

To: All holders of an electricity supply licence who are relevant licence holders for the purpose of section 11A(10) of the Electricity Act 1989

NOTICE OF STATUTORY CONSULTATION ON A PROPOSED MODIFICATION PURSUANT TO SECTION 11A OF THE ELECTRICITY ACT 1989 OF THE STANDARD CONDITIONS OF THE ELECTRICITY SUPPLY LICENCES GRANTED OR TREATED AS GRANTED UNDER SECTION 6(1)(d) OF THE ELECTRICITY ACT 1989

WHEREAS:

1. Each of the companies to whom this notice is addressed holds an electricity supply licence granted, or treated as granted, pursuant to section 6(1)(d) of the Electricity Act 1989 (the "Act").
2. In accordance with section 11A (2), (3) and (4) of the Act, the Gas and Electricity Markets Authority (the "Authority")¹ gives notice ("Notice") that it proposes to modify the standard conditions of the electricity supply licence by inserting new Standard Licence Condition 32A (Power to direct suppliers to test consumer engagement measures).
3. The reasons why the Authority proposes to make this licence modification have been published by the Authority in the accompanying cover letter dated 19 October 2016. In summary, the Authority agrees with the Competition and Markets Authority's recommendation on establishing an ongoing programme to test consumer engagement measures (including via randomised controlled trials (RCTs), where appropriate)² and is therefore proposing to introduce Standard Licence Condition 32A for this purpose.
4. The effects of this proposed modification are described in the accompanying cover letter published on 19 October 2016. In summary, the main effect of this proposed modification is to enable robust testing of measures to promote consumer engagement on a mandatory basis by suppliers.
5. The envisaged text for the proposed modification is set out in annex 1 to this Notice.
6. A copy of the proposed modification and other documents referred to in this Notice have been published on our website (www.ofgem.gov.uk). Alternatively they are available from our Research and Information Centre, 9 Millbank, London, SW1P 3GE (020 7901 7003).
7. Any representations with respect to the proposed licence modification must be made on or before 18 November 2016 to: Fiona Cochrane-Williams, Consumers & Competition, Ofgem, 9 Millbank, London, SW1P 3GE or by email to DomesticRetailPolicy@ofgem.gov.uk.
8. We normally publish all responses on our website. However, if you do not wish your response to be made public then please clearly mark it as not for publication. We prefer to receive responses in an electronic form so they can be placed easily on our website.
9. Subject to responses to the statutory consultation, in the event that the Authority decides to proceed with the proposed modification, it is intended that the modification will take effect on a date which is at least 56 days after the date on which the Authority's decision is published.

¹ The terms "the Authority", "we" and "us" are used interchangeably in this document.

² Or with quasi-experimental or other research methods, where not.

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

Neil Barnes
Associate Partner, Consumers and Competition
Duly authorised on behalf of the
Gas and Electricity Markets Authority

19 October 2016

Annex 1: Proposed changes to the electricity supply licence

The text set out below constitutes the envisaged drafting in respect of the proposed insertion of new standard condition 32A:

Condition 32A. Power to direct suppliers to test consumer engagement measures

Power of direction

- 32A.1 For any purposes connected with the Authority's consideration of measures or behaviours which may impact on consumer engagement ('consumer engagement measures'), the licensee must comply with a direction issued by the Authority in respect of Relevant Matters for Standard Condition 32A.
- 32A.2 The licensee is not required to comply with a direction issued pursuant to 32A.1 unless the Authority has given the licensee at least 1 month's prior Notice.
- 32A.3 A direction issued under paragraph 32A.1 may include a requirement to comply with any instructions from the Authority or a third party agent appointed by the Authority for the purposes of conducting any test of consumer engagement measures.

Provision of information

- 32A.4 The licensee must provide the Authority (or such other person as specified by the Authority) with information specified by the Authority in relation to matters that it reasonably considers are relevant to:
- (a) the Authority's consideration of whether to issue a direction pursuant to paragraph 32A.1; and/or
 - (b) the licensee's compliance with any direction issued pursuant to paragraph 32A.1.
- 32A.5 The Authority may direct the licensee to comply with paragraph 32A.4 by providing to the Authority (or such other person as specified by the Authority) information:
- (a) in a particular form or medium by a particular date;
 - (b) in a particular form or medium at such reoccurring intervals of time as the Authority considers appropriate; and
 - (c) of any description specified by the Authority, including any documents, accounts, estimates, returns, records or reports and data of any kind, whether or not prepared specifically at the request of the Authority.
- 32A.6 The licensee is not required to comply with paragraph 32A.4 if it could not be compelled to produce or give the information in evidence in civil proceedings before a court.

Compliance with this condition

32A.7 The licensee is not required to comply with paragraph 32A.1 until the Authority has published criteria for the selection of one or more licensees to conduct testing (including through Randomised Controlled Trials) of any consumer engagement measures.

Definitions for condition

32A.8 For the purposes of this condition:

'Relevant Matters for Standard Condition 32A' means any or all of the following:

(a) a requirement to test or evaluate (including through a Randomised Controlled Trial, where the Authority considers it appropriate) any consumer engagement measures in a manner and time frame prescribed by the Authority (including on the basis of the Authority's Specification for Testing), and to provide information to Domestic Customers in a manner and time frame specified by the Authority;

(b) where appropriate, a requirement to submit an implementation plan to the Authority for approval;

(c) a requirement not to comply with any licence conditions which are relevant to the subject matter of this condition to such extent and subject to such conditions as the Authority may direct; and

(d) a requirement to provide the Authority (or such other person as specified by the Authority) with information relating to the results (and the underlying data) of the testing of any consumer engagement measures in the manner and time frame specified by the Authority.

'Randomised Controlled Trial' means a form of consumer research (which is statistically robust for measuring behavioural impact) for Domestic Customers which is for the purposes of testing one or more consumer engagement measures relevant to the subject matter of this licence condition and includes two or more randomly assigned customer groups from the pool of eligible participants (which may be determined and specified by the Authority) in circumstances where:

(a) at least one of those groups are not subject to the consumer engagement measure; and

(b) all of the customer groups are comparable (including on the basis of the randomised selection) but for the consumer engagement measure(s).

'Authority's Specification for Testing' includes detail on some or all of the following:

Design

- the objective(s) of the testing;

- the details of the consumer engagement measure(s) (and any variants) to be tested;
- the testing methodology (including, but not limited to, the approach to randomisation and maximising the equivalence of groups and the proposed sample size);
- the testing of outcomes and how they will be measured;
- the proposed timetable;
- any planned piloting activity; and/or
- any supplementary research or follow up analysis to gain a better understanding of the behavioural impact.

Implementation

- the identification of third parties who will be involved in delivering the proposed specification for testing and clarity around roles and responsibilities;
- the details of any proposed supplier-initiated activity that might have an impact on the testing;
- proposed approach for monitoring (including possible arrangements for independent moderation) and quality assurance; and/or
- the approach to dealing with ethics and consumer protection issues, including how any possible consumer detriment will be identified, monitored and addressed should any issue be identified.

Analysis and evaluation of the results

- criteria and approach to evaluate and analyse the results of the testing; and/or
- data to be shared, consideration of format, precise content, file types and data security.