HOUSE OF LORDS

# Industry and Regulators Committee

## Corrected oral evidence: Regulators and growth

Tuesday 16 December 2025

10 am

Watch the meeting

Members present: Baroness Taylor of Bolton (The Chair); Lord Best; Viscount Chandos; Baroness Drake; Baroness Harding of Winscombe; Baroness Nichols of Selby; Lord Teverson; Viscount Thurso; Viscount Trenchard; Lord Udny-Lister; Baroness Valentine.

Evidence Session No. 5 Heard in Public Questions 57 - 67

## Witnesses

I: Rachel Fletcher, Director of Regulation, Octopus Energy; Antony Shimmin, Chief Operating Officer, MyCardium AI; Maria Tjader, Head of Government Affairs, Schneider Electric.

# Examination of witnesses

Rachel Fletcher, Antony Shimmin and Maria Tjader.

Q57 **The Chair:** Good morning. This is the Industry and Regulators Committee of the House of Lords. We are looking at the moment at the issue of regulators and the Government's growth agenda. Our witnesses this morning are Rachel Fletcher, who is director of regulation at Octopus Energy, Antony Shimmin, who is chief operating officer at MyCardium AI, and Maria Tjader, who is head of government affairs at Schneider Electric. Welcome to you all. Can we start by just getting a bit of background on where you are coming from? Perhaps you could just tell us a little bit about your businesses and the regulators that you actually deal with, and perhaps what your relationship with regulators is and how it is developing, and anything you might think particularly relevant to our inquiry. Who would like to start? Ah, Maria, they are both looking at you.

***Maria Tjader:*** That is the joy of sitting in the middle. It is great to be here; thank you very much. Schneider Electric is a multinational energy technology company headquartered in France. We employ about 160,000 people worldwide, with about 4,000 in the UK operating across 13 sites, including four manufacturing sites. In the UK, we primarily manufacture the electrical components necessary for the grid on the distribution network side, but we also provide various technologies and solutions for industry, data centres and buildings. Everything is really around energy management to support the energy transition, as well as using digital and AI to speed up and also support automation of industry.

We are not a utility so, as for our relationship with regulators, we work with a lot of different regulators—primarily Ofgem, but also the ICO, the OPSS, as well as the HSE and the IPO on patents. Because we are not a regulated utility and we are not seeking approvals for specific products in the UK, we have a good relationship but sometimes we would probably also like a bit of a closer relationship and to have a little more engagement with the regulators, especially for a company that sits primarily in the supply chain. Sometimes supply chain companies can be seen as somewhere on the side, whereas in reality it is incredibly relevant for us, especially at the moment when we are speaking to Ofgem as it is developing the next price control for distribution networks.

It is great to be here, and I am looking forward to the discussion as well.

***Antony Shimmin:*** Good morning, everyone. I am chief operating officer of MyCardium. Thank you very much for having me here today to give evidence.

MyCardium AI is a University College London spin-out, which actually located our headquarters in Liverpool. We use AI to measure cardiac function. If you go for a cardiac scan, be that cardiac ultrasound or cardiac MRI, a series of images are produced, and we use AI to measure heart function when interpreting those images. We are about three and a half years old. We were established in April 2022. I am delighted to say

that, as of this summer, we achieved regulatory clearance for both the FDA and CE marking. Our business lives and breathes regulatory and compliance. The regulators that we engage with are primarily the FDA, MHRA and other global regulators in Australia, Switzerland and elsewhere.

I will just make a point of clarification, actually. The main people that we have engaged with on our journey, when ascertaining regulatory clearance for our products, have predominantly been the notified bodies. I am sure I will go on to explain our experience with notified bodies and our experience over the past three years when making sure that our organisation is both compliant and that our products are being appropriately clinically safety verified as well, alongside our technology and the AI. Once we achieved our CE marking, actually engaging with the MHRA was very straightforward. Again if I think about other regulators or bodies that we work with, we work towards the ISO standards such as ISO 13485 and ISO 27001, and they are predicates to organisations like ours ascertaining regulatory clearance, be that in the US or the UK for that matter. I will stop there.

***Rachel Fletcher:*** Good morning, everyone. Thanks very much for inviting me along. Octopus Energy is an energy tech innovator. We were set up about nine years ago. Our goal really is to help people and businesses benefit from low-cost and clean energy. We see that as a really important part of the Government's growth agenda. We are now a global company. We employ about 11,000 people, most of those in Britain but we are active on pretty much every continent, across 33 countries.

You may know us most as an energy retailer—I am very proud to say that we are now the country's biggest energy household retailer—but we also provide energy services, such as electric vehicle leasing. We manufacture heat pumps and install heat pumps, solar panels, batteries and EV chargers into people's homes. We also invest and manage investment into renewable energy in the UK and globally as well. Finally, we license our own technology software, Kraken, which has been developed especially to provide great-quality service to utility customers.

