03 November 2017

Rachel Clark
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Ofgem
9 Millbank
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Email: alisonrussell@utilita.co.uk

By email only

Dear Rachel,

Re: Delivering Faster and More Reliable Switching: proposed new switching arrangements

Thank you for the opportunity to provide our comments on the most recent developments of the programme. Utilita is a smart prepayment supplier, specialising in providing a high-quality prepayment experience for a sector of customers who are traditionally poorly served. We believe strongly that the major benefits from the switching programme for our customers will be through introducing more reliable switching arrangements and harmonising gas and electricity processes.

Throughout our response, we express to Ofgem the importance of ensuring that any decisions provide value for money and are fully cost justified. With this in mind, we are firmly of the view that existing industry assets should be given full and due consideration before commencing with any new services. For the avoidance of doubt, we are fully supportive of competitive procurement processes however we believe that such exercises should be designed to allow for early termination of the procurement process where a party clearly meets a set of criteria, after a set interval, to save industry funds and resource.

We also outline our concerns with proposals for switching speeds of less than 5 Working Days (WDs) and proposals for a three-month transition window during which time suppliers have to meet additional requirements if they wish to switch a customer in less than 5 WDS. We strongly support customer choice in deciding when a supply is to be taken and therefore do not believe switching speeds of 5 WDs or less should be mandated. Further still, we do not consider it worth risking customer perception and experiences of new switching arrangements by allowing suppliers to rush ahead to gain a competitive edge. Instead, the transition period should be used by Ofgem to reassess the business case, costs benefit analysis and customer appetite for further reductions in switching speeds before a decision is made and whether regulatory intervention is at all required.

We have also provided Ofgem with our thoughts on the proposed governance arrangements of the future dual fuel switching arrangements. We support the introduction of the Retail Energy Code (REC) albeit with significant reservations. We believe careful design consideration is imperative from the outset, in order to ensure that current codes, which are well understood and function adequately, are not replaced by a code which is overly complex and cumbersome. We would be very concerned if the new REC were to replicate the approach in the Smart Energy Code (SEC), where modification processes are very difficult to manage, and implementation periods and costs of change are excessive. We have provided our thoughts into how Ofgem may approach the REC development within our response.

Lastly, although we recognise the level of work undertaken by Ofgem in impact assessing the range of reform options, we believe Ofgem’s assessments must be revaluated in light of recent industry developments. The recent announcements in respect of the proposed price caps can be expected to alter the cost benefit analysis, due to the likely effect on switching and available savings.

In view of the above, we cannot at this stage confirm our position on the best value reform option for consumers. We urge Ofgem to reconsider whether direct consumer benefits, derived through bill savings alongside assumed switching rates and customer switching behaviours (i.e. switching to avoid being caught by a Standard Variable Tariff), can still be justified at the levels assumed in the cost benefit analysis.

We believe it may be essential for Ofgem to do a full update on the benefits case in the light of these proposals, including a scenario of significantly reducing switching levels and savings available.

We hope these comments have been helpful, and would be happy to discuss any points in more detail.

Yours sincerely,

By email
Alison Russell
Director of Policy and Regulatory Affairs

Appendix A – Utilita consultation response

1: Do you agree with our assessment that RP2a provides the best value option to reform the switching arrangements for consumers and with the supporting analysis presented in this consultation and the accompanying IA?

Utilita is wholly supportive of efforts to improve reliable switching for consumers, where costs are fully justified. Although we recognise the level of work undertaken by Ofgem to date in impact assessing the range of reform options, we believe Ofgem's assessments must be revaluated in light of the recent announcements of the two proposed price caps[1]. We have particular concerns with the direct consumer benefits stated by Ofgem which have been monetised using the example of highly engaged domestic consumers and their potential bill savings with switching from Standard Variable Tariffs (SVTs) to Fixed rate tariffs, under the new switching arrangements. Similarly, we also believe the counterfactual of 'do nothing' in which the reform options have been compared against must also be reconsidered to determine if expected switching rates and perceived consumer behaviours around switching (i.e. switching to avoid being caught by a SVT) can still be fully justified if the price caps are implemented. Only once this exercise has been completed will we be able to make an informed decision of the most cost-effective solution for consumers.

