Katherine Harris and Ruth Saunders

Future Retail Regulation

Ofgem

10 South Colonnade

Canary Wharf

London

E14 4PU

Email: futureretailregulation@ofgem.gov.uk 18th October 2018

Dear Katherine and Ruth,

Thank you for the opportunity to comment on your consultation Domestic supplier-customer communications rulebook reforms, dated 20th September 2018.

Extraenergy welcomes the proposals in this consultation in general, and continue to welcome Ofgem’s move towards principals based regulation. While we recognise prescriptive regulation is required under certain circumstances we believe principal based regulation should be used where ever possible. Principles based regulation encourages supplier diversity and allows for increased flexibility, whilst prescriptive regulation cannot easily consider the often extensive customer variations that exist.

However, we have some concerns as noted below in our response. In particular we are concerned with Ofgem wishing to provide directions at a later date and at their discretion, which we feel would move us back to a prescriptive regulatory environment. This would be contrary to the proposals that have been put forward in this consultation. We also think Ofgem could provide further clarity on some of the proposals before their decision is published, as this would avoid uncertainties for suppliers and would stop any customer detriment arising out of it.

Please find our detailed responses to the consultation questions below.

**Chapter 2: Our final package of proposals**

1. Do you consider that a direction is required to enable suppliers to make changes to existing fixed-term contracts, so that those customers can benefit from our rule changes sooner? If yes, please: (a) provide examples of specific clauses in your T&Cs that would require such a direction (suppliers only); and/or (b) provide suggestions for how the scope of the direction should be drafted to achieve our policy intent (set out in paragraphs 2.37-2.41 of this document).

We do not think we need further direction from Ofgem to make changes to our existing fixed term contracts so that they reflect the proposals set out in this consultation. Whilst we appreciate Ofgem’s offer to provide this, we are of the opinion that this would be counter-productive to the aim of the proposals put forward here, which gives suppliers the ability to make changes to customer communications and our engagement in regards to marketing tariffs or billing.

We also would like to emphasise that if any direction is provided by Ofgem on this matter, it should be limited to enabling suppliers to alter existing fixed term contracts, but should not force suppliers to make changes. This would essentially undermine the move towards a principles based regulation approach of allowing suppliers to make decisions in the best interests of their customers.

We accept and encourage Ofgem’s view that suppliers should make any necessary changes to their fixed term contracts as per these proposals, and can also confirm that our T&Cs do not prohibit us from making such changes. We would like to stress that we do not foresee changing existing fixed term contracts to a customer’s detriment, or against their wishes. Changes, as proposed in this consultation, would only be implemented to a fixed term contract if a customer is happy to consent to such changes.

We are however concerned about Ofgem reserving the right to issue a direction under SLC22C.10 at their discretion, as this would allow Ofgem to make changes to suppliers fixed term contracts. We strongly believe that this would be retrograde step, moving back to prescriptive rules and is inconsistent with proposals in this consultation. We therefore do not support Ofgem moving the rules around consumer engagement from the SLCs into to a future direction. This will undermine the transparency of Ofgem’s decision making process and create uncertainty for both Suppliers and customers.

We would also be more comfortable if we had a clearer view of the scope of such a direction. We accept that at present, without further views from suppliers who may need to make changes to their T&Cs this is a difficult task for Ofgem. However, any further clarity that can be provided on this matter, as early as possible, is welcome.

1. Are there any other consequential amendments to the licences that we haven’t proposed in annexes 1-2 that you consider would be needed in light of our proposed changes?

We are satisfied at this time that the amendments to the licences drafted by Ofgem cover the proposed changes in this consultation, and have no further amendments to suggest.

**Chapter 3: Encouraging and enabling engagement**

1. Do you agree that our proposals (summarised in boxes 1 and 2 on pages 29 and 31-32) reflect our policy intent relating to encouraging and enabling engagement?

We are supportive of the proposals put forward, and believe they reflect Ofgem’s policy intent in terms of improving customer engagement.

We agree that improving consumer engagement should be a high priority. We welcome changes that will allow us to adjust our communication so as to keep consumers more easily informed. Current prescriptive rules around customer engagement and the provision of information constrains suppliers ability to innovate; the changes proposed are likely to result in greater level of engagement as suppliers innovate and improve their communications.