As an energy retailer, we are of course directly licensed by Ofgem, and that is where we have most of our ongoing, if you like, day-to-day regulatory engagement. But, much as Maria mentioned, we also engage directly with Ofgem on its other regulatory activities, particularly the regulation of network and system operation activities, which have a massive impact on the cost of the energy system and therefore the costs we have to pass on to our customers. Those regulations have a big bearing on the extent to which new technology is properly used by the system, and the extent to which customers can benefit from it. I will come on to that later.

To a lesser extent, we interface with the FCA. We offer a number of financial service products, such as crowdfunding, retail investment into renewables, EV leasing of course and other financial products. All of those

have to be approved by the FCA, which also approves changes in our ownership.

Lastly, we are significantly affected by planning and technology standards, which again have a big influence on the pace at which new innovative technologies, such as heat pumps, can be adopted easily and without hassle by customers. That is an important part of decarbonising our economy.

**The Chair:** That is quite a variety of experience, and we will want to follow up. When you talk about the pace of change and approvals, that fits in very much with the Government saying that the regulators have to have a focus on growth—but my colleagues will want to take up some of those other issues.

Q58 **Viscount Trenchard:** Taking your relationships with the regulators a little further, you mentioned several regulators—Ofgem of course but also others, including MHRA and the FCA. How do you see the impact of regulation on your respective businesses and do you think it places more burdens on you than it brings you benefits, or the other way around? To what extent does the regulation that you are subject to actually come from the regulators that you have mentioned, and to what extent does it come directly from other government agencies or government directly?

***Rachel Fletcher:*** It is natural to focus on the negatives, because that is where we need change. But I want to start by saying that there is a lot that is good with British regulation—I say that having been a regulator myself for many years—and, to some extent and in some areas, Britain still has some of the best regulation that I have seen globally. But that does not mean that it should not change.

The success story of Octopus is pretty unique around the world in terms of a regulatory regime that has opened up the retail market, that has provided customers with choice and that has overseen fair competition that would allow a challenger business—not a legacy monopoly—to come in and not just gain top market share but do so by bringing quite a lot of innovative products, which might not have been foreseen when the rules were written. So there are things that we should not take for granted about regulation.

But, as I said, of course we are focused on the things that hold us back and the things that need to be changed. It definitely feels to us that the cost and the risk associated with the way the energy retailers are regulated are very high. This is a distraction from growing a business and from innovating with new products, and it deters investment into our business—particularly the risk. Where regulation is unpredictable, and where the interpretation of a rule cannot be guaranteed, you are adding risk, which is, as we all know, the thing that investors really do not like.

On Ofgem's regulation of energy retailers, I particularly highlight a relatively new but very disproportionate regulation around capital adequacy, which is not adding to financial resilience but is definitely

deterring investment into Britain and Britain's energy retail. We feel that we have to push harder than we might think to get the changes in the way that Ofgem regulates the monopoly parts of the business. For example, we as a country are paying probably £1.5 billion this year to turn off wind when there is too much of it and we cannot get it to people where they demand energy. Yet we have the opportunity to ask customers to turn up their demand, and encourage them to do so, to make good effective use of that energy, rather than paying for it to be wasted. Progress in these kinds of areas—transforming the energy system so that it is fit for purpose in a world with intermittent renewables and new technologies such as batteries and demand-side response—is painfully slow. It holds up our business but, frankly, much more importantly, it holds up economic growth in this country.

In case you were not aware, we still have some of the highest electricity prices in the industrialised world, and it is a matter of deep concern to us that Ofgem does not pay more attention to that in terms of both how it bears down on costs on the monopoly networks but also how it drives change in the system to make it more efficient and more flexible.

***Maria Tjader:*** It is important to remember that all regulation was introduced for a reason. At Schneider, we do not necessarily think that deregulation will automatically lead to growth. If we start at a high level, for us it is about predictability and clarity. We can probably come on a little later to the difference between predictability and flexibility.

We would like to see a real reduction in the administrative burdens—this relates to what Rachel was saying about the cost of doing business and of regulation. This does not necessarily mean removing regulatory protections; it is about speeding up, clarifying and making it easier for businesses. An example of that is sustainability reporting. We are firmly committed to sustainability at Schneider, and we believe that sustainability reporting is crucial for the climate and energy transition because we need that data. However, at the moment there are several different frameworks that all request pretty similar data. But for businesses at the moment, you essentially have to submit data individually to three different frameworks. A company such as Schneider has a big compliance team and sustainability teams that do this, but many smaller businesses do not. Because these are voluntary codes or reporting mechanisms, that creates a distortion between big companies that can report data and smaller companies that cannot.

