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13th March 2017

By email: FutureRetailRegulation@ofgem.gov.uk

Dear Andrew

Standards of Conduct for suppliers in the retail energy market

Thank you for the opportunity to comment on Ofgem's proposals to amend the Standards of Conduct (SoC) for retail energy suppliers. This response is submitted on behalf of the Centrica group, with the exception of Centrica Storage. It is not confidential. In this response, we focus on the SoC for domestic supply (SLC 25C), though some comments will also apply to changes in non-domestic supply (SLC 7B).

Centrica continues to support Ofgem's transition to principles-based regulation. We welcome the removal of unnecessary prescription and the shift of regulatory focus from supplier processes to customer outcomes. We already consider customer outcomes in how we operate. We work hard to treat our customers fairly across all of our interactions, to provide a high-level of customer service and to resolve any complaints as quickly as possible. We believe that the SoC incentivise suppliers to own responsibility for achieving good customer outcomes and embed fair treatment within their organisation.

While we believe that the SoC are already clear and understandable to existing suppliers and new entrants, we support Ofgem's proposed changes to the SoC as a package, on the basis that our understanding of the effect of the changes is correct. We were concerned by aspects of Ofgem's proposals in its "Working paper on broad principles"¹ and feared some changes would reduce regulatory certainty to an unacceptable extent. For instance, we were concerned by Ofgem's proposal to remove the fairness test, an important materiality test in the SoC, and are therefore pleased to see that Ofgem has now decided to retain the test. Similarly, we did not support the introduction of the term "non-trivial" into the fairness test because such a term would be novel in both law and the licence conditions and was not well-understood or clear. We are pleased that Ofgem has responded to stakeholder feedback by removing such a novel term.

We also welcome Ofgem publishing working papers and responding to the comments made by stakeholders. Working papers help suppliers understand Ofgem's thinking and direction of travel with regulation. Working papers also help Ofgem understand stakeholder feedback earlier, reducing the risk of confirmation bias.

The introduction of vulnerability into the SoC

We support Ofgem's proposal to cement protections for customers in vulnerable situations by amending the domestic SoC, which will introduce an enforceable obligation on all

¹ <https://www.ofgem.gov.uk/publications-and-updates/future-retail-market-regulation-working-paper-broad-principles>

suppliers. We agree with Ofgem that suppliers should have in place “fit for purpose” processes to identify customers in vulnerable situations. This should not mean that suppliers are required to proactively identify potential vulnerability on every call. Suppliers should be able to adopt an approach that enables identification without being inappropriately intrusive, which in practice means striking a sensible balance between being proactive and reactive. We welcome Ofgem confirming this bilaterally.

We also agree with Ofgem that suppliers should consider how best to serve customers in vulnerable situations and how to treat those customers fairly. Centrica already takes a range of steps to support customers in vulnerable situations (we provide more information in Appendix 1). However, the vulnerability principle should not mean that Ofgem requires suppliers to offer specific solutions for vulnerable customers. For instance, suppliers should not be required to offer products specifically targeted at vulnerable customers, e.g. social tariffs. It is up to suppliers to determine how best to respond to any vulnerability identified. We again welcome Ofgem confirming this bilaterally.

Retention of the fairness test

We are pleased that Ofgem has retained a version of the fairness test. We believe that the fairness test is an important materiality test for whether a supplier has treated customers unfairly. Retaining the fairness materiality test is particularly important given Ofgem’s proposal to remove “all reasonable steps” from the SoC. Our non-objection to the removal of “all reasonable steps” is contingent upon the retention of the fairness test in precisely its current or proposed form. We agree with the proposal for the fairness test to consider whether actions or omissions “give rise to a likelihood of detriment...unless the detriment would be reasonable in all the relevant circumstances”.

Removal of “all reasonable steps” from the SoC

We have no significant objections to the removal of “all reasonable steps” from the SoC. We had previously been concerned that the removal of “all reasonable steps” would unreasonably turn non-absolute Standards (e.g. being “easy” to contact) from qualified obligations into absolute obligations. We were concerned that such a step would risk retrospective imposition of minimum standards and/or require suppliers to tightly control every aspect of their business to an extent that is not realistically achievable.

