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11<sup>th</sup> February 2016

**By email**

Dear Mark,

**Ofgem Simplification Plan 2016-17**

We support Ofgem having a Simplification Plan and welcome the opportunity to comment on the draft for 2016-17. This response is submitted on behalf of Centrica Group, with the exception of Centrica Storage.

This cover letter summarises what we believe are the most important areas for Ofgem's Simplification Plan to cover. Three appendices provide further detail. To improve regulation of the energy market, Ofgem should focus on:

- Establishing a retail regulatory framework that makes greater use of principles and removes unnecessary prescription.
- Adhering to a high level of due process through publishing and responding to consultations and creating evidence-based impact assessments.
- Making it easier for suppliers to comply with regulation (more information is provided in Appendix 1).
- Ensuring monitoring of the market is risk-based and reducing the volume of ad hoc information requests (Appendix 2).
- Encouraging stakeholders to innovate and conduct trials (Appendix 3).

We agree with much of this year's Simplification Plan. Like Ofgem, we support the principles of good regulation. Rules should be proportionate, based on evidence and introduced in a transparent manner after consultation. The regulator should follow due process and engage constructively and openly with suppliers. This is particularly important during a time of regulatory change as envisaged by Ofgem's proposed move from prescription to principles-based regulation of the retail market.

We recognise the steps taken by Ofgem following the publication of their Simplification Plan 2015-16. We are particularly pleased to see Ofgem establish an 'Improving Regulation' unit as an integral part of their organisational structure. Much of what we said in response to last year's Simplification Plan remains relevant today. This response is supplementary to our previous comments. We attach last year's response for reference.

## **Principles-based regulation**

We welcome Ofgem's proposed shift towards principles-based regulation of the energy retail market. Principles allow suppliers to innovate and place the responsibility on suppliers to both engage and protect their customers. The flexibility of principles enables suppliers to achieve desired outcomes in a variety of different ways. We agree with Ofgem that a principles-based regime requires new forms of dialogue between the regulator and suppliers. We are committed to working with Ofgem on the transition. During this transition, Ofgem should ensure that all regulatory initiatives, including the publication of guidance, consider principles and avoid prescription. We welcome the steps Ofgem has taken in this direction when consulting on smart billing and the Priority Services Register (PSR). Ofgem should also be careful to redefining the scope or application of principles without proper consultation. We will expand on these points when we respond to Ofgem's Future of Retail Regulation consultation in March 2016.

## **Due process**

We recognise Ofgem's commitment to following due process. However, we believe that the process leading up to and following interventions could be improved. This is particularly important when the regulatory landscape and the technological fundamentals of the market are changing. We take due process to mean that Ofgem should:

- Clearly state the problem that any proposed intervention is trying to solve, with a particular focus on how the intervention will impact competition.
- Use evidence to prove the existence of a problem and understand the impact of intervention.
- Consult on regulatory changes, including the introduction of prescriptive or principles-based rules.
- Produce quantitative impact assessments that consider alternative options and risks of intervention.
- Accept constructive challenge from stakeholders when evidence is lacking or the objective of a rule is unclear
- Institute internal checks on proposals and decisions.

## **Impact assessments**

We believe that Ofgem should make greater use of impact assessments to understand the costs and benefits of rules. As Ofgem acknowledge in their Impact Assessment Guidance<sup>1</sup>, impact assessments form a 'vital part of the decision-making process'. Ofgem should do this by:

- Adopting the Government's Impact Assessment template as best practice.
- Providing sufficient economic resource.
- Consider whether to establish a Chief Economist's office.

Providing impact assessments during the consultation process improves transparency. All stakeholders, including suppliers, may possess information that shapes Ofgem regulation.

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<sup>1</sup> Ofgem Impact Assessment Guidance

[https://www.ofgem.gov.uk/sites/default/files/docs/2013/10/impact\\_assessment\\_guidance\\_0.pdf](https://www.ofgem.gov.uk/sites/default/files/docs/2013/10/impact_assessment_guidance_0.pdf)

We therefore support the Government's plans to extend the Business Impact Target (BIT) to economic regulators such as Ofgem and welcome external scrutiny of impact assessments, e.g. by the Regulatory Policy Committee. Such external scrutiny can only be positive.