Whilst we are unable yet confirm our position on the best value reform option, we believe that the majority of the programme's objectives are still attainable, with modest changes to existing systems, and through harmonising gas and electricity processes. We also strongly believe that consumer choice is paramount and do not agree a shortened period of switching of 5 Working Days (WDs) or less should be mandated across suppliers, even if a transitional period is adopted. Through mandating a maximum switching speeds of 5WDs, existing central systems could be retained leading to significant cost savings to consumers and industry. Additionally, through avoiding a costly procurement exercise for a new Centralised Switching Service (CSS), the benefits of the switching programme can be delivered sooner, with industry's resources focusing primarily on the harmonising of gas and electricity processes and improved data quality practices. We encourage Ofgem's full consideration of industry's existing assets before a decision is made to procure a new central system.

Finally, in Ofgem's preferred reform option (RP2a) we observe a welcomed move away from instant messaging and calendar day operation for 'same day switching' (as presented in RP2/3). As our previous Request for Information (RFI) submission to Ofgem highlighted, the costs for introducing near real time processing would be extremely high and challenging for our organisation to implement and we believe a barrier to entry for future market participants. Additionally, we are also supportive of the proposed retention of an objection window for a minimum of 1WD for domestic customers and 2WDs for non-domestic customers. Alongside reducing costs for industry, this will help the prevention of erroneous transfers which can detrimentally impact consumer experiences of switching, reducing engagement. We would however like to highlight that even with the existence of a 1WD objection window for domestic customers, much of the process will have to be automated which introduces a risk that supplier decisions in this short period could detriment a customer.

[1] https://www.gov.uk/government/publications/draft-domestic-gas-and-electricity-tariff-cap-bill?document, https://www.ofgem.gov.uk/publications-and-updates/ofgem-extends-price-protection-1-million-more-vulnerable-households-winter

2: Do you agree that CSS should include an annulment feature which losing suppliers can use to prevent erroneous switches? Please provide evidence alongside your response. If you are a supplier, please support your answer with an estimate of the number of occasions over the past 12 months when you might have used such a feature had it been available.

Overall, if a feature can prevent erroneous switches and associated negative experiences for consumers, we believe it is, in principle, a good thing as long as it is carefully designed and actively monitored for misuse. We do however believe that the feature will only provide consumer benefits for switching speeds of 5WDs and over. In our experience, the majority of our customers contact us in response to a 'sorry you are leaving us' letter. If switching speeds are mandated below 5WDs, we do not see how the feature could be used as customers will be calling in post supply start date, and the registration would have to be dealt as an erroneous transfer.

Should RP2a be progressed, we strongly encourage Ofgem to work with industry to agree whether the annulment feature should be included and, if so, how it is delivered in practice. For example, upon notification from the CSS that a registration has been cancelled, depending on when the annulment was made by the old supplier, the gaining supplier may have to 'undo' various switching related processes such as agent appointment/de-appointments and automated customer communications including booking of smart meter installs close to a registration start date.

3: Do you agree that CSS should always invite the losing supplier to raise an objection, even where the Change of Occupancy (CoO) indicator had been set by the gaining supplier? If you are a supplier, please support your answer with evidence of the number of times in the past 12 months that you have raised an objection where the Change of Tenancy (CoT) flag had been set.

Yes. Utilita agrees that the CSS (or an equivalent switching service) should permit the losing supplier to raise an objection, including where the Change of Occupancy CoO indicator has been set by the gaining supplier. Where the old supplier has reasonable doubts (which should be evidenced) that the indicator has been set inaccurately, we believe the ability to object should remain in place. Furthermore, we cannot identify any reason why this functionality should not be retained as we do not believe that removing an old supplier's ability to object has any positive impact on the reliability or speed of a switch.

In order for the provision to operate as intended, we strongly encourage centralised monitoring. This should be on the population of the CoO indicator, and objections where the CoO indicator is populated, with any evidence the flag has been inaccurately applied being reported transparently.

4: Do you agree that use of the annulment and CoO features should be backed by a strong performance assurance regime? Please comment on ways in which such a regime could be made most effective, and back up your response with evidence.

Due to the potential misuse of both features, we strongly support the introduction of a performance assurance regime alongside the go-live of the CSS. We recommend an approach taken similar to the arrangements of the Performance Assurance Board (PAB) under the Balance and Settlement Code (BSC), with the necessary governance arrangements documented under the new Retail Energy Code (REC). Code Panels already have the necessary powers to investigate suspected misuse and can prevent cases of abuse from continuing such as requesting remedial plans, providing transparency of breaches to industry parties and even restricting registration activity.

5: Do you agree with our proposal to require DCC to competitively procure the communications network capability required to deliver the new switching arrangements?