However, having spoken to Ofgem we are now satisfied that the retention of the fairness test, Ofgem’s Enforcement Guidelines² and Ofgem’s duty to act proportionately provide a suitably high materiality threshold for enforcement. For instance, Ofgem has confirmed that enforcement action is more likely in response to “systemic failings”³ rather than individual cases of incorrect information being provided by mistake, while the retention of the fairness test “continues to recognise materiality”⁴. We were pleased to be reassured that the removal of “all reasonable steps” would not give Ofgem discretion to retrospectively impose a prescriptive minimum threshold for the Standards, to which suppliers must constantly adhere. Rather, for example, it would be for suppliers to determine what being “easy to contact” means in the context of the fairness test, including what level of detriment (for example call waiting) would be reasonable.

² https://www.ofgem.gov.uk/system/files/docs/2016/12/enforcement_guidelines.pdf

³ 1.6, Pg. 5 Standards of Conduct for Suppliers in the Retail Market consultation, Ofgem

⁴ <https://www.ofgem.gov.uk/system/files/docs/2017/02/standards-conduct-suppliers-retail-energy-market.pdf>

⁴ 2.14, Pg 14 ibid

The introduction of informed choices into the SoC

We support the introduction of an informed choices principle into the domestic SoC. We believe that the principle makes clear the outcome that information provision is supposed to achieve, i.e. informed consumers.

We welcome Ofgem's clarification that the policy intent of the informed choices principle is to ensure that customers making a decision have sufficient information for that particular decision. It is important that the scope of the informed choices principle is clear and that suppliers are not required to provide information to customers that is not relevant to the particular decision faced by the customer.

Charging

We have never agreed that the SoC either should, or can, be used to prevent a supplier levying a charge in a way that is different to the Consumer Rights Act 2015. We believe that Ofgem would go beyond its statutory remit if it gave itself the ability to prevent suppliers from levying cost-reflective charges. Parliament has endorsed cost-reflective, transparent charging via consumer law and energy law. Ofgem should not undermine the principle of cost-reflective charging nor disregard its own regulatory stance that it is for Government to make decisions concerning cost redistribution.

Suppliers already face legal obligations to only apply charges that are proportionate and cost-reflective. It is particularly important that suppliers are able to apply cost-reflective charges when taking action in line with their statutory rights, e.g. in relation to the warrant process. Customers should of course be aware of these charges and suppliers are required by the SoC to provide customers with information that is complete, accurate and not misleading.

Future broad principles

While we continue to support the SoC for domestic and non-domestic energy supply, we believe that broad principles like the SoC should be limited in number and changes should occur infrequently. Regulation should seek to strike the right balance between encouraging achievement of good customer outcomes and providing regulatory certainty for suppliers. New broad principles require suppliers to review operations across much of their organisation. While this may result in some improvements in customer outcomes, the process is time-consuming and, for more responsible suppliers, may result in little change. We therefore believe that the latest changes proposed to the SoC should endure for a number of years. Where Ofgem wants to achieve specific customer outcomes, narrow principles may be more appropriate.

Customer correspondence

Customer correspondence is one area where we would strongly encourage Ofgem to consider narrow principles and removal of prescription. The current licence conditions covering the bill, annual summary and End of Fixed Term Notice are very prescriptive. Suppliers are required to provide large amounts of information and to use language and format that may not be consistent with the supplier's brand. We recently undertook a trial of a simplified version of our bill. The results of that trial are encouraging and suggest that reducing prescription would not undermine and could actually support good customer outcomes. We believe that the current prescription reduces differentiation and hinders innovation and should be removed.

We recognise that Ofgem has limited resource to undertake a review of the 100 or so pages of the licence conditions that cover customer correspondence. We strongly support Energy

UK undertaking work on behalf of Ofgem to propose a regulatory framework for correspondence.

Our answers to Ofgem's consultation questions are contained in Appendix 1. If you have any questions about this response, please contact Thomas Lowe by calling 07769 548 906 or emailing Thomas.Lowe@centrica.com.

Yours sincerely

Alun Rees

Director, Retail Market Policy

Centrica

Appendix 1 – Ofgem questions

Question 1: *Do you agree with our proposal to retain a Fairness Test for all the broad principles within the domestic Standards of Conduct? If you don't agree, please provide an explanation in support of your answer.*

Yes, we agree with Ofgem's proposal to retain a fairness test for all the broad principles within the SoC.

