

BGL Group Limited (BGL)

Response to Ofgem's Consultation – Helping consumers make informed choices – proposed changes to rules around tariff comparability and marketing

1 Introduction

- 1.1 This document sets out BGL's response to Ofgem's consultation regarding tariff comparability and sales and marketing activities.
- 1.2 This document should, for context, be read together with BGL's responses to two other consultations (notably the removal of certain Simpler Tariff Choice rules, and Ofgem's Confidence Code 2016 Review) which, in part, respond to recommendations by the Competition and Markets Authority (**CMA**) as part of its Energy Market Investigation.

2 Questions

CHAPTER: Two

1 Question 1:

(a) Do you agree with the proposed requirement that any calculation by a supplier of the estimated annual cost figure should be internally consistent (i.e. calculated in the same way by any given supplier for all tariffs and for all customers over time)?

- 1.1 In answering this question (and others in this response), BGL is mindful of the overriding requirement to foster greater consumer engagement in retail energy markets, as highlighted in research presented by CentreForum in 2015:

Competition in energy markets is essential for driving down prices and driving up quality and standards. This requires, and has primarily relied upon, strong supply side competition. However, a fully functioning demand side, consisting of engaged and discerning consumers, is also vital...Consumers face barriers accessing and acting upon information...perhaps the biggest barrier is the confusing plethora of tariffs and the obfuscatory way in which information is presented. Customers more frequently complain about receiving too much information, and having too much choice, rather than too little. Bills are complex and like for like comparisons difficult. The "confusopoly" prevents effective competition.¹

It follows that while supply-side innovation remains an important driver of competition, any remedy adopted by Ofgem needs to balance this against the need to:

- avoid excessive complexity (regardless of whether each supplier's methodology is 'internally consistent');
 - enable effective like-for-like comparisons between competing suppliers; and
 - recognise, at least in the short to medium term, that the full potential of smart metering to empower consumers in their energy choices is still a significant way off and is, in some respects, uncertain.
- 1.2 With this in mind, in principle, BGL would not challenge Ofgem's proposed requirement that the calculation of the estimated annual cost figure should be internally consistent; however, BGL would be concerned if the corollary was to render comparison between different suppliers' tariffs even more challenging than it already is. In other words, ensuring that each supplier's calculations are internally consistent, while sensible in principle, will not address inconsistencies across the market as a whole. Indeed, from a comparison perspective, it might in theory be more effective to allow each supplier to

¹ CentreForum, Reforming retail energy markets, April 2015, page 27

adopt different methodologies for different categories of tariff, provided the categories and methodologies are consistently applied across the market as a whole.

- 1.3 An effective remedy should not, in BGL's view, rely on an assumption that customers, particularly individuals, have an infinite capacity or willingness to absorb and assess information or, indeed, the willingness of price comparison websites (**PCWs**) to invest continually in comparison models in circumstances where the underlying product is increasingly difficult to evaluate across different providers.
- 1.4 Persuading energy customers to switch is already a challenge - some regard switching supplier as a hassle and perceive little difference in suppliers – it is vital therefore that the confidence of those who are willing to switch is not also undermined by bad outcomes (a customer getting a worse deal than they were expecting) as a result of different and increasingly complex cost configurations across different suppliers.
- 1.5 Although BGL is supportive of innovation (and giving suppliers more flexibility in developing new tariffs) and agrees that Ofgem's proposal could possibly prompt further competition between suppliers, it may not be effective in isolation.
- 1.6 In any event, BGL considers that it would be important to plan how internal calculations will be monitored and tested, and on what basis they would satisfy Ofgem's principles of transparency and fairness.
- 1.7 In particular, BGL considers that suppliers should provide details of the methodologies they apply to both customers and PCWs to help fairer and more consistent comparisons and comprehensive consumer protection. PCWs play a crucial role in ensuring that consumers obtain personalised quotes on a comparable basis from a range of suppliers. In order to achieve this, at the very least, PCWs should have access to the relevant data and methodology of each supplier in order to implement these cross-market comparisons.
- 1.8 As indicated above, while the potentially adverse impacts of offering suppliers more leeway to adjust their individual methodologies to promote innovation may be off-set by smart meter roll-out (where actual consumption data will be available), it is important not to underestimate the gap between this market development and the current situation where smart meter data is still not available consistently, which could render price comparison of energy products even more difficult in the short to medium term.

