

28 May 2012

Jemma Baker  
Economist  
Ofgem  
9 Millbank  
London  
SW1P 3GE

Dear Jemma,

**Response to consultation, 'Proposed reinsertion of SLC 25A for the gas and electricity domestic supply licences until 31 July 2014 on the Undue Discrimination Prohibition standard licence condition'**

Thank you for providing an opportunity to respond to this consultation. It raises no new policy issues, so we refer you to our response to the previous consultation for our main views on the policy implications of re-inserting these licence conditions<sup>1</sup>.

We welcome the recent publication of guidance<sup>2</sup> to suppliers wishing to participate in collective switching schemes, but consider that this could usefully be bolstered by more detailed guidance on how the undue discrimination licence condition would apply to tariffs constructed for such purposes. The absence of case law or precedent here may deter suppliers from fully participating in collective switches without further clarity being provided.

From a process perspective, we would like to highlight our unhappiness with the manner in which Ofgem is approaching the issue of where the burden of evidence lies when justifying policy proposals.

In your consultation document you state that *'we do not consider that at this stage we been provided with sufficient evidence and reasons to alter our views expressed in the February consultation'*.

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<sup>1</sup> <http://www.consumerfocus.org.uk/files/2009/06/Consumer-Focus-response-to-consultation-on-undue-discrimination-licence-condition1.pdf>

<sup>2</sup> <http://www.ofgem.gov.uk/Markets/RetMkts/Compet/Documents1/collective%20switching%20open%20letter.pdf>

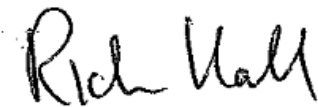
We find that statement deeply frustrating. The onus to provide evidence to justify policy positions does not simply apply to your stakeholders – it also applies to Ofgem. In our submission to the previous consultation we highlighted that:

*“It would be useful if you could provide a more detailed analysis of why you think retaining the undue discrimination licence condition will help consumers. It seems to be taken on faith that it will [...]”*

We retain these concerns. Ofgem has not produced an impact assessment, or published any substantive evidence alongside its proposals, to justify its policy position.

This submission is entirely non-confidential and may be published on your website.

Yours sincerely,

A handwritten signature in black ink that reads "Rich Hall". The signature is written in a cursive, slightly informal style.

Richard Hall  
Head of Energy Regulation