We believe that the fairness test is an important materiality test for whether a supplier has treated customers unfairly. Retaining the fairness materiality test is particularly important given Ofgem's proposal to remove "all reasonable steps" from the SoC. Our non-objection to the removal of "all reasonable steps" is contingent upon the retention of the fairness test.

The applicability of the fairness test seems more obvious in some cases than in others. For instance, it is likely that in most situations it will be unfair for a supplier to provide incomplete, inaccurate or misleading information to a customer. However, we are unconvinced that the same can be said for how easy it is for a customer to contact the supplier. It would, for instance, be entirely inappropriate for Ofgem to use the fairness test and the removal of all reasonable steps to create arbitrary obligations on how quickly suppliers should respond to customer calls. Ofgem cannot use the SoC to argue that, because a supplier did not answer the phone in say 10 minutes, that supplier was not easily contactable and therefore in breach of the SoC. If Ofgem wanted to set minimum standards of customer service, a prescriptive rule would be required.

Suppliers will make mistakes from time to time and Ofgem should adopt a proportionate and reasonable response to those mistakes. Ofgem should take into account how the supplier responded to the situation, e.g. remedying the error and providing compensation where appropriate, and what the supplier had done to prevent the mistake occurring in the first place.

Question 2: *Do you agree with our proposed wording for a revised Fairness Test: "the licensee or any Representative would not be regarded as treating a Domestic Customer/Micro Business Consumer Fairly if their actions or omissions give rise to a likelihood of detriment to the Domestic Customer/Micro Business Consumer, unless the detriment would be reasonable in all the relevant circumstances"?*

Yes, we agree with the proposed wording of the revised fairness test.

We welcome confirmation from Ofgem that "reasonable in all the relevant circumstances" includes the supplier exercising its statutory rights. For example, we agree that a supplier "acting proportionately and otherwise complying with the Standards when exercising a statutory right to disconnect is unlikely to cause detriment which is unreasonable in the relevant circumstances."⁵

Question 3: *Do you agree that the changes to the Fairness Test should be made to the non-domestic Standards of Conduct at the same time as the domestic Standards of Conduct?*

Yes, we agree that the changes to the fairness test should apply to the non-domestic SoC as well as the domestic SoC. The SoC in domestic and non-domestic should only differ as much as required by the different customer outcomes in each sector. For instance, it is appropriate and reasonable for the vulnerability principle to only apply to the domestic SoC.

⁵3.19, Pg. 30 Standards of Conduct for Suppliers in the Retail Market consultation, Ofgem
<https://www.ofgem.gov.uk/system/files/docs/2017/02/standards-conduct-suppliers-retail-energy-market.pdf>

Question 4: *Do you agree with our proposal to remove the all reasonable steps threshold from the domestic Standards of Conduct? If you don't agree, please provide an explanation in support of your answer.*

We have no significant objections to the removal of “all reasonable steps” from the SoC. We had previously been concerned that the removal of “all reasonable steps” would unreasonably turn non-absolute Standards (e.g. being “easy” to contact) from qualified obligations into absolute obligations. We were concerned that such a step would risk retrospective imposition of minimum standards and/or require suppliers to tightly control every aspect of their business to an extent that is not realistically achievable.

However, having spoken to Ofgem we are now satisfied that the retention of the fairness test, Ofgem’s Enforcement Guidelines⁶ and Ofgem’s duty to act proportionately provide a suitably high materiality threshold for enforcement. For instance, Ofgem has confirmed that enforcement action is more likely in response to “systemic failings”⁷ rather than individual cases of incorrect information being provided by mistake, while the retention of the fairness test “continues to recognise materiality”⁸. We were pleased to be reassured that the removal of “all reasonable steps” would not give Ofgem discretion to retrospectively impose a prescriptive minimum threshold for the Standards, to which suppliers must constantly adhere. Rather, for example, it would be for suppliers to determine what being “easy to contact” means in the context of the fairness test, including what level of detriment (for example call waiting) would be reasonable.

