



September 28, 2016

Dear Sir,

*Helping consumers make informed choices – proposed changes to rules around tariff comparability and marketing*

Please find Tonik Energy's response to the above consultation below.

*Chapter Two*

*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 customers over time)?*

Yes. This is essential to ensure that customers can easily compare tariffs offered by that supplier with each other and avoid potential customer confusion.

*Question 1(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 or methodologies?*

We think that this should be avoided. While we agree with Ofgem that innovation should be prioritised, we would not wish to compound the potential risk of customer confusion created by allowing suppliers to calculate the personal projection using different methodologies by then additionally allowing suppliers to deviate from their own internal calculation methodology in certain instances.

*Question 2: Do you support our proposal to require that, in the absence of a prescribed methodology, the estimated annual costs must be personalised, transparent, fair and as accurate as possible, based on reasonable assumptions and all available data?*

Yes, as any other approach might lead to both potential customer confusion and a possible unintended incentive to mislead customers, particularly as different suppliers will be using different methodologies for the calculation of personal projections.

*Question 3: Do you support our suggestions 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?*

This is an interesting suggestion and we can see the potential benefit of this. However, if this change were to be introduced and then taken to its logical conclusion, it may result in a situation whereby there is no further reason for the existence of variable tariffs at all. Potentially, even a deemed tariff could be the relevant supplier's cheapest fixed tariff if there were no exit fee. Should this situation transpire, it is worth noting that this would potentially mean the disappearance from the market of some of the cheapest tariffs currently available as these are variable tariffs.

Nevertheless, it is possible that this arrangement might reduce customer engagement with the market and reduce switching as some customers who might previously have been incentivised to examine offerings from other suppliers due to the possibility of being rolled onto a considerably more expensive variable tariff

at the end of their fixed tariff will now have that incentive removed as they will know they will automatically be placed on their current supplier's cheapest fixed tariff should that supplier choose this option.

*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 Simpler Tariff Choices rules?*

Yes, the approach seems both reasonable and balanced between removing those aspects of the Simpler Tariff Choices rules which might hinder product innovation (the TCR) and retaining those which have proved useful for customer information provision (the TIL).

*Question 5: Have we identified the right benefits and risks associated with our preferred approach to managing the impacts of removing the relevant Simpler Tariff Choices rules on each of the Clearer Information tools?*

Yes, please see our answer to Question 4 above.

*Question 6: Are there any potential unintended consequences associated with our proposed approach?*

We do not believe so. Although suppliers may potentially take different approaches to calculation of personal projections for customers, provided that these approaches adhere to the principles contained within the Standards of Conduct we do not think it likely that this will result in a detrimental situation for customers. However, should Ofgem feel that the approach of any particular supplier is not in line with the Standards of Conduct, it will then be free to take appropriate action in response to this.

However, there is a possibility that the utilisation of different methodologies for calculating customer personal projections by different suppliers might then lead to increased difficulties for customers in comparing offerings between different suppliers. We are also uncertain as to how these differences will be reflected by PCWs. Will they formulate their own methodologies in order to achieve standardisation and easier comparison? If so, this may then mean that there may be discrepancies between the personal projections that customers see on the relevant supplier's website and on a PCW for the same tariff. Should the PCW simply use the numbers provided to it by each supplier, this then means that comparing tariffs may be difficult. Nevertheless, we are hopeful that this situation can be overcome by suppliers providing detailed explanations as to the methodology and assumptions made when calculating any personal projection it supplies to any potential or existing customer.

### Chapter Three

*Question 7: Do you agree that our proposed policy objective is the correct one?*

We agree that building on the Standards of Conduct by introducing a greater degree of less prescriptive principles based regulation will allow for greater innovation in terms of supplier product offerings while ensuring that appropriate safeguards remain in place for customers.

*Question 8: Do you consider that the proposed principles are a sensible way of achieving our policy objective?*

Yes, please see our answer to Question 7 above.

