

Neil Barnes  
Consumers and Competition  
Ofgem  
9 Millbank  
London  
SW1P 3GE

18 November 2016

Dear Neil,

**STATUTORY CONSULTATIONS ON THE INTRODUCTION OF SLC 32A: POWER TO DIRECT SUPPLIERS TO TEST CONSUMER ENGAGEMENT MEASURES**

Thank you for the opportunity to comment on the proposed modification to the standard conditions of the electricity and gas licence conditions to introduce the new standard conditions 32A to allow Ofgem to issue directions to suppliers to undertake trialling of consumer engagement measures.

We believe that any changes to supplier obligations around customer communications should be informed by rigorous consumer research and trialling and are supportive of this remedy recommended by the CMA as part of its overall programme of remedies for addressing adverse effects on competition in the GB energy market. We agree with Ofgem's observation that trialling should include other forms of research in addition to randomised control trialling. We also recognise the merits of an Ofgem led programme of trialling in addition to supplier led trials such as those currently being undertaken by ScottishPower, and therefore are broadly supportive of Ofgem's proposals to implement SLC 32A to require suppliers to participate in trials.

We note that the proposed SLC 32A allows Ofgem to direct suppliers to participate in trials only after it has published the criteria under which suppliers would be selected, and we are responding separately to Ofgem's open letter on its proposed selection criteria. We set out below some comments on the proposed SLC 32A and set out in Annex 1 related amendments to the licence drafting.

Ofgem has indicated that it intends engaging with suppliers prior to a direction being issued and throughout the process of supplier selection, and we believe this is essential to ensure that a direction issued under SLC 32A is proportionate and does not place undue burden on suppliers either in relation to the notice period set out to prepare for such trialling or in undertaking the trialling itself. There is no such provision in the current drafting of SLC 32A and we are therefore proposing amendments to SLC 32A.2 to ensure there is an obligation on Ofgem to consult with licensees prior to issuing a direction. This would also give suppliers the opportunity to make representations if they have concerns about the potential impact on them of the trialling.

We are also proposing an amendment to SLC 32A.2 to clarify the definition of the Notice that would be given to suppliers. The current draft says that “suppliers are not required to comply with a direction issued unless Ofgem has given at least one month’s prior Notice”. We believe it is Ofgem’s intention that this notice relates to the time period between the direction being issued and suppliers starting to undertake the specified trialling. We have proposed an amendment to make it clear that the Notice refers to this period rather than to a notice period prior to the direction being issued.

We agree with Ofgem’s recognition in the consultation document that a reasonable notice period will depend on the type of trial required to be undertaken, and that in a number of cases a notice period of longer than one month would be required. We set out in Annex 2 some examples of trial types, and the notice period we believe we would require to adequately prepare to support such trialling.

We would also highlight that in assessing a reasonable notice period for a trial, Ofgem should have regard to other activities that suppliers may be engaged in at the time. For example, to ensure any negative impact on customer experience is minimised, we may require longer notice periods where we are undertaking significant work and/or implementing significant changes to meet other regulatory obligations (eg implementing a new billing system to improve customer experience, or making system changes in response to new supply licence requirements).

The open letter published alongside this consultation states that in some cases Ofgem may require suppliers to buy in external resource or make system changes to undertake specific trials. In such circumstances, additional preparation time is likely to be required for suppliers to undertake trials and consultation will be doubly important so that Ofgem can be satisfied that the proposed direction is proportionate.

Finally, we would note that there may be cases where, due to unforeseen circumstances, it may be inappropriate for a trial to continue for the full time period originally planned, eg where there is evidence that a consumer engagement measure is having a detrimental impact on customers. We believe that directions issued under SLC 32A should include provision for the trialling to cease in such circumstances and suggest that this could be one of the instructions referred to in SLC 32A.3.

Should you wish to discuss any of the above points, please contact me via the details provided or contact Rhona Peat ([rhona.peat@scottishpower.com](mailto:rhona.peat@scottishpower.com)) on 0141 568 3231.

Yours sincerely,



**Rupert Steele**  
Director of Regulation

**STATUTORY CONSULTATIONS ON THE INTRODUCTION OF SLC 32A: POWER TO DIRECT SUPPLIERS TO TEST CONSUMER ENGAGEMENT MEASURES – SCOTTISHPOWER PROPOSED AMENDMENTS TO THE LICENCE CONDITION DRAFTING OF SLC 32A**

Ref:	Comment and/or Suggested Amendment	Rationale
32A.2	<p>Amend as follows:</p> <p>The licensee is not required to comply with a direction issued pursuant to 32A.1 unless the Authority has:</p> <ul style="list-style-type: none"> <li>(a) consulted the licensee on the proposed content of the direction prior to issuing it; and</li> <li>(b) given the licensee an adequate preparation period, which shall not be less than <del>at least</del> 1 month, <del>'s prior Notice</del> from the date of the direction to the date by which the licensee is required to comply with any Relevant Matters for Standard Condition 32A.</li> </ul>	<p>Amended to ensure that Ofgem must consult with suppliers prior to the issuing of a direction including to understand a reasonable notice period to undertake the required trialling activity from the point the direction is issued. This will also ensure that suppliers can make representations to Ofgem with regard a direction which must be considered prior to any trialling being required to commence.</p>

Annex 2

**STATUTORY CONSULTATIONS ON THE INTRODUCTION OF SLC 32A: POWER TO DIRECT SUPPLIERS TO TEST CONSUMER ENGAGEMENT MEASURES – INDICATIVE NOTICE PERIOD FOR SPECIFIC TRIAL TYPES**

<b>Trial Type</b>	<b>Typical Notice Period</b>
Quick qualitative research via ScottishPower's Your Energy People panel (for example closed poll or survey)	1 month
In depth qualitative research via ScottishPower's Your Energy People panel (for example online focus groups or project)	1-2 months
In depth qualitative research via unstructured or semi-structured techniques (for example telephone or face to face interviews)	2-3 months
In depth quantitative research (for example using randomised control trials)	2-3 months