

Ruben Pastor-Vicedo  
Retail Market Policy  
Ofgem  
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London  
SW1P 3GE

6 November 2014

Dear Ruben,

### **Treatment of white label providers in the domestic retail market**

Thank you for the opportunity to provide our views on white labels, to help inform the appropriate regulatory framework under the RMR. It goes without saying that some aspects of the proposed arrangements are consequential upon the tariff limitations in RMR, which continue to be the subject of some debate and will be reviewed in future. To that extent, it may be inappropriate to describe the proposed arrangements on White Labels as “permanent”. Nevertheless, we have approached this consultation within the framework of RMR as currently in place.

We agree with Ofgem’s assessment of white labels as having the potential to deliver greater consumer choice, engagement and competition within the market. As we noted in our response to the March Call for Evidence, we believe that a balance needs to be struck which provides sufficient commercial freedom to white labels to harness the potential consumer benefits, without unduly compromising the RMR objective of simplicity – or opening up the rules to gaming. We generally believe that Ofgem’s proposals achieve this balance.

We do have a few comments on Ofgem’s proposals within the consultation, which we have summarised below:

- **Simplicity of Cheapest Tariff Messaging.** While we appreciate that Ofgem has taken a pragmatic approach to the expansion of the cheapest tariff messaging definitions, specifically to include white label tariffs only within the wider definition, we are concerned that this might be confusing for customers where they are unaware of the partner supplier / white label relationship and contrary to Ofgem’s aim of simplicity. An alternative approach could be to exclude white label tariffs from cheapest tariff messaging to customers of the partner supplier.
- **Implementation timescales.** Although we do not currently have any white label partnerships, we think that sufficient time would be needed to ensure that suppliers who do wish to develop new white label arrangements are able to comply with the new proposals, without unnecessarily delaying the ability of new white labels to enter the market and take advantage of the tariff proposals. We

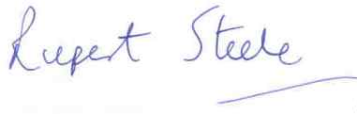
think that 6 months is likely to provide a suitable timescale for delivering the cheapest tariff messaging. It may be that Ofgem would also consider phasing the implementation deadlines as was done with the original RMR proposals, to allow the tariff proposals to be introduced at an earlier date.

- **Next Steps.** We welcome Ofgem's proposals for enhanced monitoring of white labels and think that this will provide the best vehicle for Ofgem to assess the value of white labels in the market on an ongoing basis. We note that Ofgem does not give further thought in the consultation to alternative models for future regulation of white labels, including whether there would be any merit in variants of the 'licence lite' model under which some of the regulatory obligations are transferred direct to the white label, as an intermediate step towards acquiring a full supply licence. We would welcome further consideration of this going forward.

We have provided answers to your specific questions in the Annex to this letter. In relation to the proposed Licence modifications we would also urge Ofgem to be mindful of the potential additional complexity to the Licence that may come from simply amending the existing temporary condition, and to give careful consideration to the accessibility of the legal drafting in that regard.

We would be pleased to discuss these points with you in further detail.

Yours sincerely,

A handwritten signature in blue ink that reads "Rupert Steele". The signature is written in a cursive style and is positioned above a horizontal line.

**Rupert Steele**  
Director of Regulation

**TREATMENT OF WHITE LABEL PROVIDERS IN THE DOMESTIC RETAIL MARKET  
SCOTTISHPOWER RESPONSE TO CONSULTATION QUESTIONS**

**1. Do you agree with our current assessment of white labels? If not, please provide any evidence to support your views?**

Yes, we broadly agree with Ofgem's assessment of white labels and in particular that they can add value to the market in terms of choice, consumer service and engagement.

Ofgem comments that white labels have a limited benefit for price competition. While this may often be the case compared to a new supplier, we would note that the white label model may also deliver consumer benefits in the form of efficiency savings. For example, if a white label model can offer an alternative route to market with lower costs, these savings could be reflected in the white label tariff.

**2. What are your views on our tariff proposals? If you do not support our proposals on either the tariff cap or the other RMR tariff rules, please explain your reasoning.**

The tariff cap remains subject to future review and may be temporary. To that extent, Ofgem's tariff proposals concerning White Labels may themselves be subject to change.

Against the background of RMR as it now stands, we support Ofgem's tariff proposals, both in respect of the tariff cap and the other RMR rules. We think that these proposals will offer white labels the opportunity to differentiate their service and innovate in the market, while still maintaining consistency with Ofgem's wider RMR rules.

