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Jeremy Adams-Strump
Supplier Licensing Review
Ofgem
10 South Colonnade
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Dear Jeremy,

Thank you for providing the opportunity to comment on the consultation for the Supplier Licensing Review.

We welcome Ofgem's timely decision to review the Supplier Licensing arrangements against the backdrop of the wider Supplier Hub Review and the Government's review of Future Regulation and recent supplier failures. We support Ofgem's statement "That said, energy is an essential service; there are minimum standards that suppliers must meet and any company entering the market needs to be well-prepared." as a clear statement of intent. Since the Supplier Hub Review was announced we have frequently observed that the suggestion that the current regulatory landscape may be "a barrier to new market entrants and innovative business models" can be better characterised as proponents of new business models wishing to "supply energy customers without being encumbered by the consumer protections existing suppliers must provide".

We have consistently advocated for a "level playing field" for all suppliers and Ofgem's proposal to periodically review suppliers to ensure new entrants are fit to operate is long overdue. We note that existing new entrants to the market have presented business models that appear to contravene the existing licensing and legislative arrangements. For example, some suppliers do not operate call centres which would seem to not be consistent with [The Gas and Electricity \(Consumer Complaints Handling Standards\) Regulations 2008](#) in particular clause 3 requiring suppliers to allow complaints to be made orally; others only allow customers to pay by monthly direct debit rather than offer a variety of payment methods as set out in SLC27 of the licences of both Gas and Electricity; while others only permit customers to enter contract through prescribed methods or, for Gas, where they also switch their Electricity apparently contravening the Duty to Supply obligations established under SLC22. These consumer protections are long established and proposals to enable Ofgem to review if suppliers are fit to operate will help to address these apparent issues to ensure that a competitive market is maintained. We recommend Ofgem review that the Republic of Ireland's Commission for the Regulation of Utilities conducts an annual audit of suppliers to ensure adherence to the Supplier Handbook setting out minimum standards.

Chapter 2 Do you agree with the principles we have set out to guide our reforms?

We broadly agree with the principles Ofgem have set out to guide their reforms. We strongly support the principle for the licensing regime to be one that "facilitates effective competition and enables innovation". However, as we set out above, there are current examples of business models operating that do not appear to support the minimum standard of consumer protection required. We propose that this principle be enhanced to be a "licensing regime that facilitates effective competition and enables innovation, whilst maintaining minimum standards of consumer protection". We believe this better reflects Ofgem's statement of intent in the opening sections and supports the principle that suppliers should be aware of and fulfil their obligations from the outset.

Chapter 4 Do you agree with our proposal to introduce new tougher entry requirements and increase scrutiny of supply licence applicants?

We do agree with Ofgem's proposals to introduce increased scrutiny of supply licence applicants. We further propose that where Ofgem identifies that a new entrant's proposal may be to the benefit of consumers but may not meet current obligations on consumer protections, Ofgem should publicise how the proposed business model better meets consumer protections and how existing suppliers may offer an equivalent service without failing to meet existing obligations.

Chapter 4 Do you agree this can be achieved with increased information requirements and qualitative assessment criteria?

We do agree that increased information requirements and qualitative assessment criteria would meet Ofgem's objective of introducing tougher entry requirements and increased scrutiny.

Chapter 5 Do you agree that our proposed assessment criteria for supply licence applications are appropriate?

Yes, we agree the assessment criteria are appropriate. We are particularly supportive of the criteria to ensure applicants understand their regulatory obligations and have appropriate plans in place to meet these. This is essential to ensure consumer protections are maintained and that a level playing field is maintained for a fully functioning competitive market.

Chapter 5 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?

Yes, we agree that this is appropriate.

Chapter 5 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?

We do agree with the specific information you propose.

Chapter 5 Do you agree that applicants should provide a narrative in respect of their key customer-related obligations under the licence?

We do agree that applicants should provide a description of how they will meet their obligations under the licence. We think this should cover all obligations to ensure a "level playing field" is maintained to support a competitive market.

Chapter 5 Do you agree with the areas we would generally expect applicants to cover (in Appendix 1)? If not, why/what would you add?

We think that the areas should be expanded to cover all licence obligations including those confirmed by statutory consultation but not yet in force. As we have observed above, under these new proposals, some current market participants would have been required to demonstrate how they would meet obligations to provide an offer to supply; how they would meet key requirements of customer service and complaint handling to enable customers to make complaints verbally; how they will meet the principle to communicate in a Form that is sufficient to enable customers to understand, some suppliers refuse to provide paper versions of documents; and how they will support a variety of payment methods.

Chapter 5 Do you agree that we should ask additional 'fit and proper' questions as part of the application process (as set out in Appendix 1)?

Yes, we do agree Ofgem should ask additional "fit and proper" questions as part of the application. This should include an assessment of whether the applicant intends to operate the

supply business. Licences should not be granted to persons who do not intend to be the final operator of the New Entrant business.

Chapter 6 Do you agree that Ofgem's licensing process should be undertaken closer to proposed market entry?

Yes we do agree that Ofgem's licensing process should be undertaken closer to proposed market entry.

Chapter 6 Do you identify any barriers to this approach or any adverse impacts of this change?

Clause 4.1 of the Master Registration Agreement (MRA) requires a New Party applying for admission to the MRA to either have or be applying for an Electricity Supply Licence.

The Balancing & Settlement Code section B clause 1.3 states in subsection (f) that a Supplier (being a Party which holds a Supply Licence and is responsible for Exports and/or Imports in respect of which one or more SVA Metering Systems are required to be registered pursuant to Section K).

Therefore, while we agree with the aims of Ofgem's proposals to bring the point of application for the licence closer to the time of market entry; the BSC and MRA both require modification to permit this, the qualification steps cannot otherwise be undertaken. We also note that the exercise of qualification for the BSC and MRA would become a routine exercise for an "off-the-shelf" provider and therefore serve no significant value as a market assurance technique. It may be of value to require the operating solution used by the supplier to be certified rather than the supplier themselves for the BSC and MRA.

We also note that for new market entrants in the future, there will be a requirement at point of entry to be able to operate with the DCC as the roll-out of Smart metering progresses.

Chapter 7 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?

We support the proposal that suppliers should report on the financial and operational resilience to Ofgem on an ongoing basis. We do, however, note that these reports should be confidential and their findings not publishable as commercially sensitive. A consultation on the financial information that will be submitted is required for us to review and provide a considered response.

Chapter 7 Do you have any initial views on the potential introduction of targeted or strategic monitoring/requirements on active suppliers?

We believe that targeted monitoring based on customer number thresholds would be appropriate and also where significant changes to what was expected at entry or change of control occurs.

Chapter 7 Do you have any initial views on the potential introduction of prudential/financial requirements on active suppliers?

The initial proposals appear to place an excessive burden on Ofgem to administer monitoring of prudential/financial requirements. It is also unclear how Ofgem would impose sanctions on a supplier that did not meet arbitrary requirements, such sanctions may result in a viable supplier exiting the market as a result of sanctions imposed. We would need further detail to make an informed judgement.

Chapter 7 Do you consider that Ofgem should introduce a new ongoing requirement on suppliers to be 'fit and proper' to hold a licence?

We agree Ofgem should require suppliers to be "fit and proper" to hold a licence.

Chapter 8 Exit arrangements: managing supplier failure

We welcome Ofgem's further review of arrangements to manage supplier failure. We have previously provided responses to Ofgem's work on the Supplier of Last Resort arrangements that greater oversight of administrator actions is required.

Yours sincerely,

James Evans

Head of Regulation UK & RoI