



Making a positive difference  
for energy consumers

Domestic energy suppliers,  
consumer groups and other  
interested parties

Email: [FutureRetailRegulation@ofgem.gov.uk](mailto:FutureRetailRegulation@ofgem.gov.uk)  
Date: 8 September 2016

## **Open letter on Challenge Panel 2016: Enabling consumers to make informed choices**

Dear Colleague,

### **Request for Information and Challenge Panel 2016: Enabling consumers to make informed choices**

#### **1. Introduction**

Ofgem is committed to relying more on enforceable principles and less on detailed, prescriptive rules in the way we regulate the retail energy market. We are also committed to more risk-based engagement with suppliers to help ensure good consumer outcomes are being delivered. We believe this approach will:

- Promote innovation and competition among suppliers;
- Provide effective protection for consumers in a rapidly changing market; and
- Put responsibility firmly on suppliers for achieving good consumer outcomes.

We recently proposed new principles that focus on tariff comparability and sales and marketing activities. The aim of these principles is to help consumers to make informed choices - a crucial aspect of the consumer journey. It is in the context of these proposed principles that we are holding our second Challenge Panel. See Appendix 1 for more details.

#### **2. Request for Information**

This letter details the scope of the Challenge Panel and the request for information supporting it. The letter accompanies two formal Notices under section 47A of the Electricity Act 1989 and section 34A of the Gas Act 1986, requiring certain suppliers to

produce the information specified in the Notices in the format specified. The responses to the Notices will inform the Challenge Panel discussions. The Notices are attached at Appendix 2 and Appendix 3.

In the interests of proportionality, the Notices are mandated for all suppliers with over 50,000 domestic customers and voluntary for those with fewer.<sup>1</sup> All other suppliers may choose to respond to the Notices on a voluntary basis.

Responses to the Notices must be received **by 5pm on 20 October 2016**.

### 3. Aims of the Challenge Panel

Our dual aims will be to explore how suppliers are:

- Embedding the Standards of Conduct and the customer objective of treating domestic customers fairly in their current approach to sales and marketing activities; and
- Considering how our proposals to ensure that customers are able to make informed tariff choices may shape their future products, policies and processes.

This will build on the lessons learned from the previous Challenge Panel, particularly in relation to how suppliers are adopting a consumer-centric approach. Importantly, it will inform our risk assessment process. The degrees of rigour suppliers demonstrate in focusing on good consumer outcomes, for example, in relation to their sales and marketing practices, will help us determine how much risk a particular supplier poses to good consumer outcomes. This will have impacts on our monitoring and engagement approach. Riskier suppliers will receive closer scrutiny than those who can demonstrate a focus on achieving good consumer outcomes.

Suppliers have also told us that they welcome this risk-based engagement, as it helps to promote a culture of trust and openness. We recognise the challenges involved in developing a more mature and open relationship with suppliers. As a step towards building this new relationship, we ask that suppliers engage constructively with the Challenge Panel process. We will use this Panel as an opportunity to reflect on its value in assessing and managing market-wide risks (i.e. current or emerging risks relating to a particular policy or process across a number of suppliers within the market).

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<sup>1</sup> This threshold has been chosen because there is precedent in the supply licences for exempting suppliers with fewer than 50,000 customers from certain obligations (e.g. SLC 27.2(b) of the electricity licence includes exemptions on choice of payment method). We are selecting suppliers on the basis of either 50,000 (or more) electricity accounts (including dual fuel) and/or 50,000 (or more) gas accounts (including dual fuel), as reported by suppliers as part of their Social Obligations Reporting (June 2016). Suppliers with over 50,000 domestic electricity customers must comply with the Notice at Appendix 2. Suppliers with over 50,000 domestic gas customers must comply with the Notice at Appendix 3. Suppliers that supply to over 50,000 domestic electricity customers and over 50,000 domestic gas customers may issue a joint response to both Notices if appropriate.

We want to support suppliers in their transition towards embedding principles into their businesses. We will therefore provide individual feedback as well as a published report on the Panel's findings.

