Dear Mr Yeo

Response to the Energy and Climate Change Committee’s Request for Information on Ofgem’s Annual Report and Accounts 2013-14

On 28 January 2015 we received the Energy and Climate Change Committee’s request for further information about our 2013-14 Annual Report and Accounts. This was in follow-up to my appearance at the Committee on the 27 January.

Below we have responded to each outstanding issue in turn and, where possible, have provided up-to-date information that has become available since the Report was published.

We are always happy to assist with the Committee and provide further information where necessary. If there are any areas below where you require additional information please do not hesitate to get in touch with Sarah Roberts (sarah.roberts@ofgem.gov.uk or 0203 263 2762) in our External Relations team.

Regards,

Dermot Nolan
CEO, Ofgem
Follow-up to Dermot Nolan oral evidence session to the Energy and Climate Change Committee on 27th January 2015:

1. **Do you have specific performance indicators that you use to monitor and assess National Grid’s overall performance in relation to its electricity market reform delivery role? (Q6)**

Yes, we have set incentives for National Grid Electricity Transmission (NGET) that are based on specific aspects of NGET’s performance. We are also in the process of setting outputs and incentives for NGET until 2021. NGET also have obligations - some of which, for example, impose specific deadlines on NGET.

NGET gave us its Electricity Market Reform (EMR) business plan this month. We are scrutinising and challenging it and will consult on our proposals for outputs, incentives and revenues later this year, consistent with our RIIO framework (Revenue = Incentives + Innovation + Outputs). We also monitor NGET’s delivery of EMR and can use our usual enforcement powers as appropriate where NGET breach the EMR legislation.

2. **How are CfD appeals managed? (Q13)**

A CfD appeal notice must be submitted to Ofgem within five working days of the date on which the appellant received a Tier 1 decision notice from National Grid Electricity Transmission Ltd (NGET). Assuming the notice is provided in time along with all the relevant documentation, we will review the dispute and come to a decision. For each appeal we will look at the decision made by NGET when it reviewed its original decision. Our determinations are drafted by our policy and legal teams, with the final decision conveyed via a decision notice.

The notice, which is signed by an official with delegated authority from the Gas and Electricity Authority Authority, sets out in detail what decision we have reached, how we reached it, and what information we took into account when making that decision. The appellant can appeal Ofgem’s decision, and has 28 days to ask the Court to undertake a review. Our appeals handling processes and procedures have been independently audited to ensure that they are fit for purpose.

3. **How much has the RIIO (Revenue=Incentives + Innovation + Outputs) sharing programme been worth for consumers in cash terms? (Q18)**

In the first year of RIIO, the regulated transmission and gas distribution network operators made expenditure savings of £1.03 billion compared with the allowances we set at the time of our price control review. Some of these savings are likely to be reversed in later years, since some of their investment programmes have been re-profiled.

Nonetheless, our incentive mechanisms provide for a share of these savings to be passed to consumers in the form of lower revenue allowances. The sharing factors applied to the savings in the first year of RIIO amounted to £0.49 billion. Some of this would be reflected in higher corporation tax payments, but the bulk is passed through as lower revenue allowances. Reflecting the capital nature of these expenditure programmes, the savings are largely reflected in a lower regulatory asset value and consequently lower depreciation and cost of capital allowances over 20 to 45 years.

4. **What language have we agreed for explaining the relationship between shorter lists and commission for PCW’s? (Q60)**

We have not prescribed the language specifically. However, Confidence Code-accredited sites will have to display all tariffs in the market unless consumers make an informed and active choice not to, and the messaging used to describe this choice is clear. To establish this, sites will be required to test their messaging with consumers.
We intend to give sites flexibility around how they conduct this testing, but sites must test any changes and make available to Ofgem the messaging and the results of their testing. This information will be used to inform our compliance monitoring. We are also conducting our own consumer testing to inform our view of what works best for consumers. If a site cannot demonstrate that its messaging is clear, it will not be able to give customers a choice of view, and will have to show all tariffs.

