



Retail Market Policy (c/o Ruben Pastor-Vicedo)  
Ofgem  
9 Millbank  
London  
SW1P 3GE

Email to: [white.labels@ofgem.gov.uk](mailto:white.labels@ofgem.gov.uk)

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### **White label providers – call for evidence**

EDF Energy is one of the UK's largest energy companies with activities throughout the energy chain. Our interests include nuclear, coal and gas-fired electricity generation, renewables, and energy supply to end users. We have over five million electricity and gas customer accounts in the UK, including residential and business users.

Although EDF Energy does not currently offer a white label tariff, we acknowledge the consumer appeal of the opportunity to engage with the energy market via known and trusted brands and feel that this is a legitimate way to engage consumers in the energy market. We welcome Ofgem's review of white label providers and are keen to ensure that the regulations support the use of white labels without having any unintended detrimental effects on competition in the market.

We support the use of white labels as a means to drive customer engagement and increase switching. However, we have serious concerns regarding the potential impact on the market of any continuation of the exemption. Our main concern is that such an exemption will be used by suppliers to segment their customer base and to circumvent the Retail Market Review rules that require suppliers to inform customers of the supplier's cheapest tariff. Indeed, exemption would allow a proliferation of brands that could be used to shield segments of customers from the current best deals (the acquisition brand) for that licensee. This type of product proliferation has been seen in other markets (e.g. Telecoms) and if allowed to happen in the energy market it will undermine the principles established under Retail Market Review (RMR).

During the development of RMR we expressed strong reservations regarding Ofgem's proposals to grant a temporary exemption from elements of the requirements in respect of white label tariffs. Specifically, we were concerned that customers of a supplier who has a white label tariff will not be automatically told of the full range of tariffs available from the partner supplier. This will be detrimental to the customers concerned and will provide a competitive advantage to the partner supplier by facilitating their ability to segment customers across brands.

In light of these concerns we do not support any extension to the current exemption, or any regulatory framework which allows these detrimental impacts on competition to occur.

**EDF Energy**  
40 Grosvenor Place, Victoria  
London SW1X 7EN  
Tel +44 (0) 20 7752 2187

**edfenergy.com**  
*EDF Energy plc.  
Registered in England and Wales.  
Registered No. 2366852.  
Registered office: 40 Grosvenor Place,  
Victoria, London SW1X 7EN*

Our detailed responses are set out in the attachment to this letter. Should you wish to discuss any of the issues raised in our response or have any queries, please contact Robin Healey on 01273 428 348, or myself.

I confirm that this letter and its attachment may be published on Ofgem's website.

Yours sincerely,

A handwritten signature in blue ink that reads "Paul Delamare".

**Paul Delamare**  
**Head of Downstream Policy and Regulation**

## Attachment

### White label providers – call for evidence

#### EDF Energy's response to your questions

**Q1. What will be the impact of the RMR rules on white labels if we do not modify the regulatory framework for white labels before the exemption expires?**

Our interpretation of the regulations is that if no action is taken to modify the regulatory framework governing white labels before the exemption expires, the most notable consequence will be that licensed suppliers will be required to align all aspects of their white label providers' tariffs with their own within the tariff cap. This will include discounts, surcharges and bundles. Furthermore, comparisons across tariffs at the end of fixed term contracts will need to be carried out across both the white label provider's and the partner supplier's tariffs. White label providers and their partner suppliers will retain the flexibility to offer different tariffs with different prices, but the set of tariffs offered across the two will be treated as part of the licensed supplier's obligations under RMR.

Because there are examples of white label providers in the market today which offer different tariffs to those of their partner supplier, a direct consequence is that the number of unique offerings in the market will reduce. This is consistent with the rules under RMR which require that licensees only offer four core tariffs in each region. Whilst it could be argued that this will result in a reduction in the variety of tariffs in the market, such an argument ignores the fact that there will be no corresponding change in the number of licensed suppliers. Consequently the level of genuine competition between licensed suppliers will not reduce as a result. Competition between licensed suppliers is critical to ensure that the retail market is operating efficiently by applying downward pressure to energy prices. Allowing the exemption to expire without modification to the regulatory framework will ensure that the integrity of RMR is preserved and will increase the chances of realising all of the associated benefits across the entire energy market.

If white label providers are exempt from the rules governing the tariff cap and the provision of a licensee's 'supplier cheapest deal' information, this may result in a proliferation of white labels in the market in order to avoid RMR restrictions, rather than resulting in a genuine increase in retail competition. This will undermine the principles established by RMR and will result in fragmentation of the market at a time when the industry is focussed on making direct comparisons between offerings easier for consumers.