#### 4. Panel Members

As last time, Panel members have been chosen for their specific knowledge of the energy market, their specific knowledge of utility regulation, and their consumer experience expertise. We will also have the benefit of cross-sectoral expertise in principles-based regulation. Unlike the first Panel, we are running this Panel as an Ofgem engagement tool rather than independent of Ofgem. It will be chaired by Ofgem's Rachel Fletcher, Senior Partner for Consumers and Competition.

The other Panel members are:

- Christine Farnish, Non-Executive Director, Ofgem
- Cathryn Ross, Chief Executive, Ofwat, and
- Victoria MacGregor, Director of Energy, Citizens Advice.

#### 5. Selection process

We are committed to reducing regulatory burdens on suppliers by reducing the number of ad hoc Requests for Information (RFIs) we make. Our last Challenge Panel was informed by an RFI. Having considered this carefully, we feel that it is again appropriate to issue an RFI. To minimise burdens on suppliers, we are only requiring suppliers above 50,000 customers to respond to the Notices; and have a preference for suppliers to limit the length of submissions to a maximum of 8 pages by including summaries of key information.

Our objective is to help inform our regulatory approach by capturing a sample of the market that covers a diversity of supplier sizes, business models and quality of submissions. For this reason, we still encourage smaller suppliers to also respond.

#### 6. Format

In late November and early December, the Challenge Panel will separately meet with suppliers we have shortlisted to attend. Any supplier can be invited to the Panel. We **request that suppliers block out the 28 November and 1 December** as they may be called to attend the Panel. We will invite shortlisted suppliers by **10 November**.

## 7. Confidentiality, disclosure and publication

Any information provided to Ofgem which relates to the affairs of an individual or a particular business will be subject to statutory restrictions on disclosure under section 105 of the Utilities Act 2000 and Part 9 of the Enterprise Act 2000. However, you should note that there are exceptions to the statutory restrictions, including where the disclosure is necessary to facilitate the statutory functions of Ofgem (e.g. publishing information to promote the interests of consumers) or other public bodies.

You should note that Ofgem cannot provide any assurances in relation to the treatment of information which may be the subject of a request made under the Freedom of Information Act 2000 (“FOIA”). However, we can confirm that Ofgem will always consider whether the statutory restrictions on disclosure apply to the requested information and therefore whether one or more of the FOIA exemptions apply.

Before deciding whether to publish any information relating to the affairs of a particular licence holder or business, Ofgem is required to consider whether it is appropriate to redact any information on the basis that the information would or might, in our opinion, seriously and prejudicially harm the interests of that person (“confidential information”).

**In order to enable Ofgem to conduct its assessment of whether to redact any information (both in relation to publishing for these purposes or more widely), we would ask that you indicate in your response whether you consider any information to be confidential information and provide brief reasoning in support of your views.** Where appropriate, we may seek further representations from licence holders at a later stage in respect of any specific information Ofgem is proposing to publish for any other purposes.

Ofgem may also use the information for any other purposes connected with our statutory functions, including (but not limited to):

- considering licensees’ compliance with licence conditions and/or relevant legislation; and
- facilitating policy development in relation to domestic and non-domestic customers, possibly with a view to making proposals to modify licence conditions.

## 8. Request for information

Please answer all elements and be as specific as possible. If you have no information to submit in response to any of the questions, please respond with “Nil”. Your response is limited to 8 pages.

- a) **How do you seek to ensure that you are treating customers fairly in your sales and marketing practices (i.e. that you are compliant with the Standards of Conduct and current sales and marketing licence conditions)?**

In 2014, the first Challenge Panel identified six themes that may be particularly helpful for suppliers to consider when embedding the Standards of Conduct throughout their organisation.<sup>2</sup> We have used these themes to inform the information we are seeking in the Notices. In particular, these themes may assist suppliers to consider and implement products, policies and processes that will more consistently deliver fair outcomes for all consumers.