Similarly to the proposed procurement of the CSS service provider, we believe it is vital that Ofgem ensure value for money and full cost justification before making a decision into conducting a procurement exercise run by the DCC. As our response to Ofgem's recent consultation on 'UK Link and the proposed Central Switching Service' stated, we remain concerned with the high costs associated with DCC processes and therefore maintain that any procurement process should be designed with ensuring cost efficiency in mind, to minimise costs to consumers.

We strongly encourage Ofgem to consider the existing options within the market before commissioning new services. We understand that the Data Transfer Network (DTN) already has capability to deliver the CSS communication network requirements, with relatively modest investment. For this reason, we believe a gated procurement exercise should be conducted. A collaborative panel involving industry and Ofgem can establish set service criteria across intervals. Once the procurement process has started, if there is a clear lead option, it should be possible to shortcut the rest of the procurement process. Where one party (which may or may not by the DTN service provider) fully meets set criteria during an interval, the process should be terminated with the appointment of that party. This will reduce significant industry investment whilst allowing competitive pressures to minimise costs of new services. For the avoidance of doubt, Utilita do not have a view on any successful bidder for any part of the CSS at this stage.

6: Do you agree with our proposal to have a three-month transition window (aiming to protect reliability) during which time suppliers have to meet additional requirements if switching in less than five working days? Please support your answer with evidence.

Overall, we do not agree regulatory intervention is required to mandate suppliers to switch customers for periods of less than 5WDs. We believe this should be consumer driven and drivers of competition will push suppliers to offer shorter switching periods if there is demand from consumers to do so.

Where a transitional period is to be adopted, we strongly discourage enabling any supplier to switch during this period in speeds of less than 5WDs. We do not believe it is worth risking the success of the programme by introducing poor customer perception and experiences of new switching arrangements by allowing suppliers to rush ahead to gain a competitive edge. All suppliers should have complete confidence with new switching arrangements before considering reducing switching speeds further from 5WDs which we do not believe is achievable in such a short period of time as the 3-month transition period proposes. We also believe that at a minimum, the transition period should be used by Ofgem to reassess the business case, costs benefit analysis and customer appetite for further reductions in switching speeds before a decision is made to enable further reductions and whether regulatory intervention is at all required.

As further evidence to the view held above, the DCC service has been live since November 2016 with Release 1.3 going live in July 2017. Fundamental issues continue to be identified with the live operations resulting in significant system down time and impact on suppliers and customers alike.

7: Do you agree with our proposal to change the requirement on speed of switching to require switches to be completed within five working days of the contract being entered into (subject to appropriate exceptions)? Please support your answer with evidence.

In our experience, customers feel comfort with being able to utilise the cooling off period to fully consider the terms of their new contract before allowing changes to take effect. We are therefore of the firm view that whether a registration timeframe begins at the contract being entered into or at the end of the cooling off period should be subject to customer choice. As a supplier, we would look to begin registering customers sooner and believe consumers may even choose suppliers who offer quicker switches. If this is the case, this will drive industry in that direction without the need for regulatory intervention.

8: Do you agree with our proposal to create a dual fuel REC to govern the new switching processes and related energy retail arrangements?

Given the major and fundamental issues with the Smart Energy Code (SEC) we have real concerns with the introduction of a new code into governance arrangements, however considering all available options, including changes to existing industry codes, we do support the creation of a new dual fuel Retail Energy Code as the cleanest route for housing switching service arrangements and harmonised electricity and gas switching processes. This in turn will lead to the consolidation of existing industry codes within the market, bringing potential cost savings for industry parties and possible time efficiencies in delivering change i.e. with having one change process for enacting changes to dual fuel retail processes.

We encourage Ofgem's careful consideration into the design of the REC to prevent it from evolving into an extremely complex and cumbersome code such as the SEC. We have given some thought into how the REC may be developed based on our learnings from the SEC under question 9.

9: Do you agree with the proposed initial scope and ownership of the REC to be developed as part of the Switching Programme?

As our response to question 8 highlighted, we are concerned that introducing a new code such as the REC could lead to another SEC type code within industry governance arrangements, and that this could act as a barrier to entry and increase the administrative burden on suppliers. As the REC will ultimately replace the Master Registration Agreement (MRA) and Supply Point Administration Agreement (SPAA) which we believe are similar in framework and are both well-functioning codes with tried and tested processes, we propose a 3-phased approach for developing the REC:

- Initial Phase – 'Lift and shift' of MRA and SPAA arrangements and introduction of central switching system governance, including:
    - Switching service governance;
    - Code change process (based on existing SPAA/MRA process which have been subject to review over recent years);
    - Panel and sub-committee governance arrangements;
    - Breach and disputes processes;
    - Already synchronised operational processes such as Erroneous Transfers (ETs) and the Debt Assignment Protocol (DAP); and
    - Any transitional arrangements for go-live.