(b) Are there any circumstances in which suppliers should have the flexibility to provide an estimated annual cost figure to customers based on different assumptions to methodologies? Please explain your answer

- 1.9 Again, in principle, BGL does not object to the idea that suppliers should have some flexibility to provide an estimated annual cost figure to customers based on different assumptions to methodologies. However, any different assumption should be justified, and appropriately communicated to the customer i.e. the supplier should be entirely transparent about the basis of its estimates. It is important that a customer is not convinced to stay with a supplier or, indeed, to switch on the basis of artificial (e.g. unduly narrow) assumptions as to usage, which, in reality, lead to worse outcomes and reinforce customer inertia.
- 1.10 As mentioned above, BGL is committed to supporting innovation but would caution that a sensible level of consistency needs to be achieved between suppliers in order for customers to be able to make effective and accurate comparisons through PCWs.
- 1.11 Assumptions to methodologies should, in any event, be transparent and fair and facilitate personalisation. Suppliers should ensure that any variation to the assumptions and therefore to any estimated annual cost figure should be explained and justified (in a pithy and consistent manner) to customers, as well as to PCWs in order to help safeguard more consistent cross-market comparisons.

2 Question 2:

Do you support our proposal to require that, in the absence of a prescribed methodology, the estimated annual cost must be personalised, transparent, fair and as accurate as possible, based on reasonable assumptions and all available data?

- 2.1 In the absence of a prescribed methodology, Ofgem's proposal to require that the estimated annual cost should be personalised, transparent, fair and accurate, based on reasonable assumptions and all available data, seems laudable; however, the key issue is whether substituting prescribed methodologies for principles-based regulation will be more effective in engaging customers, or whether any resulting degree of variation will in fact render comparison more difficult and engagement less likely.
- 2.2 In theory, affording suppliers more flexibility to personalise information against a customer's requirements, should result in better outcomes. This will only be effective though if the principles in question are interpreted by suppliers in good faith and in a consistent manner (guarding against manipulation and excessive complexity), which in turn will support PCWs in providing cross-market comparisons for consumers. At the very least, PCWs should have access to the relevant available assumptions and data, albeit if different suppliers choose different interpretations, it is inevitable that inconsistencies will occur when comparing competing offerings.

3 Question 3:

Do you support our suggestion that, at the end of a fixed-term contract, consumers could be rolled onto another fixed-term (rather than evergreen) tariff, if the consumer were able to exit this tariff with no penalty and at any time?

- 3.1 In BGL's view, while Ofgem's suggestion that consumers could be rolled onto another fixed-term tariff at the end of a fixed-term contract is preferable to rolling consumers onto variable rate tariffs, it still leaves disengaged consumers exposed. It may also lull others into believing that they are still getting a good deal, when in fact better deals are available.
- 3.2 On the one hand, BGL agrees that the proposal could prompt some consumers to consider switching, but it is not clear whether, under this proposal, consumers would actually be any better off than before.
- 3.3 BGL would recommend that rather than relying on rolling consumers onto another fixed-term tariff, Ofgem should give further consideration to other switching triggers (as posited by BGL in earlier CMA submissions).
- 3.4 BGL notes that, in any event, it will be important for Ofgem to have the appropriate mechanism in place to assess and monitor these tariffs in order to evaluate their success and effectiveness in terms of realising actual consumer benefits.

4 Question 4:

Do you agree with our overall approach to managing the consequential impacts on the Clearer Information tools arising from the removal of the relevant Simple Tariff Choices rules?

- 4.1 On one level, BGL agrees with Ofgem's overall approach to managing the consequential impacts on the Clearer Information tools arising from the removal of the relevant Simple Tariff Choices rules. BGL agrees with the proposal to retain the Cheapest Tariff Message (**CTM**) and Tariff Information Label (**TIL**)
- 4.2 At the same time, BGL has concerns with the proposed removal of average consumption figures. The loss of this information could be detrimental for PCWs who use these figures to ensure that there is enough information to make accurate and effective comparisons for consumers. Although BGL notes that the removal of average

consumption figures should not be an issue following full smart meter roll-out; however, the market is still at least several years away from this scenario.

- 4.3 BGL notes that as part of these changes, Ofgem will have to ensure that there is an appropriate monitoring mechanism in place in order to test that all tariffs and information are transparent, consistent, fair and personalised. In particular, this remedy would probably also require reassurances that all available data will be accessible to PCWs in order to provide cross-market comparisons to consumers.
- 4.4 In addition, if this proposal is adopted, Ofgem must be very clear in its public messaging; in other words, it needs to articulate carefully and clearly why it has chosen to remove TCRs – to the media and consumers - as this could otherwise raise consumer/media concerns when such information is removed from PCWs.
- 4.5 In addition, BGL would welcome stricter enforcement of consistent Tariff Name within the retained TIL, as this could be adulterated with additional information such as references to paper/online billing which may be more clearly called out as a separate key piece of information with the TIL tool.

