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22 January 2019

Dear Lisa,

### **Consultation on the Supplier Licensing Review**

Thank you for the opportunity to comment on the consultation for Ofgem's supplier licensing review.

We welcome this review and it is timely as the industry has seen multiple supply businesses failing in recent months. This is concerning for all stakeholders including customers as the impact of such failures is wide reaching.

We are supportive of the proposed changes to both the criteria used to assess an application for a supply licence together with the actual application process. This consultation is very important as it is trying to address issues at the start of the process to ensure potential supply businesses are viable which will reduce the number of supply businesses that do unfortunately fail and the disruption caused to customers. We too are concerned about customer service, especially to vulnerable customers as a result of any supplier starting to struggle as well as the consequences if the supply business actually fails. We also look forward to the further proposals for monitoring supplier operational performance referred to in this consultation as these measures could lead to Ofgem stepping in more effectively and timely say in response to unacceptable customer service performance to suspend any new customer registrations. This could act as an incentive for companies to keep focussed on customer service as they grow.

In addition to the measures proposed we would like Ofgem to increase transparency around supply licence application processes and specifically publish high level information on the number of applications, how many were rejected together with the reasons. This would enable stakeholders to see how the new measures are working.

As there have been concerns over some customers having difficulty obtaining refunds from Suppliers, we would welcome Ofgem considering ways to protect customer's credit balances, for example, from being utilised by companies to stay afloat instead of refunding to customers. These monies could be treated more like ring-fenced funds, similar to the approach in the legal sector where solicitors hold client's money separately from that of the business itself.

I hope these comments are helpful and our responses to the questions raised are contained within the table below.

If you would like to discuss any aspect of this response please contact me or Andrew Sherry (0843 311 4328).

Yours sincerely

A handwritten signature in black ink that reads "Paul Auckland". The signature is written in a cursive style with a large initial 'P'.

**Paul Auckland**

**Head of Economic Regulation**

The following table contains our response to the consultation questions:

Section	Question	Comment
<b>2. The case for change and our aims</b>	<b>Do you agree with the principles we have set out to guide our reforms?</b>	<p>The principles provided are appropriate as the basis for the proposed reforms.</p> <p>We agree that applicants should demonstrate to Ofgem an understanding of the costs and risks involved as this is in essence 'due diligence'. An understanding of how the industry works is also useful, for example, ability to communicate by data-flow which could heavily impact any business taking more of a manual processing approach especially as it grows.</p>
<b>4. Entry criteria: policy options</b>	<b>Do you agree with our proposal to introduce new tougher entry requirements and increase scrutiny of supply licence applicants?</b>	<p>The case for change is evidenced by the fact that supply businesses are now failing causing disruption to both the industry and customers. Consequently, more thorough requirements must be introduced to reduce this trend ensuring from the outset that companies making applications are indeed viable concerns to protect consumers.</p>
	<b>Do you agree this can be achieved with increased information requirements and qualitative assessment criteria?</b>	<p>There doesn't appear to be an alternative to this approach if the overall objective is to be achieved. Ofgem should require ongoing reports from suppliers Directors and Auditors as to their financial and operational viability each year.</p>
<b>5. Entry criteria: initial proposals</b>	<b>Do you agree that our proposed assessment criteria for supply licences applications are appropriate?</b>	<p>The criteria seem reasonable and appropriate when taking into consideration companies will be custodians of an essential customer service.</p> <p>The appropriate resources should also include any necessary system requirements to operate in the market together with human resources.</p>
	<b>Do you agree that applicants should provide evidence of their ability to fund their activities for the first 12 months, and provide a declaration of adequacy?</b>	<p>In addition to evidencing funding for 12 months, new entrants should provide a three year business plan that shows adequate consideration of how the business and operating environment might change including how customer service will be delivered.</p>

		12 months is too short term in this industry. The three year plan will be a good platform for financial reporting on an ongoing basis, with detailed plans provided for the first year and potentially more high level for the following two years. We agree that a specific statement from any new entrant on how they will support vulnerable customers should be provided as part of their application process.
	<b>Do you agree with the specific information we would generally expect applicants to provide (in Appendix 1)? If not, why / what would you add or change?</b>	Given that this is to provide an essential service the information required does not appear to be too onerous and so should be readily available by a business seriously considering applying for a supply licence. The information provided needs to be sufficient to enable Ofgem to be confident that vulnerable customers needs will be met.
	<b>Do you agree that applicants should provide a narrative in respect of their key customer-related obligations under the licence?</b>	This would demonstrate that the applicant has a base level of understanding of what their objectives are, so is a useful addition to the process.
	<b>Do you agree with the areas we would generally expect applicants to cover (in Appendix 1)? If not, why / what would you add?</b>	These do seem the appropriate areas for applicants to focus on.
	<b>Do you agree that we should ask additional 'fit and proper' questions as part of the application process (as set out in Appendix 1)?</b>	These additional questions will enhance the overall process by providing useful information to aid the decision making process.
<b>6. Timing of licensing: initial proposals</b>	<b>Do you agree that Ofgem's licensing process should be undertaken closer to proposed market entry?</b>	Taken against the 'off the shelf' / 'supplier in a box' approach this is a reasonable step ensuring engagement is with the actual company that will operate the supply business.
	<b>Do you identify any barriers to this approach or any adverse impacts of this change?</b>	Not aware of anything that would prevent this approach being taken.

<b>7. Ongoing requirements</b>	<b>Do you consider that suppliers should report on their financial and operational resilience on an ongoing basis? If so, do you have any initial views on the content of these reports/statements?</b>	<p>Yes, suppliers should report at least annually on operational and financial resilience. Additional triggers based on customer numbers should be considered so as key thresholds for numbers of customers are approached the company reviews its preparedness formally and reports to Ofgem. Following the initial 12 months trading it would be useful to also include provision of a backward looking report against the original application criteria and evidence to give confidence to Ofgem on the suppliers' actual delivery against its ambitions.</p>
	<b>Do you have any initial views on the potential introduction of targeted or strategic monitoring/requirements on active suppliers?</b>	<p>We support targeted and strategic monitoring as this would clearly be useful and focus the businesses on continuing to provide an excellent service and alert Ofgem to any problems early so customers can be protected.</p>
	<b>Do you have any initial views on the potential introduction of prudential/financial requirements on active suppliers?</b>	<p>This would be useful as it should flag up at an early stage where a supply business may be starting to struggle. The earlier issues are identified the quicker any impact can be resolved to restore the service to 'business as usual'.</p>
	<b>Do you consider that Ofgem should introduce a new ongoing requirement on suppliers to be 'fit and proper' to hold a licence?</b>	<p>It would seem essential that this be introduced as it strengthens the process and should help focus suppliers to continue to take obligations seriously.</p>