By Email Only:
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Consultation on the Publication of Utility Regulator ("UR") Compliance and Enforcement Annual Report

Budget Energy, Flogas Natural Gas Limited and Flogas Enterprise Solutions Limited (together "Flogas Energy") welcome the opportunity to respond to the Utility Regulator's consultation on the publication of its Compliance and Enforcement (C&E) Annual Report.

We support the objective of increasing transparency around the Utility Regulator's compliance and enforcement activities and recognise the potential value this can provide to consumers, licensees and other stakeholders. Greater visibility of regulatory compliance issues, areas of common non-compliance and regulatory learning can help suppliers strengthen their individual compliance frameworks and identify emerging risks.

Overall, we consider it would be beneficial for the C&E Annual Report to provide appropriate context around the overall level of compliance across the sector. Given the breadth and number of obligations contained within licences and associated codes of practice, in our view energy suppliers are, on the whole, operating in a compliant manner and investing significant resource in meeting these obligations.

While we recognise the importance of identifying and reporting areas of non-compliance, emerging issues and enforcement activity, we believe the report would provide a more balanced and meaningful picture of the market if it also highlighted areas of positive compliance and the work being undertaken by suppliers to maintain and improve compliance. This would not detract from the importance of addressing areas where improvements are required but would provide consumers and other stakeholders with a more complete picture of the sector. In turn, this balanced approach could help strengthen consumer confidence and trust in the energy market by demonstrating both where issues have arisen and the wider efforts being made by suppliers to meet their regulatory obligations and deliver positive outcomes for consumers.

However, publication of compliance information must be carefully balanced against the principles of proportionality, procedural fairness, accuracy, relevance, transparency and the protection of commercially sensitive information.

We note from the report that the hope of UR is to publish the decision paper and the first Compliance and Enforcement Annual Report in October 2026 and annually thereafter. We would question whether the publication date of the annual report is feasible given the closing date for this consultation is 8th September 2026. In our view, this does not allow sufficient time for consultation responses to be fully analysed and assessed and furthermore, it suggests that the UR has already decided on the detailed content of the first annual report.

We would urge UR to fully consider all responses and re-assess the feasibility of the annual report publication date. Rather than publishing the decision and annual report at the same time, we firmly believe that the decision should be published first to allow industry digest its content and for the annual report to be published a number of weeks thereafter.

Question 1: Do you agree with our proposed compliance data providing detail of both our routine and annual compliance monitoring? Please provide clear reasoning and examples where possible evidencing the impact of your views.

Flogas Energy broadly agrees with the inclusion of data arising from both routine compliance monitoring and the annual Statement of Licence Compliance process. Reporting on both aspects of the compliance framework will provide stakeholders with a better understanding of how the Utility Regulator monitors compliance, helps identify common areas of regulatory focus and supports transparency regarding compliance performance.

However, we believe the report should also clearly distinguish between:

- Potential compliance issues, including those self-reported by a supplier or a 3rd party;
- Matters under review or investigation;
- Confirmed breaches; and
- Enforcement outcomes.

We have concerns about how the publication of "potential compliance issues" may be interpreted by consumers, market participants or the media as confirmed breaches, despite the Utility Regulator expressly acknowledging that a potential compliance issue is not necessarily a breach of licence.

To avoid misunderstanding, any reporting of potential compliance issues should contain a prominent disclaimer stating:

"The identification of a potential compliance issue does not indicate that a licence breach has occurred. A breach resulting in enforcement, can only be established following the Utility Regulator's enforcement process and determination by an Enforcement Committee."
This distinction should be applied consistently throughout the report and any associated summaries, infographics or public communications.

We would also emphasise the importance of ensuring that the Annual Report remains fully aligned with the current reporting requirements set out in the Enforcement Procedure. The report should reflect the agreed regulatory framework and provide clear and consistent reporting against the requirements currently in place. Any proposed changes to the scope, content or approach to reporting should, in our view, be clearly identified and subject to the appropriate consultation and governance process.

Furthermore, we would welcome greater clarity on how materiality and proportionality will be applied in determining the matters included within the Annual Report. In particular, it would be helpful to understand the criteria that will be used to determine whether a matter warrants disclosure, including consideration of customer detriment, financial impact, regulatory significance, public interest, the number of affected customers, the duration and severity of the issue, whether it was systemic or isolated, and the extent of any remediation undertaken.

Without appropriate context, there is a risk that relatively minor issues could appear equivalent to more serious matters. The report should therefore provide sufficient context to enable readers to understand the relative significance of any reported issues.

Publication of market-wide themes identified through routine compliance monitoring could, for example, enable suppliers to proactively review similar processes within their own organisations and strengthen controls before customer detriment arises.