The table below provides a summary of these themes and identifies specific information relevant to each them in the last column. We consider these are helpful indicators of the areas Ofgem is interested in exploring when determining whether suppliers have placed good consumer outcomes as a driving force in their sales and marketing practices. However, the prompts for information are not intended to be exhaustive and we encourage suppliers to report on what they consider to be important as well. We encourage suppliers to provide this information as part of their response to the Notices in Appendix 2 and Appendix 3 below

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<sup>2</sup> Treating Customers Fairly – Findings from the 2014 Challenge Panel, Ofgem, [www.ofgem.gov.uk/ofgem-publications/93839/standardsofconduct-findingsfromthe2014challengepanel-pdf](http://www.ofgem.gov.uk/ofgem-publications/93839/standardsofconduct-findingsfromthe2014challengepanel-pdf)

Theme		How this might look in practice?	Desired outcomes	Your response <u>as a minimum</u> should include the following information as evidence of your work in the last 12 months to deliver each theme in your sales and marketing practices and the outcomes achieved
1.	<b>Aligning strategic objectives with positive customer outcomes</b>	<p>Efforts are made to understand what consumers define as fair treatment from their energy supplier</p> <p>Strategic objectives, corporate values and priorities are directly aligned to consumer needs</p>	Suppliers are attuned to consumer needs and meet these through delivery of strategic objectives	<p>A hyperlink to where your latest Treating Customers Fairly Statement is on your website</p> <p>Draw out any aspects of your TCF statement that apply to sales and marketing</p> <p>Any challenges to achieving your strategic objectives and your plans for addressing them (e.g. system updates)</p> <p>Your approach to ensuring that your sales and marketing practices are appropriate for consumers in vulnerable situations</p>
2.	<b>Ensuring Board engagement, effective corporate governance &amp; accountability</b>	<p>Culture change is driven from the Board and is understood throughout the organisation</p> <p>Governance structures identify and allocate rights and responsibilities appropriately</p> <p>Accountabilities for delivery are assigned throughout the organisation</p> <p>The Board is engaged on issues that affect fair treatment of consumers</p>	Consumer needs are consistently top of mind and are a priority for senior management	The internal controls put in place to secure compliance (e.g. internal decision-making processes, monitoring and reporting)
3.	<b>Aligning incentives throughout the organisation</b>	Incentives are used throughout the organisation to drive behaviours which help ensure delivery of consistent fair treatment	Staff behaviour is consistent with consumer expectations of fair treatment	Details of staff incentive structures (not just frontline staff) and other processes for driving fair treatment of customers in your sales and marketing practices

Theme		How this might look in practice?	Desired outcomes	Your response <u>as a minimum</u> should include the following information as evidence of your work in the last 12 months to deliver each theme in your sales and marketing practices and the outcomes achieved
4.	<b>Empowering employees to make decisions</b>	<p>Staff are able to make decisions on fair treatment to better meet individual consumer needs, including those of consumers in vulnerable situations</p> <p>Issues are escalated where appropriate</p>	Fair treatment experienced by all consumers as specific needs are met	<p>Details of the processes in place to empower staff to make decisions on fair treatment to better meet individual consumer needs</p> <p>Details of the processes in place to enable and empower escalation and resolution of concerns about sales and marketing practices.</p> <p>Details of significant issues escalated over the past year or more and how you resolved them.</p>
5.	<b>Embedding appropriate processes and continuous feedback loops</b>	<p>Key performance indicators are aligned with the principles of treating consumers fairly</p> <p>Systems and processes to obtain and share knowledge of consumer outcomes are embedded throughout the organisation</p>	Consumer experiences are known throughout the organisation	<p>Key performance metrics used and any additional performance indicators relevant for your sales and marketing activities (e.g. Net Promoter Score)</p> <p>Performance against targets set for each metric identified above, providing trend data over the past year or more.</p> <p>How is this data used to track performance and/or inform your products, policies and processes?</p>
6.	<b>Using consumer views to inform decision making</b>	Consumer feedback is used when refining specific products, policies and processes	Consumer views are heard and business decisions reflect consumer needs	<p>Customer complaints data with a breakdown of the type of sales or marketing complaint if possible. Please provide trend data over the past year or more.</p> <p>Amount of compensation (if any) provided to all customers as a total as part of your compliance with SLC25</p> <p>What other customer feedback do you collect? Please provide a summary of key insights and findings from the past year.</p> <p>How is the above data and/or insights used to track performance and/or inform your products, policies and processes?</p>

