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By email only: DomesticRetailPolicy@ofgem.gov.uk

Friday 18 November 2016

Dear Neil

Statutory Consultations on the introduction of SLC 32A – E.ON response

Ofgem open letter on proposed selection criteria for mandatory supplier testing of consumer engagement measures – E.ON response

Please find attached E.ON's response to both the Statutory Consultation on SLC32A and on the open letter of 19 October. We have combined our responses into a single letter as the two subjects are linked.

E.ON supported the CMA's proposed remedy regarding the introduction of an Ofgem-led programme to identify, test and implement measures to provide domestic customers with different or additional information to prompt them to engage in the retail energy markets. We believe that well thought through and carefully developed trials can deliver benefits to customers in terms of improved messaging and clearer presentation of information.

However, we are concerned that Ofgem's proposed approach is broader in scope than that envisaged by the CMA. In addition, SLC 32A as currently drafted and Ofgem's proposed criteria for selecting suppliers to take part in trials could have an unequal impact on different suppliers and their customers, and could as a consequence affect a supplier's competitive position by placing a greater financial or operational burden on it, or by causing its customers to take particular actions where customers of other suppliers have not been so encouraged. Our preference would be for Ofgem to adopt a voluntary approach to trials, allowing suppliers the opportunity to comment and aid in their design, and publishing a schedule well in advance, perhaps in the form of an annual plan, to allow suppliers to prepare. We understand that Ofgem may need powers to compel suppliers to take part, but hope that they could be used as a backstop only, should Ofgem fail to get the engagement it needs through dialogue and engagement with suppliers. In any event,

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there are a number of issues regarding trials that we believe Ofgem will need to consider when developing them.

Firstly, Ofgem will need to consider the ability of particular suppliers to carry out trials, and recognise that this ability will vary depending on the supplier's own activities at the time – length of time in the market and number of employees are unlikely to be useful criteria. A supplier about to implement a significant system change, launch a new product range, or change its prices may be unable to take part in a trial at the same time without prejudicing its ability to meet its other licence obligations and properly service its customers. In addition, whilst Ofgem suggests that it 'may expect a supplier to build, develop or buy-in particular skills or capabilities to meet the requirements of a trial', there may be circumstances where a supplier is simply not able to make the necessary changes, or is not able to meet the financial challenges of a significant trial. For example, smaller suppliers often use 'off the peg' software which they cannot change, and larger suppliers may have very complex legacy systems for which change is not possible without significant risk to other activities.

Suppliers will need reasonable notice to carry out a trial, and the minimum period of a month proposed in the current drafting will not normally be sufficient for the RCTs proposed. It may be possible for very simple trials, such as adding a question to an existing customer panel, to be done within a month, but the type of trials proposed will inevitably have longer lead times if they are to be done well, and without putting customer service at risk. Changes to customer fulfilment, particularly bills, is likely to mean system change and rigorous testing, and will take longer.

Ofgem will also need to consider fair distribution of trials across all suppliers in the market to avoid placing an undue and distorting burden on some players. It will need to consider the duration of the proposed trial, the expected cost to the selected supplier and whether that supplier has recently been chosen for other trials too. It could be worth placing a limit on the number of trials a supplier is expected to participate in each year.


There are likely to be data protection considerations in terms of the data that suppliers are providing to customers. Any trial will need to be set up so as not to put a supplier in breach of its obligations in this area, and the information provided to customers must be clear and accurate in terms of how their data will be processed, who by and how it will be stored. Similarly, Ofgem will need to ensure that data is not disclosed that could damage a supplier's commercial interests.

Most suppliers have worked hard on their customer communications, and have a particular 'tone of voice' that they use. Ofgem may need to consider how a particular trial message fits in with the rest of a supplier's document, and regard should also be given to excluding from reporting any complaints generated by a message that customers do not like.

We would like to see clear definition of KPIs and success criteria set out in advance for every trial, including the anticipated costs and benefits, with clear and transparent reporting on its effectiveness after the event. This is particularly important where a trial is likely to require significant effort and system change; the effectiveness of a measure should be assessed openly against the cost of achieving it. In the same vein, Ofgem will need to consider the use of control groups, and the effect on customers of other, unrelated industry change which may cause a change in behaviour that should not be attributed to the trial. It may also be that the trial is effective for customers of a particular supplier, but may not work for others, and it will be important to ensure that results are robust before any implementation.

I hope that the information in this letter is helpful, but if you have any questions or require any further information, please do not hesitate to contact me, copying in our mailbox regcomms-external@eon-energy.com, which is regularly monitored.

Yours sincerely

A handwritten signature in black ink that reads 'Tracey Wilmot'.

Tracey Wilmot
Head of Regulation