



Supplier Licensing Review Consultation: Ongoing requirements and exit arrangements

Introduction

As a leading UK price comparison website (“PCW”), **comparethemarket.com** (“CtM”) has a strong interest in ensuring that the energy market adopts the highest possible standards and ongoing requirements around financial resilience and customer service for active suppliers, to enable a better functioning retail market.

We are aware of the need to adopt a package of proposals to strengthen ongoing requirements on suppliers and arrangements for market exit and recognise that current arrangements often fail to effectively and adequately provide consumers with the best levels of protection from failing and failed suppliers. We think that our business model as a PCW, and our responses in this submission, can positively contribute to the ongoing process.

We recognise that Ofgem’s role as a statutory regulator is to ensure a competitive and open market, based on a reduction in consumer detriment.

We intend to provide some of CtM’s overarching views on the energy market, as well as our feedback to Ofgem’s package of proposals to strengthen ongoing requirements on suppliers and arrangements for market exit. We hope that this submission can assist Ofgem as it undertakes its work to implement an effective competition regime for the future.

Responses

Q1 - Do you think the proposed package of reforms will help to reduce the likelihood of disorderly market exits, and the disruption caused for consumers and the wider market when suppliers fail? Are there other actions you consider we should take to help achieve these aims?

CtM agrees with Ofgem, that in a competitive market we expect a certain level of supplier failure, as new entrants bring innovative and yet-to-be-proven business models to market. We also agree that in those circumstances where a supplier does fail, their customers are adequately protected and any wider market and consumer impacts are minimised.

We believe that promoting more responsible risk management, governance and increased accountability, combined with an increased level of market oversight by Ofgem will go a significant way towards helping reduce the likelihood of market exits, thus protecting consumers and the wider market from such events.

Overall, CtM would caution against any policy action – undertaken by Ofgem – which could have the unintended consequence of making it harder for new market entrants to successfully compete in the UK energy market. CtM believes that new market entrants are fundamentally beneficial for UK consumers, as they provide direct competition and increased consumer choice through differentiation of their propositions that can be appealing to diverse and changing consumer needs.

Q2 - Do you agree with the outputs of our impact assessment?

CtM agrees with the outputs of Ofgem’s impact assessment. It is important we ensure that effective protections for consumers exist in the event of supplier failure and that Ofgem maintains proportionate oversight of supplier activity. We would also encourage further clarity on Ofgem’s definition of ‘proportionate’, but believe the regulator can conduct scrutiny which achieves the right balance between facilitating effective competition and providing adequate protections for customers. Additionally, we support further proposals to ensure responsible governance in the energy market, including an ongoing ‘fit and proper’ requirement and a principle to be open and cooperative with the regulator.

Q3 - What further quantitative data can industry provide to inform the costs and benefits of the impact assessment, particularly for cost mutualisation protections?

As a PCW, our knowledge and experience does not cover the full extent of the industry costs and benefits for cost mutualisation. However, it is important that where suppliers fail to pay a relevant debt, and this outstanding amount is split between the remaining suppliers, that any increased tariff prices passed on to consumers are managed responsibly and are ultimately proportionate to the costs incurred.

Q4 - Do you agree with the assumptions used to calculate the costs and benefits in our impact assessment? If not, please provide evidence to support further refinement.

As a PCW, our knowledge and experience does not cover the full extent of the industry costs and benefits. However, from our limited perspective the assumptions used to calculate them in the impact assessment seem reasonable.

Q5 - Do you agree with our proposed option to cost mutualisation protections? Are there other methods of implementing this proposed option? Please provide an explanation and, if possible, any evidence, to support your position.

CtM agrees with Ofgem's proposed approach to cost mutualisation projections where it:

- i. Significantly increases the incentives for suppliers to adopt effective risk management.
- ii. Significantly decreases and limits the costs imposed on consumers as a result of supplier failure.
- iii. Minimises the impact on the confidence of new suppliers seeking to enter the market.