### **Consultations and responses**

Ofgem should always consult on proposals and then, equally important, explain how any consultation responses have altered those proposals. While Ofgem normally does this, last year's consultation on customer service metrics is an example where such good practice did not occur. In that instance, the consultation was concluded without any explanation of the decision or a response to stakeholders' views.

In addition, Ofgem should always clearly explain any changes in thinking or plans so that suppliers can react accordingly. For instance, Ofgem should clearly explain any changes to their Forward Work Programme. Indeed, we believe Ofgem should update their Forward Work Programme throughout the year if priorities change and to set out progress against their original work areas.

To ensure due process is always followed, the UK Regulators Network (UKRN) should only make recommendations to regulators and avoid directions. The UKRN is an increasingly influential body for policy development. Following due process and better regulation is no less important for the UKRN than economic regulators. Ofgem has an opportunity through 2016 to show leadership in ensuring that any UKRN proposals are fully costed, consulted upon and deliver positive customer outcomes. Lessons may be learnt from last year's proposal that energy suppliers should voluntarily signpost PSR customers to water company support schemes. While we supported the aims of this proposal, the process to determine it and the means to achieve it were flawed.

### **Making it easier to comply with regulation**

Ofgem's rules should be easy for stakeholders to access and navigate. Suppliers are better able to comply with rules that are clearly presented and understood. The Ofgem rulebook, in particular the licence conditions, could be more dynamic, explaining how rules interact, link to the original policy intent behind rules (as set out in the consultation) and any associated guidance or enforcement cases. We suggest other potential improvements in Appendix 1.

### **Publication of information**

Publication of information should achieve its stated objective, not adversely impact on consumers or competition and any costs imposed on suppliers should be proportionate. Data published by Ofgem should be complete, accurate and not misleading, both in terms of its content and how it is presented to customers. For instance, we remain concerned that the publication of the length and recovery rates of PPM repayment plans may not help customers make the right choices. We would like to discuss our concerns with Ofgem and we will be in touch in due course.

### **Monitoring and Requests for Information (RFIs)**

Ofgem monitoring should be proportionate, targeted and risk-based. What this means in practice will depend on the purpose of the monitoring. Where there is substantial risk of harm to individual customers or where non-compliance would undermine confidence in the

market, then Ofgem monitoring should cover all licensed suppliers. More general monitoring of market trends may reasonably be targeted on a representative basis. In some cases, Ofgem's current monitoring could be better targeted. For instance, in the non-domestic sector, monitoring appears to be conducted on the basis of domestic market share. Such an approach does not take into account the difference in market shares between the domestic and non-domestic sectors.

Monitoring, including RFIs, should take into account information already available to Ofgem and the costs to suppliers of providing the data. We recognise supplier monitoring will change as part of any move towards principles. Monitoring may even increase. There is a danger that increased monitoring will lead to increased costs, both for Ofgem and suppliers. We are committed to working with Ofgem on getting the balance right. For instance, informal discussions between Ofgem and suppliers in advance of RFIs being sent out will help ensure that the most useful information is provided to Ofgem in the most cost-efficient way.

Ofgem should concentrate on regular monitoring rather than ad hoc requests. Regular monitoring is more predictable, less disruptive and potentially less costly. In our response to last year's Simplification Plan, we raised concerns about the frequency of RFIs and Ofgem's coordination with other bodies. We have noted an improvement in Ofgem's coordination of RFIs and we greatly welcome Ofgem sharing RFIs in draft form for comment. We encourage Ofgem to explore further ways of improving coordination between different teams in Ofgem.

The volume of RFIs remains high. Over the last two years, we received an RFI from Ofgem on average once every fortnight. Appendix 2 sets out the RFIs received from Ofgem, Citizens Advice and DECC last year. The volume of ad hoc requests suggests that the regular data provided by suppliers to Ofgem may not be focused on the right areas. We would welcome Ofgem reviewing their regular monitoring.

### **Innovation and trials**

Ofgem should encourage innovation in the energy sector and the approach of the Financial Conduct Authority (FCA) may be a helpful guide. We welcome Ofgem recognising the need to support supplier innovation. An increased reliance on flexible principles can only help in this regard. Trials are an important part of a competitive market. To innovate, suppliers need space for trials, including trials which may be non-compliant with prescriptive rules. Since 2014, the FCA's Project Innovate<sup>2</sup> has encouraged innovation by seeking to 'remove unnecessary barriers to innovation'. We support such criteria that trials should be customer-focused. We suggest some criteria in Appendix 3.

