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Dear Clem,

Response to statutory consultation 'enabling consumers to make informed choices'

This submission was prepared by Citizens Advice. Citizens Advice has statutory responsibilities to represent the interests of energy consumers in Great Britain. This document is entirely non-confidential and may be published on your website. If you would like to discuss any matter raised in more detail please do not hesitate to get in contact.

Question 1: Do you have any specific concerns with our proposal to remove prescription from standard licence condition 25 and rely on the proposed package of principles?

As Citizens Advice set out in our response to the initial Informed Choices consultation¹, we support the new principles that Ofgem proposed for sales and marketing. These are a necessary adjustment as the RMR 'simpler choices' rules are removed, and will force suppliers to consider how they design and market products using the new tariff freedoms.

The energy industry must not repeat the mistakes of the past, when the market was characterised by tariff proliferation and poor face-to-face sales tactics. As a result, we support the strong, 'must ensure' threshold for these principles. We welcome Ofgem using this consultation to set out more detail about how these will be enforced.

¹<https://www.citizensadvice.org.uk/about-us/policy/policy-research-topics/energy-policy-research-and-consultation-responses/energy-consultation-responses/response-to-ofgems-consultation-helping-consumers-make-informed-choices/>

We generally support the drafting of the five principles that Ofgem now intends to take forward. We continue to have some concern about the drafting of Principle 6² to allow suppliers to consider a consumer's 'characteristics *and/or* preferences' when making a recommendation. This phrasing makes sense in relation to Principle 3, where the consumer will have the flexibility to balance these if they don't align. However, in the current drafting of Principle 6 this could have the impact that a supplier could take account of only a consumer's characteristics (or their preferences), and would still be acting in line with the principle. For example, a supplier could recommend a time of use tariff based only on a consumer's stated preference, despite the fact that their characteristics meant they would be unable to shift their demand to benefit from the tariff.

We support Ofgem's view that the drafting of principles should be consistent where the policy intent is the same, but would argue that, in this case, the intent of Principle 3 and Principle 6 are different. Principle 3 seeks to ensure that consumers are able to navigate offerings and make an informed choice, including any trade-offs they are willing to make between their characteristics and preferences. In contrast, Principle 6 seeks to ensure that suppliers give recommendations of products that are suitable for the consumer. The nature of a recommendation, as defined in the statutory consultation, is that it 'gives, or is likely to give the Domestic Customer the impression that a particular product or service is suitable for their characteristics *and/or* preferences.' In the absence of any requirement for suppliers to inform consumers how they arrive at their recommendation, a consumer is likely to assume that this is suitable for both their characteristics and preferences. To minimise this risk, the principle should require a supplier to consider both characteristics *and* preferences before making a recommendation.

We support the decision not to proceed with Principle 4 on sales and marketing. Ofgem's proposal to place the broad, 'informed choices' principle into the Standards of Conduct, will help ensure that 'informed choices' are given due prominence in the considerations of suppliers. We will respond separately to Ofgem's consultation on the Standards of Conduct regarding the proposal to include a broad 'informed choices' principle.

We continue to support the removal of most of the prescriptive rules from SLC 25, as principles should provide Ofgem with greater flexibility to tackle different forms

² We use to the numbering of the six principles originally proposed in the August 2016 consultation throughout this response

of mis-selling and ensure that suppliers consider the needs of consumers in these interactions.

However, we remain concerned about the removal of the requirement to make post-sales contact after face-to-face sales. As Ofgem acknowledge, this form of sales carries higher risks, and suppliers and their representatives must operate to the highest standards in order to avoid consumer harm.

Citizens Advice continue to receive contacts to the consumer service in which consumers are mis-sold, or find they are switched without signing a contract, as a result of doorstep sales. This can be the result of actions by representatives of the supplier, such as third party marketing firms. Often consumers only become aware that they've been mis-sold when they receive the (currently) required post-sales contact. This allows some mis-sold consumers the opportunity to cancel the unwanted contract during the cooling off period. If there was no follow up, the cancellation would have to be processed as an erroneous transfer and it would become a much more drawn out process for the household.

Ofgem's switching programme identified erroneous transfers as an area of concern, and aims to put in place mechanisms to prevent erroneous transfers and resolve them effectively.³ Energy UK has identified consumers not agreeing to contracts, or requesting information only during the sale, are two of the biggest drivers of erroneous transfers identified by the losing supplier.⁴ In this context, we think the removal of the current rules could risk an increase in erroneous transfers not being identified before they occur, in conflict with the aims of the switching programme.

Citizens Advice is committed to working closely with Ofgem and Ombudsman Services: Energy under the new tripartite framework. We will monitor contacts to our service to identify any new trends and share this information where appropriate. Given the previous problems in the industry this will particularly focus on mis-selling through face-to-face channels.

Question 2: Do you have any specific concerns with our proposals to amend the RMR Clearer Information tools?

³ These aims are being progressed through both the switching programme and the SPAA/MRA Erroneous Transfers Working Group.

⁴ See Energy UK presentation at <https://www.spaa.co.uk/SitePages/CalendarDetails.aspx?UID=953&Source=https://www.spaa.co.uk/SitePages/Home.aspx>

We support Ofgem's proposal to remove the requirements for the Tariff Comparison Rate, and the changes to the Tariff Information Label.

We look forward to engaging with Ofgem on the unresolved areas from the August consultation - the Personal Projection methodology and the option of rolling consumers onto fixed term contracts, where this was cheaper than the standard tariff.

Yours sincerely,

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