Question 5: *Do you agree that all reasonable steps should be removed from the non-domestic Standards of Conduct at the same time as the domestic Standards of Conduct?*

We have no significant objections to the removal of “all reasonable steps” from the non-domestic SoC. Our reasons are the same as set out in our answer to Question 4.

Question 6: *Do you support our proposal to introduce a broad “informed choices” principle into the domestic Standards of Conduct?*

We support the introduction of an informed choices principle into the domestic SoC. Suppliers are already required by the SoC to only provide information that is complete, accurate and not misleading. We believe that the informed choices principle makes clear the outcome that information provision is supposed to achieve, i.e. informed consumers. We agree with this outcome.

We believe that the introduction of the broad informed choices principle will be inconsistent with the detailed prescription around correspondence. For instance, we believe that the heavily prescribed End of Fixed Term Notices require suppliers to provide too much information to customers in a format and at a time that does not help customers make informed choices about their next tariff. We believe Ofgem should look to remove unnecessary correspondence prescription from the licence as soon as possible, working through Energy UK if needs be to speed up the process. Suppliers should be able to vary the amount of information they provide to different customers according to the preferences of those customers. For instance, our recent simplified bill trial demonstrated that some customers want more information and some customers want less information. The current level of prescription prevents suppliers from responding to customer demands.

⁶ https://www.ofgem.gov.uk/system/files/docs/2016/12/enforcement_guidelines.pdf

⁷ 1.6, Pg. 5 Standards of Conduct for Suppliers in the Retail Market consultation, Ofgem

⁸ <https://www.ofgem.gov.uk/system/files/docs/2017/02/standards-conduct-suppliers-retail-energy-market.pdf>

⁸ 2.14, Pg 14 ibid

Question 7: *Do you agree with the proposed drafting of the broad “informed choices” principle we have set out?*

Yes, we agree with the proposed drafting of the “informed choices” principle.

It is particularly important that suppliers should only provide “sufficient” information for a customer to make an informed choice. To help customers make an informed choice, suppliers must strike a balance between providing customers with too much information and too little. Some customers will want more information than others and suppliers should find innovative ways of catering for these different information demands.

We welcome Ofgem’s clarification that the policy intent of the “informed choice” principle is to ensure that customers making a decision have sufficient information for that particular decision. For instance, if a customer asks about different payment methods, the supplier should provide sufficient information for the customer to make an informed choice about payment methods. We agree that the informed choices principle should not mean that suppliers provide customers with information that is not relevant to the choice at hand. For instance, if a customer asks about different payment methods, the supplier should not generally provide information about different tariffs, unless tariff type is specifically relevant to the customer’s decision about payment methods. The supplier should make clear if different payment methods affect the amount a customer pays, e.g. because the supplier offers a discount for paying by Direct Debit.

Question 8: *What, if any, additional guidance on the domestic and non-domestic Standards of Conduct do you consider would be helpful in light of the changes we are proposing?*

In general, we believe that the SoC are well-understood by suppliers and other stakeholders. As Ofgem makes changes to the SoC, there may be a case for Ofgem clarifying the following in response to this consultation:

- a) It would be inappropriate for Ofgem to use the fairness test and the removal of all reasonable steps to create arbitrary obligations for any of the Standards, for example by prescribing how quickly suppliers should respond to customer calls for the “easy to contact” Standard. Ofgem should use prescription rather than principles if Ofgem wants to establish minimum standards of customer service.
- b) In establishing “fit for purpose” processes to identify customers in vulnerable situations, suppliers will not be expected to identify customers proactively, e.g. by asking every customer whether they are vulnerable. Suppliers should be able to adopt an approach that enables identification without being inappropriately intrusive. In practice, this means striking a balance between being proactive and reactive.
- c) The scope of the “informed choice” principle is limited to providing customers faced by a particular choice with sufficient information to make that choice an informed one.
- d) Treating customers in vulnerable situations fairly does not mean treating all customers in the same way. Different treatments may be appropriate for different vulnerable customers.

We also believe Ofgem should exercise caution when making statements in public, whether in speeches, press releases or blogs. Suppliers may note such comments and treat statements as de facto guidance.