5. How will we measure the effectiveness of the RMR? (Q34)

To ensure a robust assessment of our RMR remedies we will tie together an extensive range of quantitative and qualitative evidence, compliance assessment, and wider industry stats to build a robust picture of the impact RMR has had. Our year two evidence gathering is well underway and in the summer we will be publishing our first evaluation report. Reports will be published annually until 2017, at which point we will conduct a full review of the RMR remedies.

We don’t anticipate the RMR remedies to have an immediate big impact, but we expect the changes to be more pronounced year on year. A key part of this work is a large annual survey which we commissioned to collect data on consumers’ behaviour in the domestic retail energy markets and their views on these markets. The findings from our 2014 survey will act as a baseline for future years.

For more information on our baseline results and evaluation framework, please see here: https://www.ofgem.gov.uk/publications-and-updates/domestic-retail-market-review-%E2%80%93-evaluation-framework-and-baseline-results

6. Have Prompt Payment Discounts been abolished and if so why? (Q37)

Cash discounts are banned under RMR rules except for dual fuel and online account management. Prompt pay discounts constitute cash discounts and are therefore not allowed.

Our rules in this area simplified tariff choices to help consumers compare tariffs and choose the best deals. Prompt pay discounts were considered to make it more difficult for consumers to compare the costs of tariffs. RMR research suggested that prompt pay discounts led customers to believe they were getting a good deal when actually there may have been better offers in the market.

Prompt pay discounts were also considered to have potential lock-in effects which could hamper competition as customers may not switch suppliers as they awaited their prompt pay discount. The ban of prompt pay discount was also supported by behavioural economics which suggested that consumers may make inconsistent decisions depending on the moment in time when they may receive monetary rewards.

7. How do we measure the performance of E-Serve (Q83)

E-Serve is responsible for administering, delivering and enforcing a range of environmental and social schemes on behalf of government. We aim to deliver these schemes effectively, to time, cost and quality, in a way that doesn’t compromise Ofgem’s role as an independent regulator.

E-Serve delivers around £5 billion of schemes for under 1% of the total cost. Last year we achieved savings of 13% through cost, quality and speed improvements. In 2015-16 we plan to make an overall 10% saving across the year by improving practices and processes.

In common with other Ofgem divisions, we have a number of key performance indicators (KPIs) which we use to monitor our performance.
In the 2015-16 Forward Work Programme, which is currently open for consultation, we list a number of KPIs specific to E-Serve. For example, process 95% of payments for the Domestic Renewable Heat Incentive (RHI) scheme within 5 working days of due date. For the Non-Domestic RHI, Feed-in Tariff (FIT), and Renewables Obligation (RO) schemes, 90% of responses and follow up with generators on outstanding issues for accreditation should be done within 10 working days. A KPI for the Energy Companies Obligation (ECO) scheme is to publish 100% of monthly compliance progress reports within 28 days. The Warm Home Discount (WHD) has a similarly ambitious KPI to respond to 100% of applications from WHD obligated parties for approval of their planned activities under the scheme within 28 days.

8. What happens to the enforcement money? Does more go back to consumers than HM Treasury? (Q70)

Please see https://www.ofgem.gov.uk/investigations/investigations-and-enforcement-data which shows this information. Since 2010, the trend is for a greater proportion of penalties to be paid as consumer redress rather than to the Treasury.

The mis-selling investigations referred to in the question were completed under our previous penalties policy at a time when the Authority did not have powers to compel redress payments. SSE was the only one of these cases that resulted in a contested hearing, and so, on the finding of breach, the entire penalty awarded went to the Treasury. The other mis-selling investigations (EDF [2012], ScottishPower [2013], npower [2014] & E.ON [2014]) were settled with voluntary payments of redress monies going back to consumers and a £1 nominal fine going to the Treasury in each case.

For breaches occurring on or after 18 February 2014 it will be open to the Authority, whether dealing with contested or settlement cases, to impose either or both of penalties or redress payments as may be appropriate in any particular case.

9. How many people have been seconded to the CMA? (Q27)

At the request of the CMA, one person at a junior level has been on secondment from Ofgem since August 2014. The secondment is due to end in April 2015. The CMA rules on secondees have been strictly observed to ensure the independence of the investigation is not compromised.