**3. What are your views on our CTM proposals? If you do not support these, please explain your reasoning?**

We think it is sensible and within the intention of the 'narrow' definition of cheapest tariff messaging for white labels to be excluded from this definition. We also agree that there should be no consideration of other white labels from that partner supplier within the cheapest tariff messaging definition.

We are however concerned that the 'wider' cheapest tariff messages could be confusing for some customers and may require additional explanatory text on the bill. Customers supplied on a white label tariff will be aware of the white label and its relationship with the partner supplier. Therefore it is likely to make sense to those customers to see alternative tariffs of the partner supplier on the bill. However, there will be many customers of the partner supplier who are not aware of the white label or its relationship to their chosen supplier, and therefore will not understand why such alternative tariffs might be promoted on their bill. We are concerned that this may be complex and confusing for customers and will need some additional text to explain the relationship. We have worked hard to keep our bill design simple while still including all of the relevant explanations and are concerned that this proposal could result in further complexity on the bill design.

The alternative could be to require that partner supplier tariffs are included within the 'wider' cheapest tariff messaging for white label customers but not to require that white label tariffs are included in this messaging for customers of partner suppliers.

**4. If you are a partner supplier or a white label, how long do you envisage it will take you to implement our CTM proposals?**

We do not currently have any white label partnerships so cannot comment from direct experience. However, we would want to ensure that the implementation timescale strikes the best balance between giving all suppliers the opportunity to be able to comply with the new proposals, while also allowing suppliers who have not been subject to the existing temporary provisions for white labels to start to take advantage of these as soon as possible. This latter point could be addressed by Ofgem allowing a phased implementation, as was done with the original RMR rules, which would see the tariff rules being introduced in (for example) March 2015 and the cheapest tariff messaging 3 months later.

We note that 6 months is usually a reasonable minimum implementation timescale for similar IT changes. This was also the time period for implementation allowed for the enduring cheapest tariff messaging implementation under the RMR, and so a similar timescale would seem appropriate in this case.

**5. Do you think that we should require white labels to publish information setting out the value that they deliver to consumers? If you think so, please outline what information you think white labels should provide.**

We are not convinced of the value of such a requirement, nor can we easily envisage how this would work in practice for certain types of white label (for example, if the white label does not have its own energy website or if the supplier manages all customer service for the white label under its own brand). We think that this is something that is best left to the competitive market to deliver, which white labels can develop themselves in accordance with their brand.

More generally, we think that the value of white labels can be better reviewed by Ofgem through enhanced market monitoring going forward.

**6. Do you have any comments on our draft of proposed supply Licence condition changes in Appendix 3?**

We note that Ofgem is proposing to implement its proposals through amendments to the current transitional Licence Condition, 31D. This would mean that all of the specific proposals relating to white labels would be within that single Licence Condition, although the requirements within that Licence Condition may qualify other Conditions, in the same way that SLC 22B may do. Similarly, in any Condition referring to cheapest tariff messaging, the reader will have to refer both to the definitions in SLC 1 and the revised definition for White Labels in SLC 31D.

There is therefore a risk that this creates further complexity within the Licence Conditions and may not be the most user-friendly approach.

In particular, the effect of the amended SLC 31D is to replace the requirements in the relevant sections in SLC 1, SLC 22B and SLC 31E with the alternative provisions within SLC 31D. As far as we can tell, this does not change the effect of these original conditions, other than to carve out specific exemptions and alternative rules for White Label tariffs. In terms of user accessibility of the Licence Conditions, we think that this could be better captured by deleting those provisions from the current draft SLC 31D and inserting the changes within

the relevant enduring Licence Conditions. Admittedly, this would make the current enduring Conditions longer, but would otherwise ensure that all relevant provisions are considered together within the Licence, hopefully reducing complexity.

More generally, we would suggest that Ofgem gives further consideration to the 'usability' of the Licence Conditions and how the proposals can most appropriately be captured without creating additional complexity.

Finally, we think that the definition of a White Label Provider could helpfully be clarified to distinguish between cases where a tariff is offered under a third party brand and cases where a tariff is associated with a third party brand (eg the brand of a charity which receives support through a Tied Bundle) but is not offered under that brand. We think that this could be achieved by inserting the words "to offer the supply of electricity" in part b of that definition, as follows:

**"White Label Tariff"** means a Tariff ~~in existence as at 1 March 2013~~ which is:

(a) offered by virtue of an Electricity Supply Licence of the licensee or an Affiliate Licensee; and

(b) uses the brand name of a person that does not hold an Electricity Supply Licence *to offer the supply of Electricity* (excluding any Subsidiary, Holding Company, or Subsidiary of a Holding Company of the licensee which does not hold a Electricity Supply Licence);

**ScottishPower  
November 2014**