Question 2: To what extent would it be necessary or desirable to have the published data anonymised / pseudonymised? Stakeholders should outline and explain (where applicable) their rationale for the views expressed and include examples where appropriate.

Flogas Energy supports the publication of aggregated compliance data where it provides useful market insight and supports regulatory transparency. Our strong preference would be for potential

compliance issues and matters under review to be reported on an aggregated and anonymised basis, rather than in a form that could allow individual licensees to be identified.

However and notwithstanding the above, in the event that required publication of any information relating to a specific licensee, before doing so the Utility Regulator should establish a formal pre-publication verification process that provides reasonable notice and an opportunity for licensees to review factual accuracy, identify commercially sensitive information and highlight any risk of unintended identification.

This is particularly important in the Northern Ireland energy market, where the relatively small number of market participants increases the risk that individual licensees could be identified through the nature, timing or circumstances of a reported issue, even where names are not disclosed.

We believe the report should focus on an overall view of:

- Market-wide trends;
- Common areas of concern;
- Examples of good practice;
- Successful remediation activities; and
- Lessons learned.

Any statistics relating to potential compliance issues should be aggregated and appropriately contextualised. We do not consider it appropriate to publish supplier-specific information relating to potential compliance issues or matters under review, as this may create reputational harm where no regulatory determination has been made and have profound adverse implications for that supplier. It could also result in commercially sensitive operational or financial information becoming publicly available.

The Utility Regulator should also ensure that reporting arrangements do not inadvertently discourage constructive engagement, self-reporting or early remediation by licensees. Suppliers should remain incentivised to proactively identify, disclose and remedy issues where they arise.

<u>Question 3:</u> To what extent do you agree with our proposal to include relevant detail by licence type to ensure the data remains of value to the reader. Stakeholders should outline and explain (where applicable) their rationale for the views expressed and include examples where appropriate.

Flogas Energy recognises the value of reporting compliance and enforcement information by licence type, as this can help stakeholders understand broad compliance trends, areas of regulatory focus and emerging risks across different sectors of the market.

Reporting by licence type may also assist consumers, licensees and other stakeholders in understanding the context of compliance activity and in identifying sector-specific themes, lessons learned and examples of good practice. In principle, we therefore support the inclusion of relevant detail by licence type where it enhances the usefulness and transparency of the report.

However, given the relatively small size of the Northern Ireland energy market, reporting by licence type should only be used where the information remains sufficiently aggregated to prevent direct or indirect identification of individual licensees.

Where a formal enforcement outcome has been determined and publication is required under the Enforcement Procedure, publication by licence type may be appropriate, provided it is consistent with the applicable regulatory framework and does not disclose information beyond that necessary to support transparency and consumer understanding.

For example, reporting that a particular licence type has experienced recurring issues in a specific compliance area could improve regulatory learning and allow suppliers to review their own controls without identifying an individual supplier.

Question 4: Should information about cases closed at the Initial Enquiry Stage through an agreed alternative resolution also be published in our Compliance and Enforcement Annual Report? Please provide the rationale for your position including how it represents the consumer interest.

Flogas Energy's firm view is that we do not support the publication of individual cases that are closed at the Initial Enquiry Stage through an agreed alternative resolution and would identify individual suppliers.

Publication of such cases could imply wrongdoing or regulatory non-compliance where the matter has not progressed to a formal enforcement finding. This would be inconsistent with the purpose of alternative resolution, which is to facilitate the proportionate and efficient resolution of concerns without formal enforcement action.

It may also lead consumers, market participants or other stakeholders to assume that a licence breach has occurred when no such determination has been made. In a relatively small market such as Northern Ireland, this could result in disproportionate reputational impacts on individual licensees.

Furthermore, publication may reduce the effectiveness of alternative resolution by discouraging early engagement, cooperation, self-reporting and prompt remediation. Suppliers should remain incentivised to work constructively with the Utility Regulator to address concerns quickly and effectively.

From a consumer perspective, we believe the priority should be that issues are identified, addressed and remediated as quickly as possible. Alternative resolution can support this by encouraging proactive compliance and timely corrective action.

If the Utility Regulator considers it necessary to report on matters resolved through alternative resolution for transparency purposes, any such reporting should be limited to anonymised and aggregated statistics together with high-level thematic learning and market-wide insights. No information should be included that could directly or indirectly identify individual licensees.

The report should also distinguish, where appropriate, between issues identified and resolved through proactive supplier engagement, self-reporting and corrective action, and matters requiring formal investigation and enforcement.