**Q2. Should the scope of our work cover white labels in the non-domestic market? Please provide reasons for your answer.**

The RMR regulations governing the key aspects affecting white label suppliers are specifically aimed at the domestic market. We therefore see no reason to extend the scope to the non-domestic market.

**Q3. Are there any business models in the retail market where the distinction between white label and TPI is unclear?**

EDF Energy is not aware of any examples where this distinction is unclear.

**Q4. What considerations might make it preferable for an organisation to operate as a white label? Please cover regulatory, commercial, financial and any other relevant aspects.**

Being a white label provider is a model well suited to two main types of organisation. We address each of these in turn:

- 1) Existing organisations whose core business is not energy supply, who have a trusted brand and want to expand their offering to include energy.

Being a fully-fledged energy market participant requires a supply licence under the Electricity Act 1989. The regulatory obligations that result from holding a supply licence are comprehensive and complex. These include the need to comply with industry codes, for example those that relate to registration and settlement, and the need to also have in place robust customer service systems. These requirements can be onerous in terms of the systems and technical expertise required and may discourage organisations from offering energy products directly to their customers.

There are also commercial considerations in terms of the costs associated with transacting directly in the wholesale market. Organisations whose core business is not energy supply may be poorly placed to manage risks specific to the energy market, such as imbalance risk.

Entering into a white label partnership allows organisations to share the economies of scale with an existing licensed supplier and to benefit from their expertise in the energy market arrangements. By subsuming their customers' demand into that of their partner supplier, white labels can reduce the costs of transacting in the wholesale market through being able to purchase energy in larger quantities whilst also reducing imbalance risk through the netting effect, which occurs within a large and diverse customer base.

- 2) Start up organisations which want to become energy market participants but are unable to do so immediately due to the high capital, cash flow and technical demands of the energy industry.

The same issues are faced by start-up organisations as non-core suppliers. However, evidence to date indicates that the majority of new entrants choose to enter the market by obtaining a supply licence upon start up. This is illustrated by the fact that there are currently only three white label providers in the market, whilst the number of licensed suppliers is at an all-time high. As of 31 January 2014, 12 companies were competing with

the six major suppliers in the domestic dual fuel market, as opposed to six companies three years earlier.<sup>1</sup>

The different approach taken by these two groups may reflect the fact that by holding a supply licence, dedicated start-up suppliers have a greater degree of freedom to operate their business as they choose.

As only licensed suppliers can physically supply their customers, there will always be restrictions on how unlicensed white labels can operate.

This is an important consideration when assessing the level of freedom that white label providers have to set their own prices – as long as a white label provider is unable to take responsibility for the physical supply of their customers, they will be unable to operate truly independently.

**Q5. What would be the cost and timing involved for white labels in becoming licensed?**

The basic regulatory costs and timings for obtaining a supply licence are minimal, but significant costs are incurred when setting up and operating a completely independent supply business.

Many of these costs are associated with the requirement to comply with all of the obligations which accompany holding a supply licence. The existing rules allow white label providers to operate without taking on all of the costs associated with being a licensed supplier, unless they chose to do so by becoming licensed. An exemption from the RMR rules is not necessary to facilitate this.

**Q6. What activities related to the purchase of energy in the wholesale market do partner suppliers cover on behalf of their white labels?**

The Electricity Act 1989 requires any person supplying electricity to premises to hold a supply licence or to be subject to a licence exemption under SI 2001 3270. In order for a person to be deemed to be supplying electricity, they must be responsible for the physical supply of energy to premises. Under the current industry arrangements being responsible for physical supply involves registering a customer's meter and taking responsibility for all the associated obligations.

As unlicensed white label providers cannot register their customers' meters, this must be done by the partner supplier. This means that the white label's physical demand volume is subsumed into the partner suppliers' own physical position. (i.e. the aggregate total of all their customers' metered demand which must be matched by energy purchase contracts in order to avoid incurring imbalance charges) As a result of this the partner supplier has an economic interest in managing the white label's hedging activities, since they will have

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<sup>1</sup> Statistics taken from Cornwall Consulting, March 2014

a direct financial impact on the partner supplier's own energy purchase costs through settlements.

Unlicensed white label providers can only gain access to the wholesale energy market indirectly via their partner supplier; an arrangement which is usually beneficial to the white label in terms of reducing transaction costs and limiting exposure to cashout prices. Under this type of arrangement the white label provider is likely to be exposed to the same commodity and balancing costs as its partner supplier.