*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?*

We are unable to think of any at this time but our general view is that the intended changes will drive innovation and thus competition.

*Question 10: Are these principles likely to result in differential impacts across different types of suppliers?*

We do not believe so; we believe that implementation of these principles will be more likely to result in offerings tailored towards the needs of the different customer groups supplied by different types of supplier and allow suppliers to concentrate more on the specific needs of those different customer groups.

*Question 11: Do you think that we should introduce a principle about informed tariff choices?*

Yes, as we agree that customers cannot fully engage with the competitive market without being able to make informed decisions. We agree that the six principles proposed by Ofgem should be effective in achieving this aim.

*Question 12: Do you agree that we should expand the scope of SLC 25 to apply to all sales and marketing activities?*

If Ofgem's intention is to focus more on principles based regulation rather than detailed, prescriptive rules then we agree that the scope of SLC 25 should be expanded in order to maintain the necessary customer protections while decreasing the amount of prescriptive regulation.

*Question 13: Do you support our proposal to extend the requirement to keep records for two years to include telephone sales and marketing?*

We agree that this would be appropriate if the prescriptive rules around sales are to be relaxed in order to ensure that evidence of proper practice can be provided if required. We do not believe that this would be excessively onerous for smaller suppliers as their customer bases and sales activities will logically be smaller than those of their larger competitors.

*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?*

As we believe that the significant majority of sales are conducted online, we agree that it would impose a significant burden on the industry for suppliers to be required to keep records of all online sales for a two-year period. In addition, we are of the view that online sales, by their very nature, will be likely to leave an electronic audit trail in any case which can then be reviewed by Ofgem at a later date if it deems this to be necessary. Therefore, the additional record keeping requirement is not required unlike face to face or telephone sales where an automatic electronic record is not necessarily part of the process.

*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 consumer protection?*

We believe that if sales processes are enforced in line with the Standards of Conduct then this should be sufficient to provide the necessary level of protection to customers. The proposed removal of the prescription currently contained within SLC 25 should then result in a greater level of innovation and thus competition in this area.

#### Questions on draft Impact Assessment

*Question 16: Do you agree with the methodology we intend to employ in our impact assessment?*

Yes, we agree that the assessment needs to take into account both the level of customer engagement with the market reflected in switching rates and customer satisfaction with each customer's current supplier. We believe that an assessment of both these variables is necessary for Ofgem to reach a fully informed view as, while high switching rates might indicate a high degree of customer engagement with the market, it might also indicate a high level of customer dissatisfaction with suppliers and an attempt to find better products and levels of customer service elsewhere. It is therefore imperative that the two are considered alongside each other.

*Question 17: Have we captured all expected key impacts? If not, what else should we include in our impact assessment?*

We believe that all key impacts are suitably captured.

*Question 18: What costs do you expect to incur as a result of the proposed changes (both to the RMR package and to SLC 25)?*

The removal of the Tariff Comparison Rate and the proposed change to the calculation of the Estimated Annual Cost should result in a fairly minimal financial impact as should the proposed changes to SLC 25.

*Question 19: What benefits (including avoided costs) do you expect to realise as a result of the proposed changes?*

We expect the benefit of these changes to be found less in the area of avoided cost and more in the area of greater scope for differentiation between suppliers and the boost to competition that this could be expected to provide.

#### Chapter Four

*Question 20: Do you think there are any other indicators we can use to monitor the impact of changes to the RMR rules on customers?*

We believe that general customer satisfaction levels reflected in complaints made by customers in relation to any specific supplier will be a useful indicator of any impact.

*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?*

It may be worth Ofgem liaising with Citizens Advice on a regular basis to monitor whether or not it has received any complaints with regard to sales activities, and, if so, how many, in relation to all licenced domestic suppliers.

I trust that this response will prove helpful, please do not hesitate to contact me should you have any questions or require any further information.

Yours sincerely,

Chris Russell

Managing Director