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Statutory Consultation – Supplier Licensing Review: Ongoing requirements and exit arrangements

Thank you for the opportunity to respond to this consultation. We are an advocate of this review and believe that this package of reforms will broadly meet the objectives that Ofgem originally set out. We have provided specific feedback in the annex covering some areas of the new arrangements.

In summary:

- **Cost mutualisation protections** – there needs to be greater clarity on how this will be used in practice and it does not appear that the policy intent is reflected in the licence drafting.
- **Milestone and dynamic assessments** - we're supportive of the proposal of just two thresholds, although our preference would be for the upper threshold to be attached to existing milestone rather than creating a new threshold. For dynamic assessments, there needs to be a clear escalation pathway with guidance on how these will be used to ensure that this is used proportionately.
- **Independent audits** – similar to the dynamic assessments, there needs to be an escalation pathway with guidance to ensure that this power is used proportionately.

I trust this response is clear. If you have any questions, or wish to discuss anything further, please contact Samuel Van-Arnold (s.vanarnold@greennetwork.co.uk).

Yours sincerely

Pietro Di Maria

Chief Operating Officer

Annex

Cost mutualisation protections

We welcome Ofgem's decision to postpone making a decision on restricting the use of credit balances and to introduce a principle instead. This enables Ofgem to monitor the impact of other new arrangements and will allow time for a thorough consideration of whether further restrictions on credit balances are required.

We consider that there is a need for greater clarity on how the principle will be used in practice. The licence condition is drafted as a broad principle. This seems disconnected from Ofgem's view in the consultation that sets out minimum expectations i.e. there's should be either a broad principle that's up to suppliers to determine how they define and comply with it or Ofgem includes the minimum expectations within the licence condition itself.

If Ofgem will use the minimum expectations to assess compliance with this licence condition, we would be grateful for guidance on how Ofgem will do this. For example, how Ofgem determines if a price is sustainable and how would suppliers demonstrate compliance.

Milestone assessments and dynamic assessments

Milestone assessment

We support the changes to the milestone assessments to reduce to just two thresholds. We are uncertain of the justification for undertaking an assessment at 200k customers. We believe that this should be tied to a specific existing regulatory milestone rather than creating a new threshold. We consider that 250k customers would be the most appropriate as this is the size at which a supplier is considered a large supplier under the smart programme. This is also the final threshold that carries additional obligations. Undertaking an assessment at this point will examine compliance with previous obligations linked to thresholds. After this point, there no need for additional milestones as Ofgem can monitor supplier health through new obligations introduced as part of the CSS changes and existing operational data submitted on a regular basis. If Ofgem has any concerns with suppliers with more than 250k customers, then it can undertake a dynamic assessment or an independent audit.

Dynamic assessment

We support the use of dynamic assessment. However, we consider that there is a need for a clear governance process before it is used, similar to the current process set out in the Enforcement Guidelines. This would set out for example that before issuing a dynamic assessment, there had been engagement with the supplier and the recommendation on using a dynamic assessment is escalated through a gated processes cumulating in a decision by an internal decision board e.g. the Enforcement Oversight Board.

Independent audits

We consider the power for Ofgem to compel suppliers to undertake audits where there are severe concerns a useful tool. Similar to the dynamic assessments, for this to be successful there needs to be a strict process and framework created around the mandating of an audit. The Enforcement Guidelines are a good example of a framework Ofgem has implemented previously and could be applied to these audits. Ofgem must have guidance on when it will compel a supplier to undertake an audit. There must be a gated process like the escalation process for opening an investigation with the final decision taken by an internal governance panel, such as the enforcement oversight board.