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3 December 2019

Dear Vlada and James,

Consultation on the Supplier Licensing Review: Ongoing requirements and exit arrangements

Thank you for the opportunity to comment on the further proposed reforms under this very important review.

We are supportive of the package of reforms to improve standards in respect of financial resilience and customer service. It is noted that some supply business will fail as part of a competitive market. The outcome of this review will improve the initial applications process, including awareness of what is expected from a new supply business together with appropriate additional obligations that apply as a supply business grows in scale and complexity. These reforms will improve consumers experience.

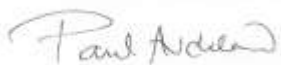
There is an over-arching objective to protect, particularly vulnerable customers, from the effects the failure of a supply business can have and ensuring viable, well run supply businesses is how that will be achieved.

In our response to the Supplier Licensing Review in January this year we highlighted that an area of concern was to protect customer's credit balances and suggested these monies could be treated more like ring-fenced funds and we are pleased to see that Ofgem has put forward proposals to start to address these concerns. Additionally, we suggested that triggers based on customer numbers should be considered as thresholds for a supply business to review its preparedness where similarly the proposals to introduce milestone assessments adopts this principle.

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 (Tel: 0843 311 4328).

Yours sincerely



Paul Auckland

Head of Economic Regulation

The following table contains our response to the consultation questions:

Question	Comment
<p>1. Do you think the proposed package of reforms will help to reduce the likelihood of disorderly market exits, and the disruption caused for consumers and the wider market when suppliers fail? Are there other actions you consider we should take to help achieve these aims?</p>	<p>The package of reforms will deliver improvements on the current situation. We may see an initial slowing down in the number of new parties entering the market as suppliers which will enable the new requirements and arrangements to bed in. Following this we believe new entrants will be more aware of what to expect and more importantly what milestones need to be achieved to continue as a viable, well run business and will thereby reduce the likelihood of supplier failures and the consequences this has for all customers including those in vulnerable situations. A reduction in disorderly market exits could also complement the faster switching SCR outcome by reducing a potential barrier due to fear of suppliers failing.</p>
<p>2. Do you agree with the outputs of our impact assessment?</p>	<p>The principle underpinning this review is to raise standards by monitoring (1) Risk management processes and business growth (2) Financial stability (3) the impacts of supply business failures (4) the relationship a supply business has with Ofgem and the outputs from the impact assessment target these areas and seem appropriate. Although Ofgem does note that some impacts were hard to monetise.</p>
<p>3. What further quantitative data can industry provide to inform the costs and benefits of the impact assessment, particularly for cost mutualisation protections?</p>	<p>We are unclear why only a proportion of credit balances will be protected, as monies could still be utilised by companies to stay afloat. It is apparent that the Renewable Obligations may cause a cost shock to a growing supply business, but with the measures being introduced we would expect businesses to be more aware of this type of obligation.</p>
<p>4. Do you agree with the assumptions used to calculate the costs and benefits in our impact assessment? If not, please provide evidence to support further refinement.</p>	<p>We note that the impact assessment has been carried out in accordance with Ofgem’s Impact Assessment Guidance and the HM Treasury Green book and have no specific comments on the assumptions used.</p>
<p>5. Do you agree with our proposed option to cost mutualisation protections? Are there other methods of implementing this proposed option? Please provide an explanation and, if possible any evidence, to support your position.</p>	<p>It will be worth some further detail being provided on why 50% of credit balances will be protected. We believe credit balances should be ring-fenced and held separately from the main supply business, so they are easily accessible where refunds are required. We recently saw that Ofgem wrote out to administrators of failed supply businesses which further highlights some issues that full protection might be needed (link below):</p> <p>Ofgem open letter to insolvency practitioners appointed to failed energy supply companies</p>

<p>6. Do you agree with our proposal to introduce new milestone assessments for suppliers? Do you think the milestones we have proposed and the factors we intend to assess are the right ones? Are there additional factors we should consider to help us to identify where suppliers' may be in financial difficulty?</p>	<p>We believe the introduction of milestone assessments for suppliers of domestic customers is a positive development. The milestones highlight to a supply business when new obligations shall apply providing early warning to enable a business to prepare in advance. We have raised a DCUSA Change Proposal (DCP) 349 'Effectiveness of the current provision of unsecured cover under Schedule 1' to increase protection of distribution consumers by strengthening the criteria around the provision of unsecured supplier credit cover so this will protect customers from increasing supplier failure costs that are shared by all distribution customers.</p>
<p>7. Do you agree with our proposal to introduce an ongoing fit and proper requirement? Are there additional factors, other than the ones we have outlined, that you believe suppliers should assess in conducting checks?</p>	<p>In view of the recent number of supply business failures this proposal is appropriate to ensure that fit and proper persons are running supply businesses. This will help focus senior management on responsibility and accountability for the business, its customers and its staff. As mentioned in the consultation senior management can change, so these need to be periodic assessments. It is inevitable in a commercial industry that some businesses will fail, but the review being undertaken, and the proposals put forward will help to mitigate the number of failures which has to be good for all customers and the service they receive.</p>
<p>8. Do you agree with our proposal to require suppliers to produce living wills? What do you think we should include as minimum criteria for living will content?</p>	<p>It does seem appropriate to have a 'plan' in place in case a business fails. As a distribution business regulated by Ofgem we are required to have an intervention plan, so we agree suppliers should have a similar obligation. It would be useful for a living will to contain contact details of the senior managers/legal representative together with contact details of who to contact at Ofgem if a supply business has financial concerns. There should also be details of the SoLR process.</p>
<p>9. Do you agree with our proposed scope for independent audits? Please provide rationale to support your view.</p>	<p>As this is about raising standards we believe it is appropriate for independent audits to be undertaken to help achieve this aim. We agree these audits could focus on financial and customer service processes as these have been highlighted as problem areas in previous supply business failures. The audit process itself should be proportionate to the specific risks of the company and successful audit outcomes should lead to a reduced auditing burden such as through lower frequency reviews or reduced scope reviews based on performance and other data.</p>
<p>10. Do you agree with the near terms steps we propose to take to improve consumers' experience of supplier failures? Are there other steps you think we should be taking?</p>	<p>The SoLR process is well established and it does seem logical that if Administrators can subsequently cause customer service problems in respect of how debt is collected that contract terms be updated so Administrators adhere to the same requirements as suppliers when it comes to debt recovery.</p>

<p>11. Do you think there is merit in taking forward further actions in relation to portfolio splitting or trade sales? What are your views of the benefits of these steps? Are there any potential difficulties you can foresee?</p>	<p>The concept of portfolio splitting seems reasonable on the surface but would duplicate processes (split at the very least between 2 SoLR's), which in turn adds complexity and opportunities for processes to break down. Could different suppliers offer different terms to different customer segments? This could be something to consider in the future, but it might be that more robust processes/systems would be needed to handle this.</p> <p>Similarly, the timing together with the reasons for trade sales are important, if it is because a business is close to failure then invoking the SoLR process could be a better outcome for customers.</p> <p>It may be worth exploring these solutions further, develop them more fully before deciding to take them forward.</p>
<p>12. Do you think our draft supply licence conditions reflect policy intent?</p>	<p>We have intentionally left this blank, as it will be more appropriate for supply businesses to comment.</p>