



Bulb's response to Supplier Licensing Review: ongoing requirements and exit arrangements

20 August 2020

Executive Summary

- We welcome those proposals from Ofgem which will allow us to work more closely together.
- We support principles-based regulation as it encourages innovation and allows suppliers to focus on delivering positive outcomes for customers and the market.
- Some of the licence conditions should be amended to ensure they deliver the policy outcomes that Ofgem has stated. We have provided alternative licence drafting at the end of this response.
- This response is not confidential and can be published on the Ofgem website.
- If you have any questions, please email policy@bulb.co.uk

Full response

Bulb accepts the package of measures proposed by Ofgem as part of the Supplier Licensing Review. Energy suppliers are essential service providers and should operate responsibly to protect their members and the wider industry.

We have continued to refine and enhance our approach to risk management as we have grown. We would welcome discussing with you our approach to risk management and oversight in the autumn. We have established an approach that allows us to detect and monitor risks, while also allowing us to move quickly to respond to those risks.

We support principles-based regulation. Introducing binding principles and high-quality monitoring is a proportionate response to the issue identified by Ofgem, encouraging suppliers to manage their finances and operations well while minimising the negative impact on competition.

Financial Responsibility principle

Bulb accepts the financial responsibility principle as a mechanism to ensure that suppliers manage their finances well and to lessen the mutualisation burden on responsible suppliers. We welcome the commitment to consult on any guidance, for instance if Ofgem decides to provide more clarity on what "adequate financial arrangement" means. We agree that it should be up to suppliers to determine this in the first instance.

We interpret financial responsibility to mean that the prices offered by suppliers are sustainable in the short and long term. For this reason, the principle should cover



suppliers who could create mutualised costs. For instance, this would include suppliers who are not yet paying costs associated with ECO, WHD or prepayment meters but may do so in the future. Ofgem should consider the financial responsibility principle as part of their milestone assessments.

Bulb is fully committed to meeting our obligations both to the Government and the environment through government schemes such as ROCs, ECO, and the WHD. As part of our mission to reduce carbon emissions, we continue to call for environmental policy costs to sit on the gas bill rather than the electricity bill. This would better reflect the true cost of energy and create the right incentives for decarbonisation of heating to meet the UK's net zero target.

As a company founded on finding technological solutions, we are always looking to improve our monitoring and controls around our finances. For example we have recently introduced new accounting and invoice management software and are also enhancing our contract management tools.

Operational Capability principle

Bulb accepts this principle. We are consistently seeking to enhance our existing processes and governance to keep us agile and responsive as we grow towards 2 million members.

Milestone Assessments and dynamic assessments

Bulb accepts these proposals. Any measures which seek to improve trust in the energy sector are welcomed. Too many people in the UK are still receiving poor service on the most expensive tariffs from the old large suppliers. For people to switch, they need confidence that the switching process is robust and reliable and that their new supplier will be able to deliver for them. The milestone assessments will help Ofgem to identify whether new small suppliers are growing responsibly, offering sustainable prices and can support their members.

Ongoing Fit and Proper requirement

We accept the introduction of a fit and proper requirement. We agree that the fit and proper requirement should only apply to the most senior positions. In Bulb's case, we would apply the requirement to our Senior Leadership Team (SLT), and the Board. For consistency, we will also apply the same requirements to our Country Managers in jurisdictions beyond Great Britain, though Ofgem should clarify that its proposals only apply to activities and jurisdictions set out in primary legislation.

We would welcome additional clarity from Ofgem about the legal and moral standing of demoting or firing somebody who has performed well at Bulb if additional checks carried out retrospectively show they previously worked for an energy supplier that has since exited the market.



We support Ofgem's approach to principles-based regulation. The proposed drafting of SLC 4C.3 is unnecessarily prescriptive. It should be up to suppliers to determine what "fit and proper" means, with reference to any guidance published by Ofgem. We recommend that Ofgem removes SLC 4C.3 and provides the additional detail as guidance. We propose other minor changes to the licence drafting in the appendix at the end of this response.

