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By email to CCUSconsultation@ofgem.gov.uk

Response to consultation on “our enforcement approach regarding CO2 T&S licensees”

Dear Sir or Madam


Fuels Industry UK represents the eight main oil refining and marketing companies operating in the UK. The Fuels Industry UK member companies – bp, Essar, Esso Petroleum, Petrolneos, Phillips 66, Prax Refining, Shell, and Valero – are together responsible for the sourcing and supply of product meeting over 85% of UK inland demand, accounting for a third of total primary UK energy (based on the Department of Energy Security and Net Zero Digest of UK Energy Statistics 2022).

The refining and downstream oil sector is vital in supporting UK economic activity. It provides a secure supply of affordable energy for road and rail transport, aviation, and marine applications, as well as for commercial and domestic heating. It also supplies base fluids for use in lubricants, bitumen for use in road surfacing, and graphite for use in electric vehicle batteries and as electrodes in steel and aluminium manufacture.

Fuels Industry UK welcomes the opportunity to respond to the consultation on the Ofgem enforcement approach regarding CO2 transport and storage licensees.

Our responses to the consultation questions are given in Attachment 1.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Chris Gould', is displayed within a light blue rectangular box.

Chris Gould

Energy Transition Lead, Fuels Industry UK

Attachment 1: Fuels Industry UK Response

Question 1: Do you agree that taking this approach to the CO2 T&S Enforcement Guidelines and Penalties Statement documents is appropriate?

Fuels Industry UK agrees that the high-level approach to the CO2 T&S Enforcement guidelines and penalties statement documents is appropriate

This builds on experience in the gas and electricity sectors, which have operated over many years in the UK, while recognising that there may be unique challenges affecting the CO2 sector.

Recognising the nascent nature of the industry, we would encourage ongoing dialogue with the sector on the enforcement guidelines and penalties to ensure that they remain appropriate and fit for purpose, allowing the sector to establish and develop over time.

Question 2: Are the strategic enforcement objectives that we propose in the exercise of our powers appropriate? Should any other objectives be included?

Fuels Industry UK agrees with the strategic enforcement objectives proposed in section 1.14 of the Enforcement Guidelines. These are consistent with the nascent nature of the sector at this time, and the need for private sector investment.

We recognise and welcome the inclusion of fair and equitable treatment of users and the principles of upholding practices that promote fairness and inclusivity.

We would ask that this principle of inclusion is extended to non-pipeline CO2 transport (such as shipping, road and rail), as well as the initial pipeline based clusters.

Question 3: Do you have any comments on any other areas of the guidelines?

We note the inclusion of compliance with the Business Protection from Misleading Marketing Regulations 2008 (BPMR). While we are confident that prudently operated companies will have no intention of not complying with these, we are unsure as to why they have been included in the guidelines at this point, bearing in mind that compliance with the regulations is legally required in any event.

We welcome the inclusion of guidelines on the Enforcement Oversight Board and the Enforcement Decision Panel. We would welcome further information on the skillset required for these to be included in the guidelines, recognising that there may be limited number of people available with these at least in the early years of the CCUS sector. We would also recommend that people elected to these should also be independent of the parties involved.

We note the comment in section 5.30 regarding timelines of an investigation but suggest that this does not provide sufficient clarity for CCUS operators as it includes very little specific information on timetables for investigations. There should be an indication in the guidelines of the relevant timeframes associated with any T&S Penalties. This includes the length of time taken to determine whether to impose a financial penalty, and the amount of penalty incurred. It should also include an indication of the time expected for payment of any applied penalties by the party incurring the penalty. There should also be an indication of any statute of limitations – for example if claims can only be considered after a specific period of time such as 12 months after an alleged breach has taken place.

Finally, we note the inclusion of specific pieces of legislation (such as the BPMMR 2008 regulations discussed above). Such legislation can be updated from time to time, and we would ask if there were a process in place to revise these guidelines accordingly. The means to notify Ofgem of any change in legislation, and the process for notification of updates should be articulated in the guidelines.

Question 4: Are the criteria that we propose to consider in deciding whether to impose a financial penalty appropriate?

Fuels Industry UK agrees that the proposed criteria are appropriate in deciding whether to impose a financial penalty.

Question 5: Are the factors that we propose to consider in determining the amount of a financial penalty appropriate?

Fuels Industry UK agrees that the proposed criteria are appropriate in determining the amount of a financial penalty.

Question 6: Do you have any comments on any other areas of the statement?

As we note in our response to Q2, there should be an indication in the guidelines of the relevant timeframes associated with any T&S Penalties. This includes the length of time taken to determine whether to impose a financial penalty, and the amount of the penalty. It should also include an indication of the time expected for payment of any applied penalties by the party incurring the penalty. There should also be an indication of any statute of limitations – for example if claims can only be considered after a specific period of time such as 12 months after an alleged breach has taken place.

We note that a discussion on appeals is include in the overall guidelines and this should be referenced in the penalties statement as well for clarity. There should also be an indication on any timeframes for an appeal to be made, and the length of time an appeal should take.