Question 9: *Do you consider that the “Treating Customers Fairly” statement has a valuable role to play and should be retained as an obligation in the domestic and non-domestic Standards of Conduct? Please provide an explanation for your answer.*

We believe that Ofgem is right to review the Treating Customers Fairly (TCF) Statement. The TCF Statement was introduced more than three years ago so now is the right time to consider if it is proving useful to customers. In the last 12 months, our TCF Statement on the British Gas website has been viewed less than 1,000 times. For context, there were more than 50 million visits to the British Gas website during 2016.

In our view, Ofgem should not need to prescribe how suppliers communicate with their customers. We believe that suppliers should have the flexibility to remove, or adapt, the TCF Statement in such a way that best promotes good customer outcomes. We are currently considering what we would do if the TCF Statement requirements were removed or retained. Options under consideration include retaining a consumer-facing document, creating a document for our staff that shows how we focus on good customer outcomes, or both. Either way, we recognise that our TCF Statements could better reflect how we put customers first in everything that we do. We want to improve our TCF Statement and had hoped to share our thinking with Ofgem in this response. We would prefer to do so on a bilateral basis given it is still in development

Question 10: *Do you agree with our proposal to include a broad vulnerability principle in the domestic Standards of Conduct? If not, please explain why with supporting evidence.*

Yes, we support the introduction of a broad vulnerability principle into the domestic SoC. We agree with Ofgem’s focus on customers in vulnerable situations and we support vulnerable and non-vulnerable customers engaging in the energy market. Energy suppliers should take steps to identify customers in a range of vulnerable situations and respond appropriately. Vulnerability is broad and dynamic, covering a range of situations. Identification of vulnerability should mean that suppliers are alive to potential vulnerability, not that suppliers ask every customer whether they are vulnerable. The principle should not require suppliers to go further in identifying vulnerable customers than the approach adopted for the Priority Services Register.

The introduction of a vulnerability principle should mean that suppliers consider whether their approach is reasonable for all customers. This may involve customer research and feedback from customers. It should not mean that suppliers must create bespoke approaches for the vulnerable, though such bespoke approaches may be appropriate in certain circumstances. For instance, suppliers should not be required to offer products specifically targeted at vulnerable customers, e.g. social tariffs.

In responding to the vulnerability principle, we believe that suppliers should consider all types of vulnerability but be able to focus more attention on certain types of vulnerability, building on obligations under the Equality Act 2010. For instance, it may be reasonable under the amended fairness test for a supplier to make efforts to identify a larger or more obvious group of vulnerable customers than to identify a group of vulnerable customers which are small in number or hard to identify. Treating customers in vulnerable situations fairly should not mean treating all such customers in the same way or being required to identify and respond to all types of vulnerability. Different treatments may be appropriate for different types of vulnerable customers.

We also believe that the requirement for suppliers to maintain “fit for purpose” processes to identify customers in vulnerable situations does not mean that suppliers must identify all vulnerable customers. For instance, the SoC, as Ofgem proposes to amend them, cannot mean that suppliers are required to proactively write to customers who have not contacted them to try to identify vulnerability. This would be inappropriately intrusive. From bilateral

engagement with Ofgem, we believe this is Ofgem's policy intent. We would welcome Ofgem clarifying in writing that processes that are "fit for the purpose" of identifying vulnerability do not require all vulnerability to be identified.

Question 11: *Do you agree with our proposed definition of 'Vulnerable Situation'? If not, please explain why with supporting evidence.*

We believe Ofgem has done a good job in drafting the vulnerability principle. We agree with the proposed definition of "Vulnerable Situation". We agree with Ofgem that vulnerable situations should be considered to occur where the customer is significantly less able to protect his/her interests or significantly more likely to suffer detriment. The extent of vulnerability will differ depending on the circumstance that the customer is engaging with the supplier. For instance, a customer with a five-year-old child may be left significantly more vulnerable if they were disconnected but the existence of the five-year-old child is, on its own, unlikely to affect the customer's ability to choose a tariff, payment method or meter type.

We believe that the definition of "Vulnerable Situation" does not necessarily cover the financial circumstances of a customer, e.g. the customer's income. When considering the "personal circumstances" of a vulnerable consumer, suppliers may choose to interpret such circumstances to include financial considerations. However, Ofgem should not use the principle to require suppliers to address the financial circumstances of customers. Suppliers should not be required to engage in significant cross-subsidies from one consumer group to another or to address questions of relative income. These are clearly policy matters for Parliament and Government rather than for economic regulators.

