Which? works for you

Which?, 2 Marylebone Road, London, NW1 4DF
Date: 28th January 2019
Response to: Lisa Charlesworth, Ofgem

Consultation Response

Supplier Licensing Review

Dear Lisa,

Many thanks for the opportunity to respond to this consultation.

We note that supplier entry has increased significantly across the energy sector recently, with over 60 suppliers currently active in the market, a doubling over the last 3 years[1]. This should have increased choice and hence competitive pressure within the market, offering potential benefit to engaged consumers. However, we have seen limited evidence that consumers are taking advantage of this, with only moderate increases in switching rates[2], while improvements in customer engagement appear to have stalled[3].

However, the recent increases in supplier failures - 8 during 2018, and two further failures (Economy Energy, Our Energy) in the first few weeks of 2019 - suggests that current entry requirements and checks are not sufficient to deter firms whose business models are not sustainable over the longer term. Whether this is due to insufficient due diligence at the point of entry (e.g. pre-accredited supply licences) or inadequate monitoring of activities once firms are active in the market, we are not in a position to assess. As some of the recent supplier failures are firms which have been active in the market for a number of years, this suggests that rigorous monitoring is a key component of ensuring sustainability of suppliers in the market.

Regardless of the underlying reasons, it is clear that the current licensing and/or monitoring regime needs to change. These recent supplier failures have conferred additional costs on consumers, which could potentially have been avoided through more rigorous checks and/or monitoring (e.g. financial assessments, regulatory understanding), backed by decisive enforcement. Cornwall Insight have recently estimated that the annual cost of the supplier failures during 2018 could amount to £2.50 per household[4], which is not an insignificant amount and comes at a time when consumers remain significantly concerned about energy prices[5].

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[1] Ofgem data states there were 73 active suppliers as of June 2018, though there have been a number of suppliers failures since; in comparison, there were 31 active suppliers as of June 2015 (source: https://www.ofgem.gov.uk/data-portal/number-active-domestic-suppliers-fuel-type-gb).

[2] https://www.ofgem.gov.uk/data-portal/retail-market-indicators
https://www.energy-uk.org.uk/publication/293-research-and-reports/switchingreports.html

[3] https://www.ofgem.gov.uk/publications-and-updates/consumer-engagement-survey-2018

[4] https://www.cornwall-insight.com/publications/chart-of-the-week/chart-of-the-week/2019/i-m-still-standing-medium-suppliers-lead-acquisitions

[5] 65% of consumers are worried or very worried about energy prices, an increase of 4 percentage points compared to a year ago (source: Consumer Insight Tracker, Nov 2018 - https://consumerinsight.which.co.uk/tracker/worry)

We welcome steps that Ofgem have recently made to increase consumer protections within the SOLR process[6]. However, as the vast majority of costs submitted by SOLR suppliers are for recovery of credit balances[7], it suggests that current safeguards are not sufficient.

Moreover, we think the incentives under the current regime - between the purchase of customer portfolios from suppliers looking to exit the market, and the comparative generosity of acquiring customers via the SOLR regime - may not be adequately balanced. For example, the process of a supplier acquiring customers via the first route (e.g. Co-operative Energy's purchase of 230,000 customers from Flow Energy in April 2018) would seem to be more costly and risky than the process of taking on customers via the SOLR process.

In particular, the SOLR process offers an opportunity for a potentially significant proportion of the costs to be reimbursed (e.g. Co-Operative Energy's SOLR claim for taking 10,000 customers from GB Energy in 2016, Octopus Energy's SOLR claim for taking 100,000 customers from Iresa Energy in July 2018). We would like to ensure that such incentives are balanced in favour of outcomes which do not involve significant costs being borne by all consumers.

Overall, we would broadly support Ofgem's proposed changes to the supply licence and monitoring regime, to help avoid costs of supplier failure being met by consumers in the future. In particular, we would welcome: additional scrutiny during the licence application and approval process; increased monitoring of supplier activities to help identify potential signs of financial distress and prompt remedial action to address this at the earliest opportunity, and consideration of the balance of incentives for suppliers in acquiring customers via commercial purchases of customer portfolios, rather than doing so via the SOLR process (with potentially significant reimbursement of such costs).

About Which?

Which? is the largest consumer organisation in the UK with more than 1.3 million members and supporters. We operate as an independent, a-political, social enterprise working for all consumers. We are funded solely by our commercial ventures and receive no government money, public donations, or other fundraising income. Which?'s mission is to make individuals as powerful as the organisations they have to deal with in their daily lives, by empowering them to make informed decisions and by campaigning to make people's lives fairer, simpler and safer.

Kind regards,

Philip O'Donnell

Head of Policy Analysis

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[6] https://www.ofgem.gov.uk/system/files/docs/2018/11/solr_licence_changes_decison_letter_0.pdf
[7] Recovery of customer credit balances representing almost 80% of Octopus Energy's claim for SOLR costs associated with taking on Iresa customers (£11.5m, out of a total of £13.8m - https://www.ofgem.gov.uk/system/files/docs/2018/12/last_resort_supplier_payment_claim_from_octopus_energy.pdf), and over 80% of Co-operative Energy's claim for SOLR costs associated with taking on GB Energy customers (£11.0m, out of a total of £14m - https://www.ofgem.gov.uk/system/files/docs/2018/01/last_resort_supply_payment_claim_from_co-operative_energy_final_decision.pdf)