Question 5: Do you have any additional comments on the proposed annual report in relation to how the publication of the proposed information is in the interests of consumers? If you have any additional comments, please provide clear rationale.

Flogas Energy supports the Utility Regulator's objective of increasing transparency regarding compliance and enforcement activity and recognises the value that this can provide to consumers. However, for the report to be in consumers' interests, information of real relevance should be presented in a fair, balanced and proportionate manner. In particular, the report should clearly distinguish between potential compliance issues, ongoing investigations, confirmed breaches and enforcement outcomes to avoid consumers drawing incorrect conclusions where no formal regulatory determination has been made.

The report would provide greater value if it included examples of good practice, successful remediation, proactive compliance initiatives and positive customer outcomes alongside areas requiring improvement. This would provide consumers with a more complete picture of compliance performance across the sector and help strengthen confidence in the retail energy market.

The report should provide appropriate context regarding the significance of any reported issues and ensure that commercially sensitive information is protected, and individual licensees are not inadvertently identified where no formal enforcement finding has been made. Where quantitative data is presented, the Utility Regulator should also ensure that the basis for comparison is clear, including any differences in the scope, frequency or nature of compliance monitoring, so that consumers are not presented with statistics that could be misleading when viewed in isolation.

The Utility Regulator should also clarify how long compliance and enforcement information will remain publicly available and whether historic matters will continue to be reported after they cease to be relevant to consumers or market participants. Clear retention principles would support

proportionality and fairness, with publication and retention arrangements reflecting the severity, relevance and age of the matter.

In this context, we believe a more appropriate timeframe within which to report historic issues would be equivalent to the statute of limitations i.e. six (6) years and furthermore, given that the development of the UR's current compliance framework was from 2022 onwards, the first annual report should only show data from that year forward.

Overall, a reporting framework based on the principles of transparency, relevance, proportionality and procedural fairness will best support consumer confidence, regulatory effectiveness and a culture of proactive compliance and continuous improvement.

Question 6: Do you agree that where this document has an impact on the groups listed, those impacts are likely to be positive in relation to equality of opportunity for consumers? If you do not agree, please provide your rationale and examples where possible.

Flogas Energy agrees that increased transparency regarding compliance and enforcement activity has the potential to deliver positive outcomes for consumers, including those within the equality groups identified by the Utility Regulator.

However, these benefits will depend on information being presented in a clear, balanced and proportionate manner. Information relating to potential compliance issues, ongoing investigations, confirmed breaches and enforcement outcomes should be clearly distinguished to avoid consumers drawing incorrect conclusions where no formal regulatory determination has been made.

We believe consumers are best served by a reporting framework that promotes transparency, consumer confidence and continuous improvement across the sector, including recognition of good practice, successful remediation and positive consumer outcomes.

Clear and accessible reporting may also help ensure that consumers who may be more vulnerable or have greater difficulty navigating regulatory information can understand the issues identified and any improvements made by suppliers.

Overall, Flogas Energy agrees that the proposed report is likely to have a positive impact on equality of opportunity for consumers, provided the information published is accurate, proportionate and appropriately contextualised.

Flogas Energy recommends that the Utility Regulator:

1. Continue to publish confirmed enforcement decisions and outcomes in accordance with the enforcement procedure.

2. Clearly distinguish between potential compliance issues, ongoing investigations, confirmed breaches and enforcement outcomes, with potential compliance issues reported only on an aggregated and anonymised basis and accompanied by sufficient context and appropriate disclaimers
3. Include examples of good practice, successful remediation and positive compliance outcomes alongside enforcement activity.
4. Ensure the Annual Report provides appropriate context regarding overall compliance levels across the sector and reflects both areas requiring improvement and examples of positive compliance activity.
5. Apply materiality and proportionality when determining what information is reported and how it is presented.
6. Ensure reporting distinguishes between isolated incidents and systemic or recurring compliance concerns.
7. Establish appropriate governance and pre-publication verification processes to ensure published information is accurate, proportionate and does not inadvertently disclose confidential or identifying information.
8. Clarify retention periods for published compliance and enforcement information and ensure publication remains proportionate to the severity, relevance and age of the matter

Conclusion

Flogas Energy supports the Utility Regulator's objective of increasing transparency regarding compliance and enforcement activity. However, the reporting framework should support continued constructive engagement between the Utility Regulator and licensees, while ensuring that reporting arrangements do not create unintended disincentives to proactive issue identification, self-reporting and timely remediation.

A reporting framework based on transparency, proportionality, relevance and procedural fairness will best support consumer confidence, regulatory effectiveness, and continued constructive engagement between the Utility Regulator and licensees, while promoting a culture of proactive compliance and continuous improvement across the sector.

Yours sincerely,

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