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**Utility Regulator – Call for Input
Review of the Regulation of the Non-Domestic Energy Retail Market**

We welcome the opportunity to provide our input to the potential developments to the regulatory framework within the non-domestic market in Northern Ireland. This consolidated response is being provided on behalf of all entities within the Flogas Energy Group, Budget Energy Limited, Flogas Enterprise Solutions Limited and Flogas Natural Gas Limited.

Our responses to the respective questions are provided below. If there are any queries in relation to our submission, we would be happy to discuss or respond directly to any questions.

Q1. Do you agree with the four areas of focus identified in this paper? Please provide any additional information to support your view, including any additional areas that you consider should be of focus.

We are supportive of the areas identified within the Call for Input. Having reviewed across each business operational within Northern Ireland, there were no trends or themes identified in our customer engagement activities that would necessitate additional regulatory requirements at this time.

While we acknowledge the intent of this call for input is primarily focused on customer protection measures, there are other medium to long-term considerations for the non-domestic market. As outlined in other Utility Regulator publications, there needs to be a focus on decarbonisation and electrification of the Northern Ireland market with the introduction of renewable energy into the network. Non-Domestic customers will have a role to play in the energy transition and their engagement is key, specifically the larger energy users. The regulatory framework should incentivise demand reduction, demand flexibility and the uptake of services associated with decarbonisation.

Given that the strategic aim of the work is to “identify and remedy gaps”, we believe that UR should also be looking to review the role of network / system operators and owners and how they can improve to facilitate a better customer experience. Suppliers are the link between consumers and the rest of the market, including being implicit rent collectors on behalf of the network owners. If this review is to cover all aspects of the market, in our view this should all areas of controllable costs.

Q2. Do certain groups of customers require specific additional levels of protection (e.g. small and medium sized businesses) beyond what is currently provided? Please provide your rationale.

Suppliers will look to treat all sectors of the market equally. However, by their very nature, larger companies have internal resources or access to energy consultants, which results in increased engagement and oversight of their energy consumption. The responses to the questions below cover the focus areas and whether the smaller businesses should have additional protections in place. Nevertheless, we are conscious of the requirements that different businesses have and attempt to incorporate this into the customer journey. Effective independent communication by UR in relation to consumer protection should support the work already being done by suppliers.

Q3. Is the current level of competition in gas and electricity retail markets sufficient to produce positive outcomes for non-domestic consumers? i.e. around matters such variety of contract offers, tender responses, supplier service, etc. Please provide any additional information to support your view.

There is sufficient competition in terms of supplier options in our view but the competitive environment can be improved. For example, if you look at the number of suppliers within the market when compared to the Republic of Ireland. From our experience, there is less switching in the non-domestic market which is due to the level of knowledge and availability of information to customers. This leads to the reliance on TPIs to act on behalf of businesses, especially on the non-domestic gas offerings with multiple network operators and customer categories.

Our non-domestic tariff offerings are reviewed on a regular basis with a maximum availability period of four weeks. This ensures customers have access to competitive rates on an ongoing basis but there is a shortcoming in customer awareness.

To further improve competition in the gas market, the development of a singular gas supply list would be welcomed. The absence of this was a core issue in relation to the delivery of the NDAFP for Northern Ireland, as the market itself doesn't know the number of GPRNs at connection point, reducing visibility of accurate data within the market. Furthermore, the timeframe for change of supplier can act as a barrier to competition.

Relating to competition in the gas market, improvements could be made to the structure of how gas capacity is booked for a shipper's portfolio of customers. Shippers have very little control over how they can book exit capacity with the result that solutions are more difficult to arrive at on behalf of our customer base. This has resulted in a reduction in competition with shippers exiting this sector or any new market entrants suggesting that the business case for this does not exist.

Q4. Do non-domestic consumers require regulatory protection when engaging with TPIs in the energy market in Northern Ireland? Please provide any information to support your answer.

Regardless of the sales channel that the customer accesses to switch supplier or renew, the regulated suppliers are subject to the existing Codes of Practice that ensures customers are

correctly sold the product they signed up for. Therefore, the customer should receive the same level of detail from a TPI as they would through a direct sale. If the intention is to increase the regulatory requirements in respect of TPIs (e.g. the introduction of a code of practice) then suppliers should be included throughout the consultation process.

Our volume of sales through TPIs wouldn't be our highest source of sales, but the collateral would be in line with the materials used by other sales agents. This includes, but not limited to, Customer Agreement Forms, Sales Checklists and Rate Cards. The intention of the collateral is to support the sales process to ensure that the customer has written confirmation of the agreement that they enter into prior to signing. Furthermore, this provides us with an audit trail and the written agreement of the parties.

We would object to the inclusion of commission in any contractual documentation for the customers that is currently included in the voluntary code recently released in Great Britain. We would like to see if the impact of this in the Great Britain market has made a material difference to customer satisfaction or awareness prior to any roll-out in Northern Ireland. To support the rationale for our objection to this, our customers would be charged the same rate regardless of the sales channels.