To ensure suppliers have space to innovate, Ofgem should only pursue regulatory changes which deliver tangible value for customers. Over the coming years, suppliers face a large volume of major industry changes. While many of these changes will benefit customers, Ofgem should recognise that, at any given time, suppliers' possess a finite capacity for change. Ofgem should therefore be mindful that any additional mandated regulatory change is likely to come at the expense of other customer focused initiatives, including trials.

In summary, we welcome Ofgem's Simplification Plan 2016-17. We support Ofgem following due process, including consulting transparently and carrying out more impact assessments.

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<sup>2</sup> FCA website <https://innovate.fca.org.uk/innovation-hub/project-innovate-next-steps>

We are encouraged by Ofgem's statement of support for innovation and believe the proposed transition to principles will help suppliers offer more innovative and engaging products. Any additional monitoring of the market should be risk-based and Ofgem should minimise the volume of ad hoc RFIs.

This response is not confidential and may be placed on the Ofgem website. If you have any questions about the content of this response, please contact Thomas Lowe on 07769 548 906 or [Thomas.lowe@britishgas.co.uk](mailto:Thomas.lowe@britishgas.co.uk)

Yours sincerely

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British Gas

## Appendix 1 – Improvements that could be made to the rulebook

The primary purpose of the licence conditions is to set out the obligations of suppliers and provide legal certainty. To this end, Ofgem’s rulebook should be accessible and easily navigable. Suppliers should readily understand the rulebook. We have encountered issues with the rulebook. Modernising the rulebook would support Ofgem’s Better Regulation efforts. The benefits of improving the rulebook include:

- 1) Enhanced navigability and presentation of the licence conditions helps all stakeholders understand the rules.
- 2) Improving rule presentation will reduce supplier search costs, enhancing the efficiency of compliance and regulatory teams. Efficiency improvements reduce supplier operating costs and allow those teams to focus on more valuable activity.
- 3) Improving the presentation and navigability of the rules could reduce a potential entry barrier. New suppliers, lacking established regulatory teams, may struggle to interpret the existing rulebook, and thereby require either consultancy support or incur compliance risk.

Current issues with the rulebook – and possible recommendations – are detailed below.

No	Issue	Recommendation
1	<b>Information provision requirements.</b> The licence conditions include a number of obligations for suppliers to provide information to Ofgem, e.g. SLC 14A.9. These obligations are currently spread throughout the licence conditions and can be hard to locate.	Ofgem should consolidate all licence conditions that require suppliers to provide information to regulators or government into a single obligation.
2	<b>Definitions.</b> The licence conditions include many defined terms, which are spread throughout the rulebook and can therefore be hard to find. Suppliers may not be aware that a term has been defined by Ofgem in a certain way, increasing compliance risk. It is time-consuming for suppliers to scroll through the rulebook from the defined terms to the actual rules. The current rulebook contains many defined terms, which reduces suppliers’ ability to innovate and increases the cost of compliance.	Ofgem should consolidate all definitions into a single part of the rulebook, making clear whether the definition applies generally or to specific prescriptive rules. Defined terms should be hyperlinked to allow easy navigation between the rules and the definitions. Ofgem should also consider reducing the number of defined terms, especially those which have commonly understood meanings; this may be a natural result of a move from prescription to principles.
3	<b>Navigability.</b> The licence conditions are currently produced in PDF on a relatively hard-to-find section of the Ofgem website and are therefore not interactive or easily navigable. For	Ofgem should improve the navigability of the licence conditions, e.g. making the rulebook capable of being