- b) How will our proposals to ensure that customers are able to make informed tariff choices shape your future products, policies and processes? Please detail key opportunities, risks and plans to mitigate those risks identified.**

Thank you for your cooperation in this matter. If you have any questions about this letter or the Notices please contact [FutureRetailRegulation@ofgem.gov.uk](mailto:FutureRetailRegulation@ofgem.gov.uk) or call Edward Tynan on 020 7901 7000.

Yours faithfully

A handwritten signature in black ink that reads "NBarnes." The signature is written in a cursive, flowing style.

**Neil Barnes**  
**Associate Partner**  
**Consumers & Competition**

## Summary of policies relevant to the Challenge Panel

### 1. Introduction

The Standards of Conduct (SoC) and sales and marketing licence conditions set out the current requirements on suppliers to treat customers fairly in their sales and marketing practices. We are currently consulting on removing certain ‘simpler tariff choices’ rules and introducing new principles on helping consumers to make informed tariff choices. In November this year, we will also be consulting on potential amendments to the SoC to ensure it remains fit for purpose as we rely more on principles in the way we regulate.

### 2. Simpler tariff choices and clearer information rules

Following our Retail Market Review (RMR) we introduced the ‘simpler tariff choices’ rules (RMR Simpler) and ‘clearer information tools’ (RMR Clearer) into the gas and electricity supply licences. A summary of these requirements is provided below.

<b>RMR ‘Simpler’ Tariff Choice rules</b>
<b>Aim:</b> To strip away tariff complexity, to prevent ‘confusopoly’ and act as a market reset.
Included introducing rules on: <ul style="list-style-type: none"><li>• Restrictions on tariff structure</li><li>• Restriction on tariff numbers</li><li>• Rules on discounts</li><li>• Rules on bundled products</li><li>• Rules on reward points</li><li>• Prohibition against tariffs exclusive to new / existing customers</li></ul>

<b>RMR ‘Clearer’ information Rules</b>
<b>Aim:</b> To ensure better and more relevant information.
Included introducing rules on: <ul style="list-style-type: none"><li>• Personal projection</li><li>• Tariff comparison rate</li><li>• Cheapest Tariff message</li><li>• Tariff information label</li></ul>

We recently published a statutory consultation<sup>3</sup> on removal of some of the RMR ‘Simpler’ rules. Alongside the statutory consultation we also published a policy consultation<sup>4</sup> on potential changes to the RMR ‘Clearer’ rules and the sales and marketing licence condition

<sup>3</sup> [www.ofgem.gov.uk/publications-and-updates/statutory-consultations-removal-certain-retail-market-review-simpler-tariff-choices-rules](http://www.ofgem.gov.uk/publications-and-updates/statutory-consultations-removal-certain-retail-market-review-simpler-tariff-choices-rules)

<sup>4</sup> [www.ofgem.gov.uk/publications-and-updates/helping-consumers-make-informed-choices-proposed-changes-rules-around-tariff-comparability-and-marketing](http://www.ofgem.gov.uk/publications-and-updates/helping-consumers-make-informed-choices-proposed-changes-rules-around-tariff-comparability-and-marketing)

SLC25. The latter consultation set out the consequential amendments that are needed to ensure the licence remains coherent and consistent once some of the ‘simpler’ rules are removed, and proposes new principles around tariff comparability and sales and marketing activities. Subject to the outcome of these consultations, the proposed changes to the licence are intended to come into effect in early summer 2017. A summary of the proposed changes in both consultations is provided below.

