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Dear Lesley Nugent,

Citizens Advice Response to Ofgem's Consultation on New Applications Regulations, Application Forms and Guidance Document

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.

Citizens Advice welcomes Ofgem's recently-published final proposals on new entry requirements. We were glad to see that many suggestions for protecting consumers have been taken on board, and look forward to the implementation of the new licensing process.

We agree with the proposed changes to ensure that applicants are appropriately resourced to enter the market, that they understand their regulatory obligations and plan to meet them, and that applicants are fit and proper to hold a license. We support Ofgem's revised applications regulations and application guidance document, with some comments for improvement.

Crucially, we think Ofgem should additionally:

- Outline criteria for assessing applicants under Tier 2 rather than Tier 1, with a consideration for regularly applying the Tier 2 criteria when relevant; and
- Require applicants to describe how they will manage unexpected customer types and how they plan to manage consumer debt.

We also note that unlicensed actors in the energy market will not be subject to similar controls. This issue should be considered as part of the joint Ofgem/BEIS retail market review.

In addition to the new licensing requirements, we think that Ofgem also needs to rapidly put forward a plan for monitoring and ongoing requirements. This should elaborate on how requirements like the fit and proper criteria will apply to already licensed suppliers. Ofgem should also urgently consider how it can more effectively manage supplier exit from the market, to reduce consumer detriment arising from these events and reduce the socialised costs.

Extending the enhanced 'fit and proper' assessment questions to all licence application types

Citizens Advice agree that the 'fit and proper' assessment questions should be extended to all licence application types. The assessment questions are reasonable and not too onerous for a candidate seeking to enter the energy market. Though suppliers have the most direct contact with consumers, and are often placed in the spotlight when things go wrong, other actors in the energy market also have significant roles and potential for causing consumer detriment.

In the next phase of the licensing review Ofgem should set out how it will manage situations where persons of significant influence in already licensed companies may fail the 'fit and proper' assessment.

Using the proposed questions in section 12 for applicants for a gas or electricity supply licence to demonstrate that they meet the new supply licence application criteria

Citizens Advice agree that the proposed questions in section 12, accompanied by the application guidance, should enable gas and electricity supply licence applicants to demonstrate that they meet the new supply licence criteria. We expect that section 12.5 in the electricity licence application, and section 12.8 in the gas licence application will enable suppliers to demonstrate how they will meet their obligations to consumers, including those with vulnerabilities. We are glad to see this protection extended to microbusiness suppliers by requiring these plans from non-domestic supply applicants where relevant.

As highlighted in our response to the licensing consultation review, companies that failed recently were more likely to do so in the second, rather than the first, year of operation. Citizens Advice are glad to see that section 12.4 in the electricity licence application, and section 12.7 in the gas licence application requires applicants to detail their proposed funding arrangements and risk management strategy for the first two years of operation.

Considerations for the proposed new regulations/application forms and updated tiered process

Regarding Ofgem's updated tier process, we agree that a tier which is unlikely to ever be used should be consolidated into Tier 2. However, we believe Ofgem should clearly describe the risk assessment criteria it will use to determine whether an application should be processed under Tier 1 or 2. In order to reduce the risk of consumer detriment that has occurred under the current system we think Ofgem should have a reasonable appetite for using the Tier 2 criteria depending on the merits of the case.

In our response to the licensing consultation review, we suggested that Ofgem should use interviews to get a direct view on an applicant's understanding of their customer service obligations. We would advise that the option of an interview process is extended beyond Tier 2 where appropriate. Applicants who are serious about entering this market should be available and prepared for an assessment interview with Ofgem.

'Suitability to hold a licence' (Chapter 3 of the draft guidance)

Citizens Advice agree with Ofgem's proposal to assess suitability to hold a licence for all directors, major shareholders, or persons in effective control. We believe this phrasing should also apply to section 3.21, which currently states that *directors'* records will be checked and if a relevant person was a *director* of an insolvent company, this will be considered. Citizens Advice believe that it should be expanded to indicate that if any *relevant person* working for an applicant held a *relevant position* in an insolvent company, this will be considered.

Chapter 4 of the draft licence application guidance, relating to the new criteria and process for supply licence applications

Citizens Advice broadly agree with the proposed guidance in chapter 4 relating to the new criteria and process for supply licence applications. We are particularly glad to see that the importance of energy as an essential service is highlighted, as is the need for suppliers to detail their targeted customer base and their needs (section 4.31). Citizens Advice would suggest that Ofgem requests that participants also outline a plan for how they will manage customers they acquire from outside of their target group, particularly those who don't make an active choice, for example through change of tenancy.

Regarding section 4.40, which highlights that applicants should “understand how collecting payments from customers in debt and/or experiencing payment difficulty might affect their costs”, Citizens Advice think that applicants should be required to go one step further and detail how they will manage consumer debt issues. We believe this is necessary in view of suppliers who currently aim to collect debt at far higher rates than customers can afford - particularly smaller suppliers¹. This is particularly concerning in light of evidence that individuals with vulnerabilities such as mental health issues often avoid dealing with challenging situations, and having a high debt repayment rate may put them at risk by discouraging them from negotiating a better rate with their supplier².

We would advise that Ofgem revises section 4.57 in alignment with the rest of the application documents, to indicate that domestic suppliers “and non-domestic suppliers with micro-business consumers” should work with Citizens Advice and others to signpost services to their customers.

We have no further comments on consultation question 6.

Yours sincerely,

Krista Kruja

Policy Researcher, Citizens Advice

¹ Ofgem. [Vulnerable consumers in the energy market](#). 2018

² Citizens Advice. [The Mental Health Premium](#). 2019