

Consumer Protection & Retail Markets

Ofgem

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Dear Consumer Protection & Retail Markets Team,

Thank you for the opportunity to provide feedback on the consultation regarding the Future of the Ban on Acquisition-only Tariffs ("BAT").

Having thoroughly reviewed, evaluated, and analysed the consultation, we comprehend its objectives. However, we oppose the decision to remove the BAT due to the risks and challenges it presents to industry members.

Throughout the consultation process, it has become apparent that the BAT served as a testing mechanism in an unstable energy market. There is uncertainty whether similar mechanisms might be utilized in future market shock events. Additionally, it appears that lessons learned from past experiences have not been fully acknowledged or considered by Ofgem. Below, you will find a concise overview of our key responses.

If you have any questions or concerns, please get in contact with us.

Yours sincerely,

Antonis Lamaj

Energy Regulation & Compliance Manager

A handwritten signature in black ink, appearing to read "Antonis Lamaj", with a horizontal line drawn through the middle of the signature.

1. Consultation questions and responses

a. Do you agree with our minded-to position that Ofgem should modify supply standard license condition SLC 22B to remove the BAT from 1 October 2024.

At 100Green, we support all decisions made to protect consumers, particularly the most vulnerable, and to build a brighter future for our energy system. The operations, policies, and procedures we have in place are established to ensure we play our part in achieving these goals.

We understand the principles, reasons, disadvantages, and advantages behind removing the Basic Acquisition Tariff (BAT) from 1 October 2024. This decision clearly opens the door for new entrants to the market and creates opportunities for investors.

While we appreciate that Ofgem believes now is the right moment to remove the BAT, we are uncertain why this decision is being made amidst critical indicators such as inflation and geopolitical events. By implementing this proposal, it appears that all new entrants will default to offering acquisition tariffs. We are unsure of the rationale behind this move and are concerned about the precarious financial position it may place these new entrants in.

Additionally, we foresee that any potential collapse of new entrants would once again place the liability on existing energy suppliers and, more broadly, on the entire industry. Based on previous events, the costs incurred have been covered by the entire energy market, which we believe does not represent a fair energy system.

It is imperative that measures are put in place to ensure a balanced and just market environment. We encourage Ofgem to reconsider the implications of removing the BAT and to provide a comprehensive explanation addressing these concerns. A thorough understanding and a fair approach are crucial to maintaining stability and fairness in the energy sector.

We understand that the introduction of the Market-wide Half-Hourly Settlement (MHHS) will see the electricity industry working together. This initiative aims to be a key enabler for a smarter, more flexible energy system and will be vital in supporting solutions to facilitate the nation's transition to Net Zero. However, in the current phase of this programme, we observe that limited trials have been conducted, and there is insufficient data and information available regarding its success at present. Additionally, as the MHHS programme seeks to work collaboratively and transparently with the industry, we anticipate potential conflicts of interest, despite the establishment of clear definitions and roles.

In addition to the MHHS programme, we encourage Ofgem to consider easing the Licence Conditions to allow suppliers to introduce further tariffs as trials. This would enable additional industry tariff initiatives, as we are currently restricted by SLCs and the limited offers we can make. We understand that the objective of the consultation is to allow for such changes, however, we believe that the current moment is not the right time to widen the overall energy landscape, as it is evident that it is not yet capable of supporting these initiatives.

Moreover, although the industry has taken significant and valuable steps to improve overall operations and support consumer portfolios, especially those in most need, it appears that Ofgem has not fully considered the causes of previous energy supplier collapses. We believe that this practice is unfair and not aligned with Ofgem's multi-year strategic vision to protect households and businesses from the impact of future price shocks, while also accelerating the transition from gas to renewables and other low-carbon sources of energy.

In recent years, there has been significant work and development by Ofgem to improve the Financial Responsibility Principle (FRP), and we have observed improvements in the overall monitoring of the market. However, we still see the same problems, issues, risks, and challenges in implementing the proposals presented in this consultation. We encourage Ofgem not to undermine the progress made in improving the FRP, as we believe this might result in unintended consequences.

In summary, our position is as follows:

- We question the timing of this decision given current inflation and geopolitical events and worry about the financial risks for new entrants.
- The collapse of new entrants could shift liabilities to existing suppliers and the entire industry, which we find unfair based on past events.
- We urge Ofgem to reconsider removing the BAT and to explain their decision comprehensively to ensure a fair and balanced market.
- Current trials of the MHHS programme are limited, and there is insufficient data on its success.
- We encourage Ofgem to ease Licence Conditions to allow more trial tariffs, as current restrictions limit industry initiatives.
- We believe the current environment is not suitable for widening the energy landscape due to insufficient support for these initiatives.
- Despite improvements in monitoring the market through the Financial Responsibility Principle (FRP), we see the same issues in implementing consultation proposals.
- We caution against undermining the progress made in the FRP, as it might lead to unintended consequences.

b. If you consider that the BAT should remain in force until 31 March 2025, do you think the market wide derogation from SLC 22B for fixed retention tariffs should also continue until 31 March 2025.

Our position is not in favour of implementing the proposals presented in this consultation. Throughout this document, we have expressed our stance against doing so. Therefore, we do not have any further comments on this question.

c. Do you have any comments on the analysis presented in section 2?

We have carefully reviewed and evaluated the analysis presented in Section 2. But we believe that the proposed approach appears to be a risky decision rather than one that ensures fairness and effective competition within the industry.

While this decision may offer consumers multiple options with better tariffs and rates, we strongly believe it will expose the entire industry to significant risks and challenges, potentially returning us to the same situation that led to the collapse of energy suppliers previously.