The vulnerability principle should not cover pricing decisions or whether a charge can be applied to the vulnerable (see above comments on charging). Suppliers may choose to respond to the principle by introducing social tariffs, targeting discounts or waiving charges – but these should not be required by the principle.

Question 12: *Do you have any comments on the proposal to amend SLC 5?*

We support Ofgem monitoring the market and recognise that the nature of monitoring will change under a principles-based regulatory regime.

On the basis of bilateral conversations with Ofgem, we understand that the change to SLC 5 is not designed to change the purposes for which Ofgem may request information nor the information that it may request on the basis of its stated purpose. Rather, we understand that the only change is that, should a supplier fail to provide the information Ofgem requested in a timely manner, Ofgem will have enhanced powers to compel the supplier to provide the information. On this basis, we support Ofgem amending SLC 5 to bring its enforcement of information-gathering powers into line with other sectoral regulators.

If we are incorrect in our understanding of what is being proposed, and instead Ofgem is proposing to change the purpose for which it may request information, we would not support the change. We would be concerned that Ofgem could use the amended SLC 5 to ask for information that is neither required for enforcement action nor part of market monitoring. We would be particularly concerned if Ofgem started to engage in speculative RFIs. RFIs are burdensome for suppliers and divert resource away from delivering good customer outcomes.

We also believe Ofgem should rely on regular market monitoring rather than ad hoc requests. Ad hoc requests are more disruptive to business plans. We believe that Ofgem should review its regular market monitoring to ensure that it all remains necessary. Ofgem's

starting point should be to create a central list of all information that it requests on an ongoing basis, the rationale for those requests, and whether and how it uses the information.

Question 13: *How would your processes change if our proposals are implemented? Can you provide evidence of what costs you think you will incur to a) implement the changes and b) comply with these?*

It is difficult to determine what processes we will change if the proposals are implemented. We would like to think that we are already delivering the outcomes that Ofgem's principles are designed to deliver. We will conduct reviews of how we operate against the principles and it is possible that processes may change. For instance, in response to Ofgem's narrow principles for comparability, we are considering how best to embed comparability into our propositions governance and to measure positive customer outcomes.

The most costly and time-consuming element of the changes to the Standards of Conduct will be the introduction of vulnerability into the Standards of Conduct. A responsible supplier should review their existing processes to confirm that the outcomes delivered are consistent with the vulnerability principle. As the principle is broadly defined and covers most areas of interaction with consumers, this will require significant time, effort and operational resource.

While we are beginning to commence work to understand the impact of the vulnerability principle, it is possible that we are already delivering the outcomes that the principle is designed to achieve. Centrica already takes a range of steps to support customers in vulnerable situations. For example, we:

- We have a dedicated team of vulnerable customer advisers in our Priority Services Team. There are more than 300 advisers offering support to customers in vulnerable situations.
- We provide the Warm Home Discount to more "broader group" customers than any other supplier.
- We run an independent energy charity to help customers in financial hardship, setting aside more than £13 million in the current financial year.
- We offer a standing charge rebate to low-consuming, financially vulnerable gas customers, giving £2.5 million back to these customers.
- More than 8,000 Centrica employees are now Dementia Friends.
- We work with a wide range of charities including Mind, Royal National Institute of Blind People, Action on Hearing Loss, Disabilities Charities Consortium, Scope, National Autistic Society, Alzheimer's Society, Alzheimer's Scotland, Children's Society, Christians Against Poverty, National Energy Action, and Shelter.
- We have established referral partnerships with CLIC Sargent, Macmillan and Islington Council's SHINE (Seasonal Health Intervention Network) programme.

We will keep Ofgem informed of our work to improve outcomes for customers in vulnerable situations.

Question 14: *Can you provide evidence to support any alternatives to our proposals?*

This is not applicable because we have not provided any alternatives to Ofgem's proposals.

Question 15: *Can you provide evidence of how the proposal will benefit your business? As an example, these could include greater efficiency and coordination among internal processes, development of new business models etc.*

We believe that principles-based regulation will enable suppliers to innovate. However, it is difficult to outline how the move to principles will change how we operate as a business. We

would like to think that we are already delivering the outcomes that Ofgem's principles are designed to deliver. We will be conducting reviews of how we operate against the principles and it is possible that we may find efficiencies or ways to improve collaboration.