	instance, suppliers may use shortcuts such as Ctrl + F to find specific terms or obligations. This approach is inefficient and other regulators, such as the FCA, have found more interactive ways to present their rulebook or legislation respectively. In addition, interactions and interdependencies between rules are currently unclear.	searched online. In addition, Ofgem should make clear in the rulebook which rules interact or are interdependent.
4	<b>Date stamps for rules.</b> The current rulebook does not set out when licence conditions were introduced or last amended. Suppliers may struggle to determine when licence conditions were introduced and therefore to audit compliance.	Ofgem should include implementation dates for each rule, whether prescriptive or principles.
5	<b>Version control.</b> Suppliers cannot easily see what the rulebook looked like at a given moment in time, unless they happened to save their own copy. The lack of version control makes it harder for suppliers to understand their compliance obligations over time.	Ofgem should allow suppliers to see what the licence conditions looked like in the past. The FCA website includes such a feature.
6	<b>Dual fuel rules.</b> Many retail market rules are identical for gas and electricity supply. However, the licence conditions are drafted per fuel. It is not always easy for suppliers to determine whether a rule applies across both fuels. Suppliers may use the electricity licence condition for reference and then cross-check the gas rules. This inefficient process increases the cost of compliance. We note that Ofgem enforcement cases often approach alleged non-compliance on a dual fuel basis, e.g. Ofgem's recent notice about Economy Energy's compliance with SLC 23, 24 and 25 stated <sup>3</sup> .	The rulebook should be drafted on a dual fuel basis, with specific sections devoted to gas or electricity as required. Any consolidation into a dual fuel rulebook should not inadvertently create new rules.
7	<b>Derogations.</b> It is not currently possible for suppliers to see in one place where derogations have been granted to other suppliers or to understand the effect of derogations on their own obligations. Suppliers who have secured derogations essentially need to create their own, internally managed, version of the licence conditions. This problem becomes less acute if Ofgem adopts a more principles-based approach to regulation.	Ofgem should make it easier for suppliers to see the derogations from licence conditions that have been granted to all suppliers. If significant prescription remains in the rulebook and derogations continue to be required, Ofgem could explore providing a bespoke version of the rulebook to those suppliers who have secured

<sup>3</sup> [https://www.ofgem.gov.uk/sites/default/files/docs/2015/11/4.11.15\\_official\\_-\\_sensitive\\_ee\\_penalty\\_notice\\_final\\_0.pdf](https://www.ofgem.gov.uk/sites/default/files/docs/2015/11/4.11.15_official_-_sensitive_ee_penalty_notice_final_0.pdf)

		derogations.
8	<p><b>Guidance and enforcement cases.</b> The current rulebook does not provide links to any relevant Ofgem guidance. For instance, Ofgem’s clarification that suppliers may pay compensation to customers without falling foul of the ‘no cash discount’ rules of SLC 22B is not linked to from the rulebook. In essence, suppliers must manage their own version of the rulebook that incorporates this guidance, while new suppliers may be unaware of the clarification. Similarly, the rulebook does not currently provide links to relevant enforcement cases, which suppliers may use to better understand Ofgem’s expectations around compliance.</p>	Ofgem should provide links from each rule to any relevant guidance and to any relevant enforcement cases.
9	<p><b>Consultations and impact assessments.</b> The current rulebook does not provide links to relevant consultations and impact assessments. If suppliers wish to understand the original policy intent, rationale or costs associated with a rule, they must first understand how and/or when the rule was introduced and then search Ofgem’s website to find the relevant documents. This process is inefficient and does not always turn up the right documents.</p>	Ofgem should provide links from each rule, in particular prescriptive rules, to relevant consultations and impact assessments. In addition, Ofgem should provide a short summary of the policy intent of each prescriptive rule. To ensure legal certainty, Ofgem must ensure that the description of the policy intent only reflects what stakeholders could find if they searched for the relevant consultation.
10	<p><b>Rules under review.</b> Ofgem often reviews specific rules. However, stakeholders reviewing the rulebook may not be aware of ongoing consultations. For example, Ofgem is currently proposing to remove meter inspection rules (SLC 12) from April 2016. If someone was unaware of Ofgem’s work in this area, then the rulebook would not alert them to the proposed change.</p>	When reviewing specific rules, Ofgem should signal in the rulebook which rules are under review. As per Issue 8 above, Ofgem should provide links to relevant consultation documents.
11	<p><b>British and EU legislation.</b> Some licence conditions were not proposed by Ofgem and instead reflect British and European legislation. For example, rules relating to 21 day switching and final bills within 6 weeks stem from the</p>	Ofgem should make clear where a licence condition puts into effect British or European legislation.