A greater degree of independence can be achieved through the use of a Market Participant ID (MPID) which is dedicated to the white label's customers, accompanied by a commercial framework which allocates imbalance risk back to the white label provider. However, even under this model the licensed supplier remains responsible for the physical supply associated with those customers.

The only way a white label supplier can gain total control over its energy purchasing activities is to become a licensed supplier, at which point they become a market participant in their own right. The current regulations are correct in this respect because they account for this in the way that both the RMR rules and customer protection rules are applied to each licensee and do not distinguish between methods used by licensed suppliers to gain access to customers in the retail market.

There is no regulatory restriction on how licensed suppliers are able access the wholesale energy market so a white label provider which holds a supply licence can still choose to subsume their physical position into another suppliers if they choose via a Metered Volume Reallocation Notification (MVRN), but they also have the option to purchase energy via other means if they prefer.

**Q7. Are there any approaches to the pricing of white label tariffs that are not covered in our classification?**

EDF Energy is not aware of any approaches to the pricing of white label tariffs which Ofgem has not covered in their classification.

However, our view is that there are only two relevant classifications when it comes to determining whether a supplier is truly independent of other suppliers competing in the same market:

1. Licensed suppliers, who have complete freedom to choose how they operate in the market.
2. Unlicensed white label providers who are intrinsically linked to their partner supplier through their shared physical position and the fact that the contract held by the customer is with the partner licensed supplier.

Our understanding of Ofgem's analysis is that the intention is to split the second classification based on the degree of control that the partner supplier has over the white

label's prices. As we have already described, the level of independence that an unlicensed white label can achieve will always be limited by the fact that they share settlement arrangements with their partner supplier.

**Q8. Do you have any evidence on the customer-related activities performed by white labels? Please cover both billing-related and non-billing-related customer activities.**

EDF Energy does not currently have any white label partners to base our views on.

**Q9. What value do white labels add to the retail market? Please cover any benefits on competition and innovation.**

EDF Energy views white labels as an alternative means for engaging consumers in the energy market. Although EDF Energy does not currently offer a white label tariff, we can understand the consumer appeal of the opportunity to engage via other known and trusted brands and feel that this is a legitimate way to engage consumers in the market.

White labels are also a means by which new entrants to the market can use an established supplier's systems, technical expertise and access to the wholesale market to reduce costs and complexity in their own business. In this way new entrants can establish their brand and grow their customer base to a level where they start to benefit from the economies of scale before taking on the obligations which accompany holding a supply licence. The introduction of new licensed suppliers to the market increases retail competition and increases customer choice.

The full benefits of retail competition and customer choice can only be realised if the principles established under the RMR are applied equally across all licensed suppliers, with unlicensed white label providers being treated as an additional means of engaging customers for licensed market participants.

**Q10. Are there any consumer protection concerns arising from the way in which white labels and their partner suppliers currently operate?**

Our main issue with the current exemption is that customers on some partner suppliers' tariffs are not being informed of the associated white label provider's tariffs, and vice versa. We believe that this will result in segmentation of licensed suppliers' customer bases to the detriment of consumers, as those who are not actively engaged with the market will not automatically be made aware of the best deal on offer across the licensed suppliers' total portfolio of offerings. We are concerned that this type of behaviour will exacerbate lack of trust in the energy supply market.

Our view is that because a white label customer's contract is with the licensed partner supplier, it is appropriate that customers have access to information pertaining to all of the tariffs offered by the licensed supplier as the legal entity with whom they hold a contract. Failure to do this could result in consumers being confused as to who is responsible for ensuring their consumer protection rights are upheld.

**Q11. Is the information that white labels and their partner suppliers provide to consumers on their relationship and their tariffs sufficient?**

It is essential that consumers are aware that unlicensed white label providers are acting in association with their licensed partner supplier. Our analysis of the market indicates that this is usually the case but, if necessary, regulatory action should be taken to ensure that this is always the case.

Once consumers are aware that their supply contract is with the licensed partner supplier, it is appropriate for all tariff offerings and communications to be aligned between the white label and the partner supplier under the RMR rules. This is essential in order to prevent licensed suppliers from segmenting customers based on their level of engagement with the market.

Allowing an increase in the segmentation of customers undermines the principles of simpler choices, clearer information and fairer treatment established under RMR and could undermine consumer confidence in the market.

Our view is that while white label providers are a positive means of increasing consumer engagement, the principles of RMR must be applied equally to all licensed suppliers; regardless of how they are accessing customers in the retail market.

**EDF Energy**  
**April 2014**