new entrants take on board before breaking into a more lucrative portfolio of clients.

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**Question 13: Do stakeholders have any comments on the costs and risks of our proposal, or any alternative suggestions that you have put forward, to take action to improve wholesale electricity market liquidity?**

Concern is regarding the product vs volume argument with current integrated companies increasing costs in order to improve market liquidity.

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**Question 14: Do stakeholders consider that Ofgem should strengthen licence conditions around suppliers' communications and interactions with their customers, to give suppliers less freedom in how they interpret these obligations?**

Transparency is vital in an open market and communication is key to this. The spirit of Ofgem's proposals should be carried out.

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**Question 15: Do stakeholders consider that Ofgem should increase its monitoring and enforcement activity to enhance suppliers' compliance with licence conditions?**

Standard wording would have resolved the example cited and therefore Ofgem should consider identifying suitable language to be used on customer invoices and communications as a minimum requirement which suppliers can incorporate into their documentation. This would save Ofgem from becoming more involved and allow a finer understanding of what is required and provide standardisation for consumers. An Ofgem approved invoice factsheet to accompany customer communications could be the answer to this to alleviate the concerns of suppliers marketing departments.

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**Question 18: Do stakeholders have any comments on the costs and risks of any of our suggested policies under Proposal 3?**

Introducing minimum standards for communications between suppliers and consumers is necessary in a complicated market and clarity in assessing deals made by suppliers needs to be tackled before the roll out of smart meters in order to have systems in place when more complicated offerings are placed in the market. The costs and risks can therefore only increase the longer this issue is left untackled.

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**Question 19: Do stakeholders consider that Ofgem should strengthen licence conditions to prevent unfair contracting practices in the non-domestic sector?**

Standard procedures and contracting practices would assist both supplier and customer in understanding requirements and would alleviate issues surrounding unfair contracting practices. Minimum suggested guidelines could be associated with supplier documentation allowing the customer to understand the procedure from an industry point of view.

With a more complicated electricity network being developed, it is imperative that customer data is provided in a way that consumers can provide tender information to all their chosen tender candidates for analysis and to receive quotes. This data should be freely accessible by the customer in order for the incumbent supplier not to have an unfair advantage when tender renewals take place.

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**Question 20: In particular, would stakeholders welcome additional licence conditions surrounding the objections procedure?**

Annual table of objections and those upheld would be a useful addition to help increase the overall transparency of the process.

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**Question 21: Would stakeholders welcome the extension of some elements of the Standards of Conduct into non-domestic supply licence conditions?**

Information, transparency and guidance is welcomed at any level. And factsheets created by Ofgem in collaboration with consumer representing bodies is welcomed also. Ofgem could stipulate that the factsheet resource is communicated on relevant supplier documentation so that it receives the widest audience.

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**Question 22: Do stakeholders agree with our position, at this stage, not to extend our proposals on tariff simplification into the non-domestic sector?**

Yes. Non domestic is completely different to the domestic tariff structure and should only be looked at if it does not affect the current flexibility non-domestic consumer arrangements hold.

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**Question 23: Do stakeholders agree that Ofgem needs to look further at the role of third party intermediaries (TPIs) in the non-domestic market?**

Ofgem should consider publishing statistics of complaints against TPI's from both consumers and suppliers. Showing those upheld and those that are withdrawn.

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