5 Question 5:

Have we identified the right benefits and risks associated with our preferred approach to managing the impacts of removing the relevant Simple Tariff Choices rules on each of the Clearer Information tools?

- 5.1 BGL believes that Ofgem has in principle identified the right benefits and risks associated with its approach to managing impacts on each of the Clearer Information tools as a result of the removal of relevant Simple Tariff Choices rules. That said, as indicated in the responses above, BGL notes that the proposals are reliant on broad principles and on PCWs' ability to offer effective comparison services in a new environment involving greater variations in information (at least in the short to medium term).
- 5.2 In order to mitigate some of the risk, Ofgem should ensure that it will monitor suppliers' behaviour regarding their calculations, so that they are indeed consistent, personalised, transparent, fair and accurate based on reasonable assumptions (and not framed in such a way as to render comparison difficult).

6 Question 6:

Are there any potential unintended consequences associated with our proposed approach?

- 6.1 Ofgem has identified a number of the consequences and risks associated with its proposed approach. The removal of certain Clearer Information tools means that consumers would have fewer tools for comparison purposes, in particular the average consumption figures that are often necessary for PCWs to undertake effective comparisons. As mentioned above, the new proposals rely considerably on a broad set of principles and on PCWs' ability to make effective comparisons in an environment which could potentially give rise to regular inconsistencies.
- 6.2 In particular, BGL notes that additional new categories to the TIL may, in the event of a proliferation of new 'feature-rich' tariffs, lead to consumer confusion if the impact of supplier rewards and discounts obscures uncompetitive or unsuitable tariffs.
- 6.3 BGL believes that the suppliers' CTM should include further clarification regarding greater savings that may be available from other suppliers via PCWs or Citizens Advice. This would supplement the approach which relies on suppliers chasing disengaged customers.
- 6.4 Finally, BGL notes that there needs to be a high level of consistency across all available data sets so that consumers who may use several sources of information can

be reassured that when considering switching they have accurate data for all relevant tariffs. For example, identical tariffs that are named differently on different sites (for example, 'SSE 1 Year Fixed v8' on BGL's Comparethemarket.com panel is also shown as 'SSE 1 Year Fixed Paperless Billing' on UK Power's panel) have the potential to cause unwanted confusion among consumers.

CHAPTER: Three

7 Question 7:

Do you agree that our proposed policy objective is the correct one? Please explain your answer

- 7.1 Ofgem's proposed policy objective around informed choices is not without merit. It is uncontroversial that a combination of effective consumer engagement and innovative tariffs and services can, in principle, be achieved through access to the right information so that consumers can understand their options and make informed choices.
- 7.2 That said, Ofgem's approach will also present a number of challenges in the context of comparison services. For example, PCWs will be faced with a significant challenge in terms of how they construct question sets for their customers, so that they are able to present the most relevant and competitive tariffs to customers, while not filtering out potentially valuable tariffs because they do not fit a binary decision made by that individual.
- 7.3 To illustrate, a PCW might ask a customer whether the customer would be interested in rewards-based tariffs; however, if the customer answers 'no', there is a possibility of them missing out on a range of very competitive tariffs, even if they discounted the value of the associated 'reward'.

8 Question 8:

Do you consider that the proposed principles are a sensible way of achieving our policy objective? Please explain your answer

- 8.1 Please refer to relevant comments above. BGL does not disagree, per se, with Ofgem's proposed approach, which is to move to six (tariff comparability and marketing activities) principles as part of its revised SLC 25. These offer greater flexibility and may constitute a sensible way of Ofgem achieving its regulatory objective, notably its 'informed choices' policy aiming at protecting consumers effectively, supporting innovation and place greater onus on suppliers to put customers in the centre of their businesses. At the same time, and for the reasons indicated above, this approach (moving away from more prescriptive rules) is not without considerable risk, particularly if one accepts the idea that the most important step in improving competition in retail energy markets is first to engage the customer base, rather than simply trying to drive more product innovation for its own sake.
- 8.2 Regardless of the solution, PCWs have a crucial role to play in providing cross-market comparisons to consumers and to ensure that consumers wishing to switch can take decisions on tariffs and suppliers swiftly and effectively (based on all information available).
- 8.3 In BGL's view, it is important that the desire on the part of many energy customers to switch immediately (online) and to avoid unnecessary hassle is properly recognised as part of any package of remedies. It is an important consumer preference and key to engaging consumers. Any solution, whether principles-based or not, should prioritise allowing predominantly online channels like PCWs, who are best placed to meet this need, the ability to present switchable tariffs without implying that PCWs are conducting sales in an unfair or non-transparent way.