	<p>'Third Package' and many of the rules relating to the smart meter roll-out stem from DECC legislation. It is not clear to stakeholders whether rules originate from Ofgem or from British or European legislation. Under a principles-based regime, suppliers may wish to challenge the effectiveness of prescriptive rules, e.g. those that do not best achieve positive consumer outcomes, and the rulebook could help suppliers understand whether such a challenge should be directed at Ofgem or government.</p>	
12	<p><b>Smart meters.</b> Some licence conditions relate specifically to smart meters and may overlap with obligations relating to non-smart meters. This overlap is unnecessary and, as the smart roll-out gathers pace, it would aid supplier compliance if the rulebook increasingly removed the distinction between smart and non-smart.</p>	<p>Ofgem should ensure that, as the smart meter roll-out continues, the rulebook is regularly updated to remove unnecessary distinctions between smart and non-smart meters.</p>
14	<p><b>Fonts.</b> The licence conditions are currently drafted in multiple font types and sizes, reducing their authority.</p>	<p>The licence conditions should be drafted in the same font, e.g. Times New Roman or Calibri, rather than multiple fonts.</p>

## Appendix 2 – RFIs received by British Gas during 2015

The following table sets out the RFIs received by British Gas from Ofgem, DECC and Citizens Advice during 2015. This list does not include any RFIs received as part of the CMA market investigation or that relate to investigations.

No	RFI Topic	Requesting body	Received date	Due date
1	Calorific Value	Ofgem	18-Dec-14	22-Jan-15
2	Smart rollout monitoring	Ofgem	19-Dec-14	30-Jan-15
3	Meter Reading and Annual Quantity Revision Process	Ofgem	5-Jan-15	27-Mar-15
4	Zero-consuming deemed customers	Ofgem	8-Jan-15	23-Jan-15
5	Calorific Value (Credit Meters)	Ofgem	15-Jan-15	12-Feb-15
6	Progress in rolling out Gas Advanced meters to non domestic	Ofgem	27-Jan-15	24-Feb-15
7	Non-domestic supply activities	Ofgem	6-Feb-15	13-Mar-15
8	Non-domestic back billing	Ofgem	6-Feb-15	20-Mar-15
9	Smart rollout and vulnerable consumers	Citizens Advice	12-Feb-15	31-Mar-15
10	Communicating with customers about smart metering data	Citizens Advice	25-Feb-15	27-Mar-15
11	Non-domestic gas metering products and services review	Ofgem	26-Feb-15	9-Apr-15
12	Prepayment install policies	Ofgem	26-Feb-15	30-Mar-15
13	Billing and QR Codes	Citizens Advice	26-Jun-15	10-Jul-15
14	'Inherited' gas customers	Ofgem	1-Jul-15	17-Jul-15
15	Priority Services Register review	Ofgem	17-Jul-15	31-Jul-15
16	Domestic Credit Balances	Ofgem	4-Aug-15	11-Sep-15; 12-Feb-16; 06-May-16

17	Non domestic (Micro Business) Credit Balances	Ofgem	4-Aug-15	11-Sep-15; 12-Feb-16; 06-May-16
18	Domestic debt objections policies and practices	Ofgem	30-Sep-15	21/10/2015 & 28/10/2015
19	Clarifying questions on security deposits and prepayment meter removal charges	Ofgem	22-Sep-15	28-Oct-15
20	Use of warrants for meter inspections	Ofgem	2-Oct-15	2-Nov-15
21	Non-domestic objections (draft)	Ofgem	28-Oct-15	4-Nov-15
22	Smart metering, including current and planned trials of IHD alternatives	DECC		20-Nov-15
23	Machine readable (QR) codes	Ofgem	28-Oct-15	26-Nov-15
24	Complaints (CSAT) survey	Ofgem		Early Jan 2016
25	Ofgem follow-up on non-domestic billing systems	Ofgem	30-Oct-15	13-Nov-15
26	Supplier policies and practices relating non-domestic debt objections	Ofgem	19-Nov-15	17-Dec-15 and 12-Jan-16

### **Appendix 3 – Ideas for principles governing trials**

We would like to undertake more trials in future. Trials allow suppliers to understand customer interest in products and propositions. As Ofgem replaces prescription with principles, trials should become easier. We suggest the following principles for trials in the energy sector:

- Trials should be ‘customer-focused and rigorous’, clearly articulate the intended customer outcome.
- Trials should involve a representative sample of target customers (whether existing or prospective) that is large enough to be statistically significant.
- Suppliers should undertake significant research into the existing rules and be able to show why they are constrained by those rules.
- Data from the trial may be shared with Ofgem. Ofgem may publish any non-commercially sensitive findings (as notified by suppliers) in aggregated and anonymous form.
- Suppliers should have the discretion to approach Ofgem about a trial, i.e. there is no need for a pre-approval process for product trials.