<b>Rule removal and proposed tariff comparability and sales and marketing principles</b>	
Aim: To help consumers make informed choices	
Removes simpler tariff choices rules	
Amends clearer information rules	<ul style="list-style-type: none"> <li>• Gives suppliers freedom to develop their own methodology for Personal Projections and Cheapest Tariff Message</li> <li>• Removes the Tariff Comparison Rate</li> <li>• Updates the Tariff Information Label to reflect changes to the other clearer rules</li> </ul>
Explores whether to introduce an overarching broad principle around informed tariff choices	<ul style="list-style-type: none"> <li>• In addition to the narrow principles below, a principle that explicitly sets out the outcome we want (i.e. customers are able to make informed tariff choices) would ensure suppliers keep this in mind when developing tariffs and undertaking sales and marketing activities.</li> </ul>
Proposes narrow tariff comparability and sales and marketing principles	<ul style="list-style-type: none"> <li>• The licensee must ensure that the terms and conditions of its Tariffs (including their structure) are clear and easily understandable.</li> <li>• The licensee must ensure that its Tariffs are easily distinguishable from each other.</li> <li>• The licensee must ensure that it puts in place information, services and/or tools to enable each Domestic Customer to easily compare and select which Tariff(s) within its offering is/are appropriate to their needs and preferences.</li> <li>• The licensee must conduct its Domestic Customer sales and marketing activities in a fair, honest, transparent, appropriate and professional manner and must ensure that its Representatives do the same.</li> <li>• The licensee must not, and must ensure that its Representatives do not, mislead or otherwise use inappropriate tactics, including high pressure sales techniques, when selling or marketing to Domestic Customers.</li> <li>• The licensee must only recommend, and must ensure that its Representatives only recommend, to a Domestic Customer products or services which</li> </ul>

	are appropriate to that Domestic Customer's needs or preferences.
Proposes to retain prescription around record keeping	The licensee must maintain, for a period of two years, a record of the information which it or its Representative provided to a Domestic Customer during the course of its sales and marketing activities conducted face-to-face or via telephone, which resulted in that Domestic Customer entering into a Domestic Supply Contract.

### 3. Standards of Conduct

In August 2013, we introduced the SoC, as part of our RMR reforms, with the aim of improving supplier treatment of consumers and to increase trust in the energy market. The SoC was intended to improve consumer engagement and increase competitive pressures within the energy market. It was also designed to improve the experience that consumers have with suppliers and require suppliers to treat consumers fairly. The SoC requires fair treatment in three broad areas:

- suppliers' behaviour;
- information suppliers provide to consumers; and
- customer service.

The domestic SoC apply to all domestic suppliers (and their representatives) and cover all interactions with consumers. The SoC marked the start of our journey to moving to greater reliance on principles. A summary of the SoC is provided below.

<b>SoC: treating customers fairly (standard licence condition 25C)</b>
<b>Objective:</b> Legally binding commitment for suppliers to treat consumers fairly.
<b>Customer objective:</b> for the licensee and any Representative to ensure that each Domestic Customer is treated fairly. The licensee or any Representative would not be regarded as treating a Domestic Customer fairly if their actions or omissions: (a) significantly favoured the interests of the licensee; and (b) gave rise to a likelihood of detriment to the Domestic Customer.
<b>Standards of Conduct</b>
<b><u>Behaviour:</u></b> the licensee and any Representative behave and carry out any actions in a Fair, honest, transparent, appropriate and professional manner.
<b><u>Information:</u></b> the licensee and any Representative provide information (whether in Writing or orally) to each Domestic Customer which: <ul style="list-style-type: none"> <li>• is complete, accurate and not misleading (in terms of the information provided or omitted);</li> <li>• is communicated (and, if provided in Writing, drafted) in plain and intelligible language;</li> <li>• relates to products or services which are appropriate to the Domestic Customer to whom it is directed; and</li> </ul>

- is otherwise Fair both in terms of its content and in terms of how it is presented (with more important information being given appropriate prominence);

Process: the licensee and any Representative:

- make it easy for a Domestic Customer to contact the licensee;
- act promptly and courteously to put things right when the licensee or any Representative makes a mistake; and
- otherwise ensure that customer service arrangements and processes are complete, thorough, fit for purpose and transparent.

The licensee must take all reasonable steps to achieve the Standards of Conduct and ensure that it interprets and applies the Standards of Conduct in a manner consistent with the Customer Objective.