Q6 - Do you agree with our proposal to introduce new milestone assessments for suppliers? Do you think the milestones we have proposed and the factors we intend to assess are the right ones? Are there additional factors we should consider to help us to identify where suppliers' may be in financial difficulty?

CtM agrees with Ofgem's proposal to introduce new milestone assessments. Going forward, we encourage the regulator to recognise there are a plethora of ways suppliers can be assessed – ranging from direct financial information on a suppliers' performance, looking at past financial performance and their current customer numbers and service provision. However, whilst we accept Ofgem's findings that *'Suppliers that have failed since 2016 grew to their peak size in the year they failed'*, we also argue that this is a feature of a market which allows new entrants to rapidly seek to expand. Whilst measuring those companies that are likely to fall into financial difficulty is important, this should not come at the expense of a recognition that encouraging new entrants into the energy market is also important. Additionally, we would encourage Ofgem to consider introducing Service Level Agreements (SLAs) alongside the new milestone assessments. These SLAs should focus on the minimum performance standards required across a range of factors, including financial and customer service metrics and reviews and ratings. SLA's will encourage more suppliers to actively demonstrate good customer outcomes and should form a basis for the supplier checks undertaken when milestone assessments are performed.

Q7 - Do you agree with our proposal to introduce an ongoing fit and proper requirement? Are there additional factors, other than the ones we have outlined, that you believe suppliers should assess in conducting checks?

CtM agrees with Ofgem's proposal to introduce an ongoing fit and proper requirement.

Q8 - Do you agree with our proposal to require suppliers to produce living wills? What do you think we should include as minimum criteria for living will content?

CtM agrees with Ofgem that all suppliers should be required to assess their readiness for orderly failure by maintaining living wills. We agree that suppliers should set out what would happen in the event of their failure, including any barriers to delivering an 'orderly exit'. As a minimum, this should include details on:

- iv. The expected disruption to normal services for their customers and their plans for how they will go about mitigating this disruption.
- v. A clearly defined communication strategy to inform customers of the orderly exit, what to expect and who to contact, including communications plans being deployed in a timely way.
- vi. The estimated costs that will be passed on to other suppliers and customers.
- vii. How customers' outstanding credit balances are protected and how to claim.
- viii. How they would ensure compliance with any relevant licence conditions.

Q9 - Do you agree with our proposed scope for independent audits? Please provide rationale to support your view.

CTM supports the proposed scope and approach for independent audits and believe that used in a proportionate way they will support the intended outcomes. It will provide for a flexible, independent assessment to be directed by Ofgem in support of regulatory outcomes.

Q10 - Do you agree with the near terms steps we propose to take to improve consumers' experience of supplier failures? Are there other steps you think we should be taking?

CtM agrees with Ofgem's proposal to introduce a requirement for suppliers to include references in their contract terms and conditions which states that activities relating to debt recovery will be executed as outlined in relevant licence conditions. On a wider level, we encourage the greater use of data by suppliers and the regulator, to allow a better profiling of individual consumers, their energy habits and the ways in which they interact with the energy market. This will allow Ofgem to better identify those consumers which are currently being most disadvantaged.

Q11 - Do you think there is merit in taking forward further actions in relation to portfolio splitting or trade sales? What are your views of the benefits of these steps? Are there any potential difficulties you can foresee?

CtM believes there is merit in taking forward further actions in relation to portfolio splitting, where it will lead to better customer outcomes and lower levels of customer detriment. We agree with some of the potential candidate cases already outlined, including supporting the absorption of larger customer portfolios and where the customer numbers involved are too large for any single bidder to accommodate without risk of customer detriment. One potential difficulty of portfolio splitting, whether that be for reasons of portfolio size or segment splitting, is how the splitting decisions are reached in a fair and balanced manner for all SoLRs involved, whilst also ensuring the timescales for implementation are maintained and not extended.

Q12 - Do you think our draft supply licence conditions reflect policy intent?

CtM believes the draft supply licence conditions do reflect policy intent.