- Second Phase - Harmonise remaining SPAA and MRA processes (and transfer any remaining single fuel retail processes), including:
  - Disputed and missing reads,
  - MPxN administration;
  - Crossed meters;
  - Prepayment processes;
  - An entry assessment process;
  - Enquiry service governance;
  - Data catalogue governance; and
  - Performance assurance/reporting arrangements.

- Final Phase – Incorporation of all other retail processes not directly related to switching as highlighted by Ofgem as outside of initial REC scope.

Finally, in terms of ownership of the REC, the most obvious option to us at this stage would be introducing a new licence requirement on suppliers for ongoing responsibility and maintenance of the REC. This way, suppliers could collectively competitively procure an organisation to act as the REC code administrator or manager and discharge any licence requirements on their behalf. Thought should however be given to how the procurement exercise would be run, including whether the service of Energy UK or a similar organisation could run the procurement exercise on behalf of suppliers. Any decision on REC ownership should however be future proofed which means the REC scope should be first fully determined.

10: Do you agree with our proposal to modify the DCC's licence, in order to extend its obligation to include the management and support of the DBT and initial live operation of the CSS?

Utilita understands that Condition 15 of the DCC licence only covers up to the period of contract award for the CSS, therefore we agree there is need for a body to oversee the delivery and performance of the CSS, should RP2a be progressed. Although we do not believe responsibility of CSS operation should fall under any other current licences other than the DCC licence i.e. due to the DCCs assumed role in procuring the CSS service provider, we believe due consideration should be given to all other available options for CSS delivery management.

We remain concerned with the spiralling costs of DCC services and the added costs industry could expect for the DCC to manage and support the Design, Build and Test (DBT) phase of the initial live operation of the CSS. We also recognise the benefits in the latter stages of the Nexus programme where an independent body was contracted to support Ofgem in a sponsorship role of the programme. We would therefore encourage Ofgem to consider whether such an approach could be adopted from the onset of the DBT phase, to reduce risk of delays in programme implementation which can be extremely costly for industry and customers and also delay consumers' realisation of the benefits of the programme.

11: Do you agree that there should be regulatory underpinning for the transitional requirements and that this should be contained in the REC?

We largely agree with the proposal to include regulatory underpinning of transitional requirements within the proposed REC. In particular, where transitional arrangements are in relation to suppliers and networks. This is when lessons can be learnt from existing compliance monitoring regimes in industry codes, including the available powers of code Panels in cases of non-compliance. Where financial incentives or sanctions are to be placed on the DCC, we believe this would be better placed with Ofgem and be controlled under the DCC licence.

12: Do you agree that we should pursue an Ofgem-led SCR process in accordance with a revised SCR scope?

Utilita supports Ofgem leading an end to end process to develop the relevant code modification(s) including provision of legal text. This is however subject to continued industry participation, engagement and consultation throughout the development of the programme. We have expressed our concerns previously with the risks of introducing a new dual fuel code and would strongly encourage Ofgem to continually work with industry on developing the REC design and associated legal text to support future switching arrangements.

13: Do you have any comments on the indicative timetable for the development of the new governance framework?

We believe the planned overlap between the switching programme and the mandatory Half-Hourly settlement programme timescales is a major risk to the success of both developments. We therefore urge Ofgem to review the indicative timetable with utmost urgency.

We would also like to comment that for cost savings to be experienced by industry with the introduction of the REC and consolidation of existing industry codes, we recommend that the timescales for the REC to first take effect (and as it develops), be mindful of existing code financial years and code budget setting i.e. we would expect considerable reductions in code budgets be visible for both the SPAA and MRA once the REC has been introduced and as it develops.

Impact Assessment Consultation Responses:

1: Do you agree that our assessment of industry and public-sector costs, including our approach to managing uncertainty, provides a sound basis for making a decision on a preferred reform package?

Based on the information provided, we partially agree with Ofgem's approach for assessing industry and public-sector costs for both transitional and ongoing arrangements. We would like to see Ofgem consider the direct industry costs of RP2a following assessing the capabilities and potential utilisation of existing industry assets which we believe could provide a much more cost efficient option for industry and consumers than procuring new services, run by the DCC.