The licensee must also publish an annual Treating Customers Fairly statement.

#### **4. Development of broader principles**

We recently published a working paper<sup>5</sup> setting out our latest thinking on broad principles. This includes how we might amend the SoC so they remain fit-for-purpose in a rapidly changing market, and our intention to introduce a broad principle to set out our expectation that suppliers must consider the needs and circumstances of consumers in vulnerable situations. This paper will inform conversations with stakeholders over the coming months, ahead of a policy consultation in November.

We are reviewing each of the constituent parts of the SoC and considering whether change is needed. Some of the proposed changes are aimed at giving greater clarity of terms used in the SoC, while others consider whether the SoC can better meet our objective of placing the responsibility for achieving good consumer outcomes firmly on suppliers. Other potential changes are more structural, such as streamlining the links between various parts of the SoC, or considering whether to include additional standards.

The SoC and SLC25 require information to be appropriate to the domestic consumer to whom it is targeted. In addition to the principles we proposed in our recent informed choices policy consultation, there are other proposed changes that we believe will be beneficial for consumers in vulnerable situations and reduce the risk of misselling. Our working paper sets out our proposal to introduce a broad, enforceable principle into the domestic supply licence. This principle would set out our expectation that suppliers ensure consumers in vulnerable situations are not disadvantaged due to their circumstances.

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<sup>5</sup> [www.ofgem.gov.uk/system/files/docs/2016/08/frr\\_working\\_paper\\_on\\_broad\\_principles\\_-\\_final.pdf](http://www.ofgem.gov.uk/system/files/docs/2016/08/frr_working_paper_on_broad_principles_-_final.pdf)

Our working paper also highlights that we are considering whether suppliers' annual Treating Customers Fairly statements have a place in providing assurance that suppliers are committed to delivering good consumer outcomes.

## Appendix 2

### NOTICE

#### Request for documents and information pursuant to Section 47A of the Electricity Act 1989

To:

#### Whereas:

1. The company to whom this notice is addressed (“the Licensee”) is the holder of an electricity supply licence granted or treated as granted under section 6 (1) (d) of the Electricity Act 1989 (the “Act”) and therefore a regulated person for the purposes of the Act.

2. In accordance with section 47A (1) of the Act, the Gas and Electricity Markets Authority (“the Authority”) is performing its duty under section 47 of the Act:

(a) to keep under review the carrying on both in Great Britain and elsewhere of activities connected to the supply of electricity, including the following matters specified in Article 37 (1)(j) of the Electricity Directive<sup>6</sup>:

*“monitoring the level and effectiveness of market opening and competition at wholesale and retail levels, including on electricity exchanges, prices for household customers including prepayment systems, switching rates, disconnection rates, charges for and the execution of maintenance services, and complaints by household customers, as well as any distortion or restriction of competition, including providing any relevant information, and bringing any relevant cases to the relevant competition authorities;”* and

(b) to collect information with respect to the activities and matters mentioned in (a), and the persons by whom they are carried on, with a view to facilitating the exercise of the Authority’s functions.

#### Now therefore:

3. Pursuant to section 47A (2) of the Act, the Authority hereby requires the Licensee to furnish to it all the information which is specified or described in section 8 of the letter preceding this Notice.

4. The documents and information specified or described in section 8 of the letter preceding this Notice must be delivered by email to us at [FutureRetailRegulation@ofgem.gov.uk](mailto:FutureRetailRegulation@ofgem.gov.uk) by **5pm on 20 October 2016**. The specified information must be provided in an electronic form.

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<sup>6</sup> DIRECTIVE 2009/72/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC.

Signed

A handwritten signature in black ink that reads "NBarnes." The signature is written in a cursive, flowing style.

**Neil Barnes**  
**Associate Partner, Retail Markets**

**Duly authorised on behalf of the Authority**

Failure to comply with the terms of this Notice may constitute a breach of a relevant requirement and may therefore lead to enforcement action being taken by the Authority pursuant to Section 25 of the Act.

