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Submitted via email: [rob.thornes@ofgem.gov.uk](mailto:rob.thornes@ofgem.gov.uk)

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Dear Neil

### **Supporting Retail Innovation Policy Consultation.**

I am writing in response to Ofgem's policy consultation on the ability to provide derogations from certain licence conditions, and granting supply licences for specific geographic areas or premises types.

Energy UK welcomes actions from Ofgem to help achieve 'net zero' at lowest cost for customers, and welcomes its commitment to accelerate innovation to create products and services that help consumers use energy more efficiently and in ways that support decarbonisation. We also support Ofgem's new enhanced sandbox, and view the changes Ofgem has made as being a positive step in fostering innovation in the energy market.

It is welcome, and refreshing to see Ofgem looking to test changes for the future retail market to aid the delivery of its Decarbonisation Action Plan. We are broadly supportive of Ofgem's proposals within this consultation, and believe that it is important that new and existing retail market participants are not constricted by unnecessary regulatory barriers when looking to bring forward innovations that benefit consumers and the wider goal of decarbonisation.

### **Risks**

However, we believe that trialling specific derogations may only have limited benefits if the licence condition in question cannot be removed permanently. Ofgem should, therefore, commit itself to review, with the view to removing, any conditions for which derogations prove successful.

Furthermore, with regards to risks, it is not entirely clear which consumers Ofgem will be assessing the impact of a derogation application on, whether it will be those consumers potentially in scope of that derogation or consumers as a whole. We believe that Ofgem should assess the impact on all consumers, to ensure that changes do not just benefit a small cohort of consumers to the explicit detriment of others. To achieve this, Ofgem could consider whether public consultation on the granting of a derogation may be more appropriate than consulting restrictively with the licensee and "any other person likely to be materially affected", as currently proposed in the licence condition drafting.

### **Other Derogations**

If there is a clear assessment process for derogations or licences in which an innovator can make a case for change with clear consumer benefits, then it may be more beneficial not to restrict the availability of derogations to just those highlighted in this consultation. We believe that to best harness the benefits of innovation, existing or potential new market participants should be allowed to apply for derogations from any condition where a case can be made, and it can pass a robust assessment process. For example, if an industry code requirement is preventing innovation, then a party can raise

a modification to remove that barrier. It would be useful to have a similar process for licences, whereby parties can put a case to Ofgem for a reprioritisation or permanent fix for the issue.

However, we do recognise that some conditions may require a higher bar for a derogation to be granted to ensure consumers remain protected, and that Ofgem may be constrained in some instances by legislation or other measures already in place.

In order to ensure the best customer protection when granting any derogation for innovation, we would suggest that within any application or request process, Ofgem could require applicants to include an action plan if the granted derogation is shown to be causing customer detriment. In this way, by placing additional requirements on the licensee to self-report and take appropriate action, any identified consumer detriment can be addressed speedily and not left to continue unresolved until Ofgem is able to take more formal action.

I hope that Ofgem finds our feedback useful. If you would like to discuss the above or any other related matters, please contact me directly on 020 7747 2931 or at [steve.kirkwood@energy-uk.org.uk](mailto:steve.kirkwood@energy-uk.org.uk).

Yours sincerely,

**Steve Kirkwood**  
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