Utilita also understands that the direct monetary costs for each reform package has been derived from comparison to a 'do nothing' counterfactual. As part of the counterfactual, Ofgem have assumed the annual volume of external domestic switches to remain constant to 2016 over the assessment period. We question the reliability of this assessment for deriving costs and monetary benefits with the proposed introduction of two new price caps, particularly if the price cap on SVTs is introduced and the impact this may have on the behaviours of consumer and suppliers i.e. with suppliers removing SVT offerings or transferring customers on SVTs to a new more competitive fixed term contract which is likely to reduce switching to a series of 'windows'.

2: Do you agree that we have selected the appropriate policy option around objections, cooling off, meter agent appointment and MCP ID for each reform package?

Utilita agrees with Ofgem's preferred policy option around objections (Option 1). We believe the movement away from near real-time processing of objections will reduce significant industry investment and costs for consumers whilst helping to prevent erroneous switches which can detrimentally impact consumers' experiences of switching. We do however remain unconvinced of the need for differing objection window timeframes for domestic and non-domestic customers. We believe this reintroduces complexity into processes when the programme is intending to harmonise and simplify market arrangements.

With regards to policy options around the cooling off period, we maintain a view that the decision to begin registration processes during the cooling off period should be determined by the consumer and should not require mandatory intervention. We believe consumer demands for faster switching speeds will drive industry in that direction and as a supplier we will look to offer customers different options based on feedback.

Finally, we understand Ofgem has removed policy proposals around metering agent appointments and MCP ID. We fully support the decision for removing the proposals from the scope of the programme.

3: Do you agree that our assessment of the direct benefits of the reforms, including the various assumptions that we have adopted, provides a sound basis for making a decision on a preferred reform package?

We believe Ofgem needs to reassess its analysis for determining direct benefits of the reform packages in light of the recent announcements of the two proposed price caps. To begin with, Ofgem's counterfactual of 'do nothing' requires re-baselining to determine whether continued switching volumes and behaviours, similar to 2016, can still be assumed. Secondly, we have particular concerns with the direct consumer benefits outlined by Ofgem which have been monetised using the example of highly engaged domestic consumers and their potential bill savings with switching from SVTs to Fixed rate tariffs, under the new switching arrangements. Until Ofgem has reviewed reform assessments in view of the proposed price caps, we do not believe a fully justified decision can be made of the preferred reform package.

4: Do you agree that our illustrative analysis of the indirect benefits provides a reasonable assessment of the potential scale of the savings that could be made by consumers through increased engagement in the market?

Similarly to our response to question 3, we urge Ofgem to re-evaluate the illustrative analysis of indirect benefits following the recent announcements of the two proposed price caps before determining potential consumer savings in the market.

Utilita would also like to comment on Ofgem's three described scenarios for modelling indirect consumer savings, especially scenario 2 which is based on Ofgem's consumer survey around switching. Following our review of the results of the consumer survey, we understand nearly two thirds of consumers suggested greater financial savings on offer was the most important factor for considering switching. This highlights the importance of ensuring that at the forefront of making any decisions within the programme, costs should be able to be justified to consumers to prevent further disengagement within the market. We are also surprised that under section 5.23, Ofgem chooses to only comment that the proposed reforms will have an impact on some of this group's propensity to switch (approximately only a third of respondents) and not the importance of cost savings for consumers as evidenced within the survey. The importance attributed to savings figures by customers reinforces the need for review of the benefits case, in the light of the reduced savings which may be expected to be available under an SVT cap. The impact of the prepayment price cap on the market is also relevant here, and as two cap updates have been implemented, evidence is now becoming available.

5: Do you agree with our assessment of the wider benefits of our reform proposals?

The programme will only lead to wider benefits such as increased consumer engagement and competition in the market where there is a primary focus on introducing more reliable switching arrangements and harmonising gas and electricity processes. We remain unconvinced of the benefits a programme planned around costly procurements of new systems and services can truly deliver, particularly when existing industry assets have not been fully assessed under the programme.

We would also suggest Ofgem reviews assessments of wider benefits of the programme based on the possible introduction of two further price caps when Ofgem has outlined an expectation that increased competition will place pressures on suppliers to resist putting up SVT prices which we believe will no longer be valid.

6: Do you agree that our assessment of the net impacts for consumers provides a sound basis for making a decision on a preferred reform package?

Generally, we believe consideration of the net impacts for consumers as a sound decision making basis for deciding on a preferred reform package. As echoed throughout our response however, a re-evaluation of programme costs and benefits should be undertaken by Ofgem following the announcement of the two proposed price caps. Utilita has chosen to withhold on a decision on the assessment of net impacts for consumers until this exercise has been completed.