Our pricing is constructed based on an expectation that a percentage of our sales come through TPIs. We don't believe customers should be penalised for their choice of sales channel, as we recognise those smaller businesses rely upon support from third parties for their energy needs. Furthermore, these commission arrangements are commercial agreements between parties that are confidential, and commission should be protected under contractual terms. It should not be the responsibility of the supplier to police any relationship between the customer and TPIs.

Q5. If you answered yes to Q4, what additional protections do you feel would benefit non-domestic consumers in Northern Ireland? Please provide examples to support your answer where necessary.

Despite the position we have outlined in question 4, to reinforce customer protection in this area, we would be supportive of an initiative that prevents suppliers penalising customers for utilising the services of third parties. For example, by charging increased rates to a customer by signing through a TPI.

Q6. What are your views / experiences of the treatment of non-domestic consumers in debt by suppliers in the retail energy market in Northern Ireland? Please provide examples where possible.

The biggest challenge for us as an energy supplier with customers experiencing financial difficulties is customer engagement. We believe there is a lack of understanding, especially from smaller businesses, about the options that we can provide the customer to ensure continuity of supply. One benefit of the government schemes beyond the financial assistance, has been the level of awareness of energy companies and energy efficiency have improved.

Q7. Are there specific supplier behaviours and / or debt collection processes that require enhanced regulation to better protect non-domestic consumers? If so, please specify, with examples.

The credit control activities that we undertake are designed in a similar manner to the path that a residential customer would experience. There are a specific number of communications through various channels issued to the customer in an attempt to engage them to manage their account. Therefore, we would not object to a more structured debt collection process for non-domestic customers while acknowledging that each case should be treated on a case-by-case basis.

Voluntary codes have been successful in other jurisdictions that would promote that engagement, such as the Energy Engage Code in the Republic of Ireland. While this is focussed on the residential market a similar initiative or resource could be useful for SMEs in driving engagement and increasing awareness of supports. Industry alignment on that would present a holistic approach as we want customers to remain on supply.

Q8. Should certain non-domestic consumers (such as small and microbusinesses) be provided a similar level of protection as domestic consumers regarding treatment of debt? (e.g. as is provided in CoP on the Payment of Bills).

See our response to question 7 above. Consideration should be given to the categories of customers and the impact this would have on existing processes, for some suppliers that may be automated. Suppliers would require notice to implement any regulatory changes and any regard for the time would be appreciated.

One potential negative consequence for the industry of a more formulaic approach to collection activities would be the likely increase in customer communications when we are trying to maintain communication transparency.

Q9. To what extent do you believe the communications from suppliers to non-domestic consumers are clear and transparent (e.g. billing, renewal agreements, etc)? Please provide examples where possible.

Larger companies have the resources and engage consultants to assist in their energy needs. Based on feedback from our customers, the transparency doesn't appear to be an issue across our customer base. The main source of customer contact in respect of bills is in relation to estimated reads rather than any content. Customers' bills already contain a lot of information so the inclusion of any further requirements within the bill may reduce the effect of the messaging given the primary information of relevance to the customer is generally cost.

We also receive very little customer engagement when issuing other regulatory communication such as end of contract notifications and price change communications. The content already consists of the most relevant information to the customer, so it is difficult to ascertain the benefit of any further changes in this area. We typically have supplementary processes to support customer communications for items such as reclassifications. This would involve direct customer contact by email and phone to ensure customers are aware of the impending changes to their tariff structure. We believe this works well, but conscious that it is not feasible in some instances to undertake this activity at scale.

Q10. Do you believe that there is sufficient market information available for non-domestic consumers to make informed choices around their energy needs? Please provide details and your reasons.

There is an over-reliance on TPIs due to a lack of information availability. While there is the CCNI small business comparison tool that we update regularly with our tariffs, this generates no leads or sales. Customer engagement is predominantly done through self-generated leads or existing TPI relationships.

Given the frequency of the changes to tariff offerings, it would be resource-intensive to update the rates on websites and potentially create customer confusion.

Q11. Are you aware of any onerous or unfair contract terms which impact a non-domestic consumers ability to engage with the retail energy market in Northern Ireland fairly, or are there any contract terms and conditions that you have concerns about? Please provide evidence for your views and details of any specific examples.

To reinforce some earlier points, we have had no recent negative feedback from customers. The issuance of impending contract end dates for short-term contracts provides a certain level of protection from increasing costs.

We note the reference to cooling-off periods for non-domestic customers. The introduction of a cooling-off period for non-domestic customers would not be something that we would be in support of.

Our non-domestic offerings are fixed price products, which are hedged at receipt of contract based on market pricing and not when the switch takes place. The introduction of a cooling-off period could have negative implications on customer pricing if the pricing takes place at the end of the cooling-off period. This could lead to uncompetitive pricing, customer uncertainty or suppliers operating at a loss, particularly during times of price volatility.

The sales collateral should provide sufficient transparency and supplemented by the Codes of Practice where the customer is fully informed of the contract that they are entering into.

Q12. In terms of protecting the short-term and long-term interests of non-domestic consumers, is there anything else not covered by questions 1-11 that UR should consider?

We fully support the four key areas of focus and would strongly support any initiative that supports customer switching activities. Please also note our response to question 1 referencing decarbonisation.