- 8.4 Therefore, BGL would urge Ofgem to reflect further on the interlinked Whole of Market (**WoM**) considerations submitted by BGL as part of its response to the separate Ofgem 2016 Confidence Code consultation.

9 Question 9:

Are there any benefits, risks or potential unintended consequences associated with the proposed principles which we have omitted? If so, what are they and how could they be mitigated?

- 9.1 It is clear that certain benefits, risks and potential consequences have been taken into consideration when designing the relevant principles as part of Ofgem's informed choices policy. It is important to note that for PCWs to work effectively and provide the best possible comparisons to consumers, suppliers will also have to ensure that the relevant information is also available to PCWs to enable each customer to easily compare and select tariffs between different suppliers.
- 9.2 In addition, BGL notes that Ofgem should consider whether PCWs may work together with energy suppliers to bring greater transparency to supplier-specific comparisons. By way of example, it could be that a PCW offers a white-label service to an energy supplier with a pre-filtered set of results specific for that supplier.
- 9.3 Another way PCWs can further support innovation and competitive pricing is by negotiating exclusive deals with energy suppliers for their sites as these can be clearly identified and easily compared on the site. Further consideration should be given to how suppliers (and PCWs) might provide consumers with clear visibility of these exclusive tariffs alongside their standard offerings.

10 Question 10:

Are these principles likely to result in differential impacts across different types of suppliers (e.g. large vs. small or medium suppliers)? Please explain your answer

- 10.1 BGL believes that the Big Six energy suppliers would approach these changes by offering a range of tariffs for all consumer groups, whereas smaller suppliers could be presented with the opportunity to specialise, offering niche products to a specific group of consumers. Therefore, the effective implementation of the relevant principles by all suppliers could, in principle, have a positive impact across all types of suppliers. In particular, this could put further pressure to the Big Six energy suppliers to ensure that they do not put undue pressure to consumers and do not recommend, through marketing activities, inappropriate services to their customers.
- 10.2 That said, if smaller suppliers begin to feel the pressure to offer a vast range of tariffs to a number of customer groups in order to compete with the Big Six energy suppliers, the consequential risk is that service levels at these smaller suppliers could decline, as they would struggle to either reach similar scales or their back office systems might not adequately support the plethora of tariffs offered.

11 Question 11:

Do you think that we should introduce a principle about informed tariff choices?

- 11.1 BGL believes that a principle about informed tariff choices would be useful for Ofgem's policy objective. Although the proposed principles as part of the revised SLC 25 largely cover the tariff comparability and marketing activities areas, a wider principle highlighting that the core objective is to ensure suppliers help achieve the outcome that domestic consumers are able to make informed choices about their energy supply.

12 Question 12:

Do you agree that we should expand the scope of SLC 25 to apply to all sales and marketing activities? Please explain your answer

- 12.1 The nature and extent of this question is not entirely clear. BGL agrees that if Ofgem adopts principles-based regulation, it may wish to consider expanding the scope of SLC 25 to a wider range of sales and marketing activities, including activities carried out online and through other channels.
- 12.2 This would seem to be consistent with Ofgem's objective to move to an increased reliance on principles-based regulation in a market which is changing and therefore it may be sensible for these principles to go beyond telesales and face-to-face sales and marketing activities; however, it is not clear what initiative Ofgem has in mind so it is difficult to comment in detail.
- 12.3 In any event, Ofgem should not be distracted from the main focus of these remedies which is to create a market situation where customers can access and compare supplier's tariffs effectively, and feel confident that they can realise tangible benefits from switching. Suppliers (and their willingness to observe the spirit as well as the letter of these principles) are central to the effectiveness of this remedy, so it would make sense for Ofgem to focus on this aspect of the supply chain as its priority.

13 Question 13:

Do you support our proposal to extend the requirement to keep records for two years to include telephone sales and marketing? If not, please explain why, including the scope of any potential increase in costs.

- 13.1 BGL supports Ofgem's proposal to require suppliers to maintain for a period of two years records of information provided to customers during the course of sales and marketing activities conducted face-to-face and via telephone.

14 Question 14:

Do you agree with our rationale for not applying the requirement to keep records to include online sales? What would be the implications of extending the requirement to online sales (e.g. impact on PCWs, increased costs)?