I am sure you will come on to the power of data, not just in sustainability but across the whole economy and for growth. That is something we would really like government and regulators to focus on. Improved data sharing and improved sharing between regulators would be really important.

***Antony Shimmin:*** Regulation is not a burden on our business but a necessity when you work in the medtech domain. Having a compliant suite of products and being compliant as a business with the appropriate international standards is hugely important. The benefits of that come

with consumer confidence and confidence for clinicians and/or patients who are using our software. So it is a necessity.

Thinking about the burden, however, I will touch on three areas. One is the financial burden in our domain. The financial burden of achieving regulatory approvals for products in the medtech domain is significantly challenging within the SME area. I am sure we are all aware of the current economic climate that we find ourselves in, particularly when it comes to raising funding for investments. The cost associated with being compliant or having a regulatory compliance product and delivering that into the NHS is significantly beyond the reach of majority of innovative businesses in this country. If you combine that with the context of the climate that we work in, it is challenging for a lot of businesses to bring about their innovations. If I think about the burdens that we have touched upon within the business, the reality is that you have to live and breathe it. To say, "Oh, it's someone else's job or it does not have an impact", I am less worried about that. The burden that we see when it comes to regulation is very much the cost associated with engaging with notified bodies. That is the big challenge for businesses in our domain.

**The Chair:** You are drawing out some themes that we will want to follow up on engagement, the pace at which things move, the need for predictability and interpretation of the rules. Viscount Thurso is particularly interested in that point, so I will bring him in now.

Q59 **Viscount Thurso:** My question is around the need for predictability and stability on the one hand but flexibility on the other. We have heard from a lot of witnesses that more than anything they want a predictable and stable regime, so that they can invest for the long term. But equally, we have had other witnesses who said they want flexibility in order to respond to new opportunities. Can I ask each of you where you sit on that spectrum, and perhaps at the same time you might also say what you would ideally need from regulation to be able to innovate and grow your business?

***Maria Tjader:*** It depends on the policy issue. In some instances, we would like a little more prescriptive and firmer regulation. I can highlight two examples. One is around a potent greenhouse gas called SF6, which is used in switchgear. When it leaks, it is detrimental to the climate. As a result, companies like Schneider have decided to phase it out from our switchgear and to use pure air instead.

This regulatory decision sits with Defra but includes Ofgem because it affects the distribution network operators that are purchasing the switchgear. Three years ago, the Government said that they are going to phase it out. They did not provide a timeline; they did a consultation. Three years later, we do not have clarity. Schneider has invested about £50 million in the UK in the past three years to build and manufacture more switchgear for the energy transition, because we know that widespread electrification requires more distribution and transmission networks. We decided to invest in a new factory in Scarborough and to expand our factory in Leeds to ensure that we can manufacture SF6-free

switchgear, which we believe is really important for the UK to reach its net-zero and climate ambitions.

At the moment, we are in a regulatory limbo because Defra does not want to take a decision and it is referring it to Ofgem, which says, "It is Defra and DESNZ that have to make the decision". At the moment, we are thinking, "Should we invest further?" This is not appealing for us as a big company. The EU, for example, has committed and it made a decision a couple of years ago to ban SF6. That is clear to us. We know that it is going to be phased out and that we are not going to be able to manufacture or sell those products in the EU. That is very easy. The UK is not so easy and we still face this regulatory limbo.

Another example that I wanted to raise around where we would like to see more regulation is on the issue of standard essential patents. These are used in technologies essential for implementing international co-operation and technical standards—in wifi, for example. Holders of SEPs are typically required to license them under something called FRAND—fair, reasonable and non-discriminatory terms. This is to balance innovation and market access. However, at the moment, the SEP holders are not required to be transparent about the pricing, which means that they can essentially set the price that they want for different companies that want to purchase their patents. This has led to major litigation, with companies taking SEP holders to court. This is obviously being tied up in the courts in the UK; it is also costing businesses a lot of money. Again, there is a distortion between large businesses that can afford litigation and smaller businesses. When those are faced with either paying a high price or entering litigation, often they will just choose to accept the price.

One further example of where we want to see a little more flexibility is around AI. Again, taking the example of the EU, its AI Act is very prescriptive and has faced a lot of criticism because AI is such a fast-moving technology, especially in the medical field, as well as in energy, where we see a huge opportunity from using AI. The UK has taken a pretty good approach to that, whereby regulation is being based on principles. Instead of having one AI regulator, there is encouragement of the individual regulators that know their industry much better, while basing it on common principles.

**The Chair:** Are you saying there that clarity on regulations can prevent or diminish the chances of litigation?

**Maria Tjader:** Yes.

**Viscount Thurso:** That is very interesting. Thank you. Perhaps we could come to Antony and that AI point. If you could flesh that out, it would be interesting.