1. What are your views on our proposal (set out in paragraphs 3.35- 3.36) to move the rules around engagement prompts into a direction separate from the supply licences?

We agree that moving away from the prescriptive rules surrounding customer engagement at present is the best way forward. The suggestion that a direction may be required is concerning since it suggests that Ofgem don’t currently have the expertise/knowledge required to understand the impact of amending the current regulation. Setting a further direction may also move away from the principles based approach outlined in the current proposals.

The proposal of a direction is likely to create uncertainty for suppliers around possible future prescriptive changes to rules or requirements, and may see supplier retain current communication versions until such time that a direction is issued. As we have mentioned earlier, this would also undermine the transparency of Ofgem’s decision making process and impact both suppliers and consumers.

Whilst the proposal that information under the ‘contract choices’ principle should be provided both at Key Engagement Points and throughout the year is sensible, we believe that further clarity around what Ofgem expects from suppliers could be provided. Whilst we appreciate the point made about Key Engagement Points or Key Prompt Points is relative to individual customers and/or their circumstances, we would like to request further clarity detailing what suppliers will be expected to provide and when.

However we do support and accept the removal of the detailed prescriptive rules around Cheapest Tariff Message, Estimated Annual Costs and “About Your Tariff” Label and accept that they should now be provided at Key Prompt Points.

If, following trials, Ofgem decides that more prescriptive rules are required, we believe they should be contained within licence conditions. This approach ensures that documents containing rules that suppliers should follow are kept to a minimum.

**Chapter 4: Assistance and advice information**

1. Do you agree that our proposals reflect our policy intent relating to assistance and advice information?

We welcome Ofgem’s proposal introducing a new principle requiring suppliers to ensure consumers can quickly and easily understand how to identify and access the help that is available to them. Additionally, the removal of the prescriptions on suppliers relating to the provision of information at prescribed times and in prescribed formats, is also welcome.

We agree the new proposals reflects the policy intentions that have been set out.

**Chapter 5: Relevant Billing Information, Bills and statements of account**

1. Do you agree that our proposals reflect our policy intent relating to Bills and billing information?

We accept Ofgem’s proposed amendments to Bills and Billing information and welcome the additional clarification and definitions that have now been provided regarding Relevant Billing Information, Bills and Statements of Account.

We believe that information currently required to be included in bills is best provided through other means.

**Chapter 6: Contract changes information (price increases and fixed term contracts coming to an end)**

1. Do you agree that our proposals reflect our policy intent relating to contract changes?

We agree that Ofgem’s policy regarding contract changes have been adequately reflected in their proposals, as set out in this consultation, and welcome Ofgem’s amendment to original proposals following feedback.

We also welcome Ofgem’s new principle to ensure consumers have the information they need to understand and manage important changes to their contract. Communicating price increases and fixed-term contracts coming to an end, should be done in a timely manner that will prompt customers to engage and when it will also be reasonable for them to assess their options and take any action. Additionally the removal of the prescriptive list of items that must be included on Price Increase Notifications and Statements of Renewal Terms, as well as formatting and placement requirements is also welcome.

In addition to above, we would like to raise the following points in regards to further proposals raised in this consultation:

* Extraenergy agrees with and accepts Ofgem’s proposal to remove the requirement for suppliers to provide consumers with an Annual Statement. We agree that consumers should continue to receive the important information currently in the Annual Statement by following the new principles which have been proposed.
* We welcome the clarifications provided in regards to supplier expectations. We would however welcome further clarity as mentioned previously in our response before a decision is issued.

The changes proposed in this consultation are generally welcomed by ExtraEnergy. These changes provide the opportunity to review how and when we provide key information to customers and we will take to opportunity to make the most of this opportunity and ensure our consumers benefit.

If you have any further questions on our response to this consultation please do not hesitate to contact me

Yours sincerely

**Maitrayee Bhowmick-Jewkes**

Regulatory Manager

Email:                 Maitrayee.Jewkes@extraenergy.com

Phone: 07834025220

Web:                  www.extraenergy.com