- 14.1 BGL agrees with Ofgem's rationale for not applying the requirement to keep records to include online sales. This could increase costs for PCWs and put unjustified burden on them. The increased breadth of tariff availability and a PCW's attempts to meet the requirements of an informed choice, are likely to require a greater level of interaction with an online customer than that seen currently, in order to arrive at a preferred range of tariffs.
- 14.2 To capture all details arising from multiple interactions - in a growing market - for a period of two years would appear to be disproportionately burdensome, with expensive storage and likely engineering costs.

15 Question 15:

Do you agree with our proposal to remove the prescription from SLC 25? Are there any other areas where you think prescription still needs to be retained to maintain customer protection?

- 15.1 BGL has already set out its views above. BGL acknowledges that Ofgem's proposal to remove prescription from SLC 25 may deliver certain benefits; however, it is also concerned about over-reliance on principles based regulation in circumstances where smart meter coverage (and the safeguards/benefits associated with it) is still far from being comprehensive.

Questions on draft Impact Assessment (Appendix 3)

16 Question 16:

Do you agree with the methodology we intend to employ in our impact assessment?

- 16.1 BGL has not, in the time available to respond to this consultation, been able to consider any alternative methodology. By way of preliminary observation, the methodology that Ofgem intends to employ in its impact assessment seems logical, although this should not be interpreted as an unqualified endorsement of Ofgem's approach.

17 Question 17:

Have we captured all expected key impacts? If not, what else should we include in our impact assessment?

- 17.1 BGL notes that an unintended consequence could be adverse media coverage of PCWs, especially if the new principles are not clearly communicated by Ofgem to the media. For example, asking if a consumer only wants to see switchable tariffs could appear to be in line with establishing their preferences, but could be perceived as directing a customer only to tariffs for which the PCW gets a commission.

18 Question 18:

What costs do you expect to incur as result of the proposed changes (both to the RMR package and to SLC 25)? Please provide a description and a range, if possible.

- 18.1 BGL anticipates costs as it looks at using the principles to provide better outcomes for the consumer and to adequately present the increasing range of tariffs in a way that best serves the consumers' preferences. However, it is not possible to set out these costs (or give any indication as to their magnitude) until it becomes clear how the market will respond to these changes. Reputational costs should be considered if the proposed changes are not well communicated through the media to consumers and PCWs are seen as using them to gain commercial advantage over ensuring the best outcome for the consumers.

19 Question 19:

What benefits (including avoided costs) do you expect to realise as result of the proposed changes? Please provide a description and a range, if possible.

- 19.1 BGL expects greater ranges of available tariffs and further tariff innovation. This could give PCWs an opportunity to drive supplier innovation through the medium of exclusive deals and insight to both existing engaged customers and a view on the disengaged demographic. In addition, these proposed changes would allow direct access to supplier data relating to disengaged customers, which is key to delivering further consumer benefits and outcomes.
- 19.2 In particular, principles 1-3 may enable PCWs to innovate on how tariff data is presented with greater clarity and how interactions are phrased with customers by using new technologies such as smart metering and A.I. bots etc., in order to have a clearer view of their preferences.

CHAPTER: Four

20 Question 20:

Do you think there are any other indicators we can use to monitor the impact of changes to the RMR rules on consumers?

20.1 BGL overall supports Ofgem's proposal regarding monitoring tariff comparability and sales and marketing activities. BGL believes that Ofgem should also use data on consumers' choices and outcomes to inform not only its monitoring but also to provide further incentives on suppliers to improve customer satisfaction, transparency and fairness.

21 Question 21:

Are there any other sources of information we could use to provide us with an early indication of potential issues with sales and marketing activities?

21.1 BGL believes that the use of comparative data on consumer outcomes and switching decisions is valuable in order to monitor suppliers' performance and ensure compliance. It would also be important for PCWs to be part of the Challenge Panel that Ofgem plans to hold around the new comparability and sales and marketing principles, which will discuss compliance with the SoC, the development of innovative products and services, and whether customers are able to make informed choices.

21.2 Finally, BGL would remind Ofgem that the upshot of these changes is likely to be the proliferation of tariffs and, in some instances, far greater complexity. Without PCWs, this will lead to greater consumer disengagement. It follows that Ofgem should ensure that conditions supporting PCW investment in energy comparison are meaningful and sustainable, and would therefore urge Ofgem to reflect on BGL's separate comments about Ofgem's proposed approach to the implementation of the WoM/Confidence Code remedy to ensure a clear and positive message is given to both PCWs and the consumers who rely on them.

ENDS