Following our review, we find the assessment insufficiently thorough, as it focuses only on short-term impacts rather than longer-term consequences. The information extracted from the consultation indicates that the approach it is not well-designed to address the real issues consistently raised by the energy industry.

With the recent publication of Ofgem's Multiyear Strategy Approach, it appears that the regulator believes now is the time to look beyond the crisis and consider how to continue protecting consumers, particularly the most vulnerable. Ofgem suggests that the market is now stable.

We understand that the UK must move towards a brighter energy environment while ensuring protection, fairness, low-cost transition, and engagement throughout the entire industry to achieve this. However, the decisions and approaches presented in this consultation do not align with these principles. Instead, they represent risky and challenging paths towards transforming the overall energy landscape.

The consultation notes that rules are already in place requiring suppliers to act in a financially responsible manner and not take excessive risks with customer money. Suppliers are also expected to operate cautiously rather than taking extreme risks. It is also highlighted that Ofgem has not seen evidence to suggest that the removal of the MSC has resulted in disproportionately risky discounting behaviour, and it is not anticipated that the removal of the BAT will do so either.

It would be beneficial for the industry to understand how Ofgem plans to regulate these issues, as there is significant evidence that regulation and the promotion of

fairness have failed in recent years. This lack of clarity does not provide sufficient confidence within the industry, affecting both current industry partners and potential new entrants.

We also understand that the BAT was a test mechanism designed to balance the energy market during the crisis, which prevented further collapses. We believe that such mechanisms are used by Ofgem to implement similar measures in the future in response to market shocks. Various policies and multiple RFIs have been designed by Ofgem to be applied to suppliers, and it appears that these alongside other regulatory oversights and engagement will ensure the transition to a brighter energy environment. However, we are uncertain about the effectiveness of these practices in promoting fairness and efficiency for suppliers. Additionally, they do not provide us with sufficient confidence that they will indeed achieve this goal.

We believe these practices place additional stress on suppliers, who already face significant regulatory compliance requirements. Furthermore, we are concerned that these practices signal the beginning of a situation where the high expectations set by the regulator will not be met. This could hinder the provision of better, innovative services while failing to ensure adequate protection for consumers.

Paragraph 2.55 indicates that the service quality has worsened rather than improved during the current and past periods of the price cap, leading to an unusually consistent process across suppliers. We want to emphasize our disagreement and disappointment with this statement. While it may apply to some suppliers, there are others striving to do things differently, consistently improving services throughout the price cap period. They also ensure that their consumer portfolio pays prices below the price cap, which does not reflect the situation for everyone in the market.

We have consistently raised concerns about the effectiveness of the price cap throughout the industry, but it appears that:

- a) our concerns are ignored by the regulator and relevant government departments and
- b) we are being faulted for decisions made by others that are not well designed and developed.

Once again, the practices followed by the regulator do not represent fairness and effectiveness across the industry; they merely deflect the issue rather than making strong decisions to tackle it.

We understand that the regulator is attempting to find solutions to problems, but unfortunately, the decisions and practices being followed do not represent fairness, clear engagement with industry partners, and long-term consumer benefits towards achieving a brighter energy environment. Instead, they reflect risky

decisions without acknowledging industry voices on serious issues that affect the transition to the energy environment aligned with government goals.

In conclusion, the proposed approach appears rushed and potentially detrimental to fairness and effectiveness. While we acknowledge the need for a transition to a brighter energy environment, current practices do not align with this goal. Additionally, regulatory measures seem to lack effectiveness and clarity, further exacerbating industry uncertainties. We strongly encourage Ofgem and all involved parties to make decisive decisions to address the real problems rather than seeking temporary alternative solutions.

d. Do you have any comments on the draft impact assessment presented in section 3?

We carefully reviewed and analysed the draft impact assessment, however, to our disappointment, we haven't been able to identify any risks and challenges that this decision might pose for consumers. Implementing the proposal for consumers to have greater visibility of deals available across the market and potentially accessing comparable deals with their existing supplier poses several risks and challenges.

There is significant evidence from previous years that increased visibility of deals across the market may overwhelm consumers with information, making it difficult for them to compare options effectively and make informed decisions. Deals usually offered can be complex, with varying terms and conditions, making it challenging for consumers to understand and compare them accurately.

Additionally, despite the benefits of multiple offers and rates for consumers, there may still be a lack of transparency regarding the true costs and benefits of different deals, potentially leading to confusion and distrust among consumers.

Evidence from the past has shown that even with greater visibility of deals, there are barriers preventing consumers from switching, such as inertia, perceived hassle, and concerns about service disruption. We acknowledge that further obligations and requirements have been imposed on the industry regarding switching times to prevent disruption. However, we believe that this adds further stress to the industry rather than making the energy market fair and accessible to all.

The conclusion of the consultation suggests that regular switchers are likely to see benefits available in the market, while non-switchers are likely to pay approximately the same as they do at present. Additionally, for protected groups, the price cap will be there to protect them from price hikes.

We understand that the price cap mechanism aims to operate the market for all consumers. However, is this the right mechanism, or is it merely a temporary solution to conceal the industry's underlying issues?

To summarise, at 100Green, we are supportive of any changes aimed at protecting consumers, especially those in most need. We are committed to doing everything we can to achieve this goal and play our part to the overall energy system transition.

However, we encourage and deem it vital for Ofgem and relevant government departments to minimize the complexity of regulatory legislation, alleviate stress from lengthy compliance requirements, and align with the overall values of transitioning to a fairer energy environment for everyone.