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Future of the Ban on Acquisition-only Tariffs (“BAT”) - UW response

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Utility Warehouse was one of the first ‘challenger’ brands when it entered the retail energy market over 20 years ago, and we have a unique perspective in that we operate across numerous regulated markets: energy, telecoms and insurance. Today we serve over 1 million households.

UW overarching view

We disagree with the early removal of the BAT. In our view the BAT and the price cap provide different solutions to distinct policy issues. However, if Ofgem is minded to choose between the two interventions, we would support the retention of the price cap.

Consultation questions

Q1	Do you agree with our minded-to position that Ofgem should modify supply standard licence condition SLC 22B to remove the BAT from 1 October 2024?
	<p>No. The key reasons for this are set out below.</p> <p><u>We disagree with early removal of the BAT</u></p> <ul style="list-style-type: none"> • The consultation to introduce BAT was to propose an enhanced regulatory approach to ensure energy suppliers pursue sustainable business models, minimising risks to customers and the market and its objective was to create a market where suppliers are financially resilient, so that risks are not inappropriately passed on to consumers. • The policy justification for the BAT remains relevant today and the intervention is successfully delivering this. We therefore support its continuation. <p><u>The insurance sector - a comparable regulated utility sector - has permanently banned a similar practice ‘price walking’ and we encourage Ofgem to consider alignment in its approach</u></p> <ul style="list-style-type: none"> • We would encourage Ofgem to consider the decisions of the Financial Conduct Authority (FCA), who ruled against similar practices in the insurance sector in 2021. The FCA introduced a permanent ban on the practice of inflating prices for loyal customers i.e. ‘price walking’¹. • The FCA found that firms were using complex and opaque pricing techniques to identify customers who are more likely to renew with them, then increasing prices for these customers each year at renewal. Customers therefore paid higher prices relative to their cost to serve. In addition, some firms engage in practices that can

¹ <https://www.fca.org.uk/publication/policy/ps21-5.pdf>

	<p>discourage customers from shopping around. While lower prices are available for customers if they regularly switch or negotiate with their existing provider, price walking distorts competition and leads to higher overall prices for customers.</p> <ul style="list-style-type: none"> There are many comparisons with the retail energy sector: 1) customers suffer harm if they chose not to, or are unable to switch; 2) there is a risk of overall higher prices for customers (assuming acquisition-only tariffs are subsidised by loyal customers); and 3) acquisition tariffs incentivise tease and squeeze pricing tactics that undermine the sustainability of the market. Given the FCA has concluded that these practices and the associated market and consumer harm warrant a permanent ban, we would encourage Ofgem to extend - or make permanent - the BAT. <p><u>Market stability should continue to be achieved through a variety of distinct policy measures</u></p> <ul style="list-style-type: none"> Market stability has been achieved through a variety of regulatory interventions that offer distinct solutions to a range of market challenges. The price cap sets a cost-reflective limit on prices, meaning that no customer can be overcharged. While the BAT prevents the practice of offering cheaper tariffs exclusively to new customers, which would otherwise penalise loyal customers. In our view these interventions complement each other as they provide different solutions to distinct policy issues. However, if Ofgem is minded to choose between the two interventions, we would support the retention of the price cap.
Q2	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?
	No comment
Q3	Do you have any comments on the analysis presented in section 2?
	No comment
Q4	Do you have any comments on the draft impact assessment presented in section 3?
	No comment