Pre-hiring, we support suppliers undertaking background checks for senior positions, as defined above. We would likely work with an external background check partner to undertake this work.

Bulb is proud to always hire the best talent across the company, from our apprentices to our senior leadership team. We are a Living Wage employer and are developing our technology-focused workforce as we improve the way the energy sector operates.

Open and Cooperative principle

While we accept the introduction of this principle, we would appreciate clarification from Ofgem on the thresholds to trigger proactive engagement with Ofgem. Bulb already aspires to work with Ofgem openly and cooperatively to improve policymaking and address issues to deliver the best interests of our members. In any organisation, mistakes will happen from time to time. We have established a culture that is open to mistakes and we are constantly seeking to improve our controls to allow us to identify issues promptly. We have self-identified and self-reported material issues to Ofgem and will continue to do so.

This principle should work both ways. Ofgem should be open and cooperative to answering questions posed by suppliers. For instance, suppliers may have questions about Ofgem's existing rules or the policy intent of consultations. Ofgem should answer these questions openly and cooperatively to ensure suppliers understand and comply with the regulatory framework. We have recently welcomed positive engagement with Ofgem on changes to the price cap methodology. All Ofgem teams should engage with suppliers in the same spirit.

We encourage Ofgem to increase the frequency of reporting from suppliers to allow the regulator to better understand the market and to respond promptly to address potential detriment to consumers. For instance, we support Ofgem's ongoing Covid-19 reporting until March 2021 on the financial health of suppliers and their debt management practices. We would welcome working with Ofgem to improve the flow of information between suppliers and the regulator, including the use of APIs for more operational data.

Independent audits

Working with Ofgem, we have conducted audits in key areas of our business, for instance for the Warm Home Discount and the Feed In Tariff annual audit. However, we do not support the introduction of independent dynamic audits. It is more difficult for new entrants and scale ups to find auditors, especially at short notice. Auditors are often



risk-averse and prefer to work with established corporates. This could mean that smaller, less established suppliers end up paying more for audits, a distortion of competition.

If Ofgem proceeds to introduce dynamic audits despite our concerns, Ofgem should provide suppliers with reasonable advance notice of the potential audit and the timeframes for any audit should be deliverable. The reason for the audit should be clearly communicated to the supplier and should be based on data. We would encourage Ofgem to update their Enforcement guidelines to reflect the availability of independent dynamic audits.

Monitoring and reporting requirements

Bulb accepts incorporating the 'Additional reporting requirement' into its internal frameworks. We propose a licence condition amendment in the appendix to ensure that energy suppliers tell Ofgem if they start selling as an Affiliate Licensee.

Customer Supply Continuity Plans

While Bulb initially supported the proposal for a living will, on reflection we do not think Ofgem should introduce Customer Supply Continuity Plans (CSCPs). Energy sector customers are already protected from market volatility through the SOLR process by ensuring that credit balances are honoured by an incoming supplier (or mutualised through the Last Resort Supply Payment process). We are concerned that well-run suppliers like Bulb will create and maintain CSCPs that are never needed, while poorly-run suppliers will not create CSCPs so there is no added value when they fail.

Following the failure of a bank, retail banking customers could apply for compensation through the Financial Services Compensation Scheme, which provided compensation, up to a limit. The sums of customer money involved are typically much smaller: banks have to deal with life savings whereas energy accounts typically contain smaller sums. Energy suppliers do not hold anywhere near the same customer credit balances as retail banks and so the value of CSCPs is much more limited.

Should Ofgem decide to implement the continuity plans, we would seek clarity on whether the regulator would request to view the plan or if it would only be requested in the event of the supplier struggling or failing.

Customer book sales

Bulb supports a rule requiring suppliers to inform Ofgem if they plan to undertake a book sale. At this point in our growth, we are looking to expand and grow, so our feedback on customer book sales is made with that context. We think it is important that Ofgem continues to allow partial book sales as this provides a more liquid market.