Centrica has also recently reorganised the structure of British Gas to create efficiencies and increase our focus on customers. We believe that the new structure will enable us to deliver new innovative products to customers and offer better customer service.

Question 16: *What wider benefits do you think our proposals could deliver?*

We believe that the transition to principles-based regulation will facilitate supplier innovation and allow a greater focus on customer outcomes. If Ofgem amends the SoC and commits not to make further changes to the scope or number of broad principles, this should provide regulatory certainty for suppliers during the transition to principles-based regulation.

The introduction of a vulnerability principle will undoubtedly increase some suppliers' focus on vulnerable customers. All suppliers should be considering customers in vulnerable situations and taking steps to engage these customers. As we have outlined in response to Question 13, we already take a range of steps to support customers in vulnerable situations. It is less clear whether some new entrants to the domestic energy market are giving adequate consideration to customers in vulnerable situations.

Question 17: *In a year, how much time (in full-time equivalents/month) on average does your business spend responding to requests for information (RFIs) from Ofgem? How does this compare with the time spent responding to other organisations' RFIs (eg from BEIS, CMA)? Please provide evidence and indicate whether this is half the time or less, or twice the time or more.*

It is difficult to quantify how much time we spend on average responding to RFIs from Ofgem or other organisations. The size, scope and resource intensity of RFIs can vary significantly. For some RFIs, we need to source thousands of pieces of new information. Other RFIs can be answered almost entirely from information that is readily available. The level of resource required will also be affected by factors such as whether the information has been requested previously. Last year, we responded to more than 40 RFIs from Ofgem, the main requester of information.

Typically, our response to an RFI will be led by someone from within our Regulatory Affairs team. Their role is normally a project management one, confirming understanding of the questions asked, seeking clarity from Ofgem on aspects of the RFI that are not understood and engaging the right people in the business. In most cases, our Insight team will conduct much of the analytics, sourcing and interrogating data. RFIs will often also require input from teams involved in Ofgem's area of interest, e.g. billing, debt collection or customer services. This can involve one or two individuals working nearly full-time on the response. The RFI is then reviewed by a range of senior stakeholders to check accuracy, including the Head of Insight, our General Counsel and the Head of Regulatory Affairs.

We sometimes get duplicative RFIs from more than one organisation. For example, in Q4 2016, we received detailed RFIs from Ofgem and Citizens Advice about our Standard Variable Tariff (SVT). While Ofgem and Citizens Advice had coordinated to reduce the burden on suppliers, we still had to populate two RFI responses. The Department for Business, Energy and Industrial Strategy (BEIS) also asked for information on our SVT.

In general, we believe that Ofgem should rely on regular market monitoring rather than RFIs. RFIs are harder to plan for and disrupt other business activity.

Question 18: *Can you provide evidence of any unintended consequences that could arise as result of our proposals?*

We have provided a number of examples above of potential unintended consequences arising from Ofgem's proposals and have sought clarification about the scope and policy intent of the proposed principles.

We have previously pointed out that Ofgem should be careful about making public statements about the principles that could be interpreted as guidance. We know Ofgem is conscious of the risk of unintentional guidance and is trying to learn lessons from the Financial Services Authority.

However, we were concerned to hear the Ofgem CEO, Dermot Nolan, recently⁹ give evidence at the Business, Energy and Industrial Strategy (BEIS) Select Committee that could be considered guidance. When talking about loyalty schemes, which would be covered by Ofgem's narrow principles on comparability, Mr Nolan stated that: *"There are different kinds of things that are presumably of value to a customer. That will often make the things difficult to compare. The challenge in that sense will be if loyalty bonuses are given in non-cash ways will people be able to value them...I would prefer if there was something tangible that a customer could value in some fashion."* This suggests that bundles and offers should be presented in monetary terms, which is inconsistent with a natural reading of the principles and with the transition to principles-based regulation. We seek clarification from Ofgem that there is no requirement in the comparability principles for bundles and offers to be presented in monetary terms.

⁹ Oral Hearing, BEIS Select Committee, 22nd February 2017