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Dear Jonathon

**Consultation on the application of the Maximum Resale Price to the resale of electricity for use by electric vehicles – request for views and evidence**

Thank you for giving us the opportunity to provide our comments on the proposal to clarify whether the Maximum Resale Price provisions apply to the resale of electricity for electric vehicles. We support the proposal that the provisions should not apply so that the embryonic market in the provision of charging points is free to develop a range of business models. However, we propose Ofgem oversees the charges levied in the new market so that there is no abuse of a dominant position, whether intended or not.

Responses to the consultation questions and specific comments on the proposals are in the attached Appendix 1.

Yours sincerely,

A handwritten signature in blue ink that reads "Sarah Walls".

Sarah Walls  
Head of Economic Regulation

## **Appendix 1**

### **Question 1: Do stakeholders consider that uncertainty over the current MRP provisions is a barrier to the commercial growth of charge point infrastructure?**

We are aware, through discussions in the local PiP consortium, that there is uncertainty on whether the MRP provisions apply to the resale of electricity to EV users under a commercial arrangement.

The MRP provisions state that energy cannot be resold for a price higher than the price that was paid for it ie it specifies the cost pass-through principle so that the benefits of electricity competition are passed through to the end customer. As a consequence the MRP may provide a barrier to the commercial growth of charging point infrastructure as it restricts the ability of the infrastructure provider to charge above its cost base and therefore the MRP may prove to be a hindrance to commercial growth. However, we have no evidence to suggest that by clarifying the MRP provisions, there would be a large increase in number of commercial charging points.

### **Question 2: Do stakeholders agree that charge point providers should be free to set prices for the electricity resold from charge points?**

Although we agree that charge point providers should be free to set their own prices for the sale of electricity at charge points, it is our opinion that during early development of this market it would be prudent for Ofgem to monitor the prices that are being set. While the market is in its infancy there is a possibility that certain localities may have a limited number of charge points and therefore suffer from a lack of competition. There is the potential that a lack of competition could lead to consumers being charged unrealistic prices and Ofgem should periodically review the charges levied so that charge point providers do not abuse their market position.

### **Question 3: Do stakeholders consider that the proposed amendment to the MRP direction would provide sufficient clarity?**

The proposed amendment clearly states that the only exclusion from Section 37 of the Gas Act 1986 and Section 44 of the Electricity Act 1989 is for electricity sold at a charge point for Electric Vehicles. It is our opinion that this provides the level of clarity required.

### **Question 4: Could there be any unintended consequences to the above proposal, or proposed drafting?**

As stated previously, the main consequence would be that in areas that suffer from a lack of competition the consumers may be exposed to extremely high costs. During early development it may be necessary to provide some level of protection to domestic consumers, who may be unaware of legislation, such as the Competition Act, to ensure that they are not exposed to inflated prices.

### **Question 5: Do stakeholders agree that the current MRP provisions should continue to apply to marine craft, including electric marine craft?**

We are unaware of any changes to Marine Craft regulation that would necessitate a change to the current MRP provisions.