We would welcome Ofgem publishing explicit guidance on the treatment of customer debts in the SOLR process. Currently, the absence of specific guidance leads to



uncertainty and possibly a worse outcome for members. Setting out what should happen clearly - as exists for a customer accounts transfer - would help to avoid this.

Ofgem last updated its SOLR guidance in 2016 and there have been a number of SOLRs since then. We encourage Ofgem to update the SOLR guidance to reflect what Ofgem has learnt during recent SOLRs, to reflect changes proposed in this consultation and to incorporate recent open letters to administrators.

Customer interaction with administrators

We support the ambition to work with insolvency regulators to try to support customers in the event of a SOLR where administrators have been appointed. Debt collection should always be fair and we note Ofgem is introducing the ability to pay principles into licence in its separate consultation on self-disconnection.

However, we are unconvinced that Ofgem can achieve the outcomes of this principle without also regulating the administrators. We therefore ask that Ofgem publishes the legal advice received on this. Ofgem should not hold energy suppliers accountable for the actions of an administrator if the supplier has no ability to influence the administrator's behaviour.

Exit arrangements

We support the intervention to honour credit balances of customers on deemed contracts. Like many suppliers, Bulb's deemed contract for domestic members is incorporated into our VariFair tariff terms and conditions.

We ask Ofgem to clarify what taking "all reasonable steps" to honour the offer made during a SOLR means in the context of inaccurate data being provided to the Supplier of Last Resort. After we were appointed as the Gnergy SOLR in March 2020, we discovered an additional £75,000 of credit balances that we were not aware of when we were appointed SOLR. Suppliers should continue to have flexibility to make last resort payment claims for such additional and unexpected costs.



Appendix - drafting of licence conditions

Ofgem could improve the drafting of the licence conditions by making the following changes:

Licence condition	Current drafting	Amended drafting	Rationale
SLC 4C.4	The licensee must give particular regard to cases circumstances in which where the relevant person has a background in the energy sector in Great Britain and anythe previous actions of that individual person that resulted in or contributed towards significant consumer or market detriment	The licensee must give particular regard to circumstances in which the relevant person has a background in the energy sector in Great Britain and any previous actions of that person that resulted in or contributed towards significant consumer or market detriment	Energy suppliers should not appoint individuals to senior positions if they have caused significant consumer or market detriment in any energy sector, not just GB.
SLC 4C definition of "significant managerial responsibility or influence"	Where a person plays a role in (a) the making of decisions about how the whole or a substantial part of a licensee's activities are to be managed or organised, or (b) the actual managing or organising of the whole or a substantial part of those activities.	Where a person plays a role in (a) the making of decisions about how the whole or a substantial part of a licensee's activities are to be managed or organised, or (b) the actual managing or organising of the whole or a substantial part of those activities.	The purpose of this rule is to focus on individuals in senior positions of decision-making. To that end, Ofgem should remove clause (b).
SLC 8.3	In complying with the Last Resort Supply Direction, the licensee must take all reasonable steps to	In complying with the Last Resort Supply Direction, the licensee must take all reasonable steps to honour any	To reflect that suppliers should still have flexibility to pursue a Last Resort Payment for



	honour any commitment made to the Authority before the Authority gave it a Last Resort Supply Direction.	commitment made to the Authority before the Authority gave it a Last Resort Supply Direction, based on the information available at the time.	costs that were unexpected at the time of the SOLR.
SLC 19AA.2	19AA.2 The matters referred to in paragraph 19AA.2 are the following: ... h) whether the licensee supplies any Customers through a White Label Tariff;	19AA.2 The matters referred to in paragraph 19AA.2 are the following: ... h) whether the licensee supplies any Customers through a White Label Tariff or a separate brand as an Affiliate Licensee;	This licence condition should refer to affiliate licensees to capture all brands offered by a supplier. This ensures Ofgem has full and transparent information about brands being marketed to customers.