



Holders of Gas and Electricity
 Supply Licences, DECC,
 Consumer Focus, consumers and
 their representatives and other
 interested parties

*Promoting choice and value for
 all gas and electricity customers*

Direct Dial: 020 7901 7000
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Date: 20 July 2012

Dear Colleague

Undue Discrimination Prohibition Standard Licence Condition 25A - update and next steps

Background

The effect of Standard Licence Condition 25A ('SLC 25A') is that a supplier with 50,000 or more domestic customers must ensure that in supplying or offering to supply electricity and /or gas, the Principal Terms on which it does so do not materially discriminate without objective justification between one group of Domestic Customers and any other such group. The grounds for objective justification and our approach to the enforcement process are set out in the Guidelines for the condition. SLC 25A was put in place on 1 September 2009 with a "sunset clause" which means that the condition will cease to have effect after 31 July 2012.

In April 2012, we published a statutory consultation which proposed to reinsert the existing provisions of SLC 25A (without amendment other than the date of the sunset clause) for a further two year period, until July 2014. It was our view that it was not appropriate to conduct a full review of the provision at this time while the Retail Market Review (RMR)¹ policies were in development, given the significant interaction these are likely to have with SLC 25A. Alongside this we outlined our intention to retain the existing customer threshold associated with this condition, and review this as a separate consultation within one year.

Responses to our statutory consultation and next steps

We received four² responses to our statutory consultation. These responses were not confidential, and will be published on our website shortly. Stakeholders expressed mixed views on our proposals, and raised similar issues to the responses provided to our earlier February 2012 consultation³.

Recognising the significant interaction with SLC 25A and our Retail Market Review (RMR) policies, we consider it is appropriate to make our decision on whether to retain SLC 25A in the context of the RMR next steps⁴. Therefore, we intend to make our decision on the retention of SLC 25A before the winter.

¹ 'Retail Market Review – Domestic Proposals, December 2011, Reference: (166/11).

² We received responses from Consumer Focus, Stephen Littlechild, SSE and Ecotricity

³ 'Consultation on the Undue Discrimination Prohibition standard licence condition', Feb 2012, Reference: (23/11)

⁴ For more information on the Retail Market Review please see 'Ofgem's Retail Market Review – update and next steps', May 2012.

Given that SLC 25A will cease to have effect after 31 July 2012, there will be an interim period before we take a final decision on whether or not to reinsert the condition, during which suppliers will not have to justify discrimination in pricing. We therefore wish to make clear that we will be monitoring the pricing practices of all suppliers that are currently subject to SLC 25A to determine whether they continue to operate within the spirit of the requirements of the condition during the short period before we make the final decision.

If you wish to discuss any of the issues raised in this letter or any related matters, please email Jemma.Baker@ofgem.gov.uk or contact on 020 7901 7174.

Yours Sincerely

Rachel Fletcher
Partner - Markets