The alteration, suppression or destruction of documents or records required by this Notice may lead to criminal action under Section 47A (5) of the Act.

The provision of false information may also lead to criminal action under Section 59 of the Act.

**Relevant Legislation**

**Section 47A of the Electricity Act 1989**

- (5) A person who intentionally alters suppresses or destroys any document or record of information which that person has been required to produce by a notice under section 47A subsection (2) is liable—
- (a) on summary conviction—
    - (i) in England and Wales, to a fine not exceeding the statutory maximum, and
    - (ii) in Scotland, to a fine not exceeding £5,000; or
  - (b) on conviction on indictment, to a fine.

**Section 59 of the Electricity Act 1989**

- (1) If any person, in giving any information or making any application under or for the purposes of any provision of this Part, or of any regulations made under this Part, makes any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular, he shall be liable—
- (a) on summary conviction, to a fine and not exceeding the statutory maximum;
  - (b) on conviction on indictment, to a fine.

## Appendix 3

### NOTICE

#### Request for documents and information pursuant to Section 34A of the Gas Act 1986

To:

#### Whereas:

1. The company to whom this notice is addressed (“the Licensee”) is the holder of a gas supply licence granted or treated as granted under section 7A (1) of the Gas Act 1986 (the “Act”) and therefore a regulated person for the purposes of the Act.

2. In accordance with section 34A (1) of the Act, the Gas and Electricity Markets Authority (“the Authority”) is performing its duty under section 34 of the Act:

(a) to keep under review the carrying on both in Great Britain and elsewhere of the activity of supplying to any premises gas which has been conveyed to those premises through pipes, including the following matters specified in Article 41(1)(j) of the Gas Directive<sup>7</sup>:

*“monitoring the level and effectiveness of market opening and competition at wholesale and retail levels, including on natural gas exchanges, prices for household customers including prepayment systems, switching rates, disconnection rates, charges for and the execution of maintenance services and complaints by household customers, as well as any distortion or restriction of competition, including providing any relevant information, and bringing any relevant cases to the relevant competition authorities;” and*

(b) to collect information with respect to the activities and matters mentioned in (a), and the persons by whom they are carried on, with a view to facilitating the exercise of the Authority’s functions.

#### Now therefore:

3. Pursuant to section 34A (2) of the Act, the Authority hereby requires the Licensee to furnish to it all the information which is specified or described in section 8 of the letter preceding this Notice.

4. The documents and information specified or described in section 8 of the letter preceding this Notice must be delivered by email to us at [FutureRetailRegulation@ofgem.gov.uk](mailto:FutureRetailRegulation@ofgem.gov.uk) by **5pm on 20 October 2016**. The specified information must be provided in an electronic form.

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<sup>7</sup> DIRECTIVE 2009/73/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC.

Signed

A handwritten signature in black ink that reads "NBarnes." The signature is written in a cursive style.

**Neil Barnes**  
**Associate Partner, Retail Markets**

**Duly authorised on behalf of the Authority**

Failure to comply with the terms of this Notice may constitute a breach of a relevant requirement and may therefore lead to enforcement action being taken by the Authority pursuant to Section 28 of the Act.

The alteration, suppression or destruction of documents or records required by this Notice may lead to criminal action under Section 34A (5) of the Act.

The provision of false information may also lead to criminal action under Section 43 of the Act.

## Relevant Legislation

### Section 34A of the Gas Act 1986

- (5) A person who intentionally alters, suppresses or destroys any document or record of information which that person has been required to produce by a notice under section 34A subsection (2) is liable—
- (a) on summary conviction—
    - (i) in England and Wales, to a fine not exceeding the statutory maximum, and
    - (ii) in Scotland, to a fine not exceeding £5,000; or
  - (b) on conviction on indictment, to a fine.

### Section 43 of the Gas Act 1986

- (2) If any person, in giving any information or making any application under or for the purposes of any provision of this Part, or of any regulations made under this Part, makes any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular, he shall be guilty of an offence and liable—
- (a) on summary conviction, to a fine and not exceeding the statutory maximum;
  - (b) on conviction on indictment, to a fine.