***Antony Shimmin:*** The most important aspect of running a small business—an SME or start-up business—is clarity and certainty. The context is that the majority of businesses in this new domain of which we are part are often pre-revenue. They may have raised some seed money,

but a lot of companies that are building a product and trying to go to market are burning through cash to do that. I compare the experiences that we have when ascertaining regulatory clearance in the States and the UK, which will give you a good indicator of where the challenges are.

For example, in the States, there are two key areas that the FDA does which are not undertaken here in the UK. One is the idea of a pre-submission. We can engage with the FDA ahead of a formal submission to review our application and understand what we do. It gives us an opportunity to address any concerns before the submission has taken place.

I will give you a practical example. As part of our submission, one of the datasets that the FDA asked us to look into further was Hispanic because it wanted the data to be more representative of the population. We went to make our full submission with the FDA, and I understand that the average turnaround time from the point of formal submission to approval was 200 days. I had a lovely website that I could visit every day to see where we were on that journey. I could speak to my shareholders, investors and staff and say, "We are expecting to get regulatory clearance in 200 days". I am delighted to say that we actually got our clearance with the FDA much sooner than that, but think about what I was able to do: I was able to speak to my shareholders and say, "This is when we are expecting it". I was able to plan out recruitment when looking to expand into other markets.

When I compare that with engaging with the notified bodies here in the UK, the story could not have been more different. I did not have a dashboard; I did not know when to expect feedback. I am not being critical of the robustness of the process; the process that we have in the UK is robust and I am certainly not calling for that to be deregulated in any way. It is important that, despite everything that I am saying, there is patient safety when it comes to regulation in our domain. That is most important. Notwithstanding that, we had no clarity about when we would expect to receive approvals. We had windows ranging from six to eight months, and it was not wholly dependent on us; it was very much dependent on the availability of individuals in these notified bodies to engage with the process.

Let me touch on AI and flexibility, if I may. It is important to say that this is a new domain. It is changing every single day. So flexibility is absolutely needed, particularly as we look at things subsequently. When you achieve regulatory coverage, as a business, there are certain times when you have to engage with the regulatory bodies to update them on significant changes either to the products or to how you operate as a business. I can see that being a challenge in future, particularly as AI continues to evolve. To summarise, flexibility is going to be needed in this fast-changing area of AI and medtech.

I would like to make one final point, going back to my previous point about clarity. When I think about businesses like ours in this country, this challenge that we have with the notified bodies means that we are

focusing our attention on other areas of the world in which to do business. It is highly likely that a technology born in the UK will be delivered much more widely in other places before hitting the UK. This is not to say that we are not having some fantastic conversations here, but the barriers are much lower elsewhere.

**Viscount Thurso:** Thank you very much indeed; that is very helpful.

***Rachel Fletcher:*** I would draw a distinction between regulatory behaviours, which need to be predictable, and the rules. In any sector where the technology is changing and the nature of the businesses coming into the sector is changing, those rules and the reach of regulation, if you like, need to be flexible; they need to expand and contract accordingly.

Take energy, for example. Ofgem will shortly take on new regulatory responsibilities for heat networks and price comparison websites—areas of business that have not been regulated—where there is a risk of consumer harm and, indeed, a risk to the reputation of businesses such as ours by dint of association with bits of the industry that are not properly regulated. With the energy supply licence, Ofgem has the flexibility to grant derogations from particular rules. It is a very long supply licence, by the way: it adds up to 600 pages when you take electricity and gas together. You might imagine that somebody coming forward with a new product for customers may need to have derogations from some of those rules from time to time.

The regulatory regime needs to keep changing and evolving in the light of new customer experiences, new technologies and new businesses, but it is really important that the behaviours are predictable. Unfortunately, we see—and have seen in the past—evidence of the regulator acting in a way that creates uncertainty and risk for businesses and not following due process. Recently, we have had a number of examples of new policy and rules in retail being announced before there has been any consultation on them or any discussion with industry about both the merits of those rules and how they might work in practice.

Sometimes, when it comes to compliance activity undertaken by the regulator, it is entirely unclear what it is looking for. It almost feels like a fishing expedition, with the regulator asking for increasing rounds of further data then changing the goalposts on the problem statement about which it is concerned. We have had lengthy consultations on new ideas that have never resulted in any policy change or formal conclusion. That adds uncertainty and wastes both time and resources.

There are also other behaviours, such as the regulator announcing the result of an engagement with a company on a compliance issue. We may have found something that did not quite go to plan. We might have reported it to the regulator. We might have put it right and compensated those customers. Yet, because Ofgem is involved, it does a press release with conclusions about that compliance, which then has a detrimental impact on our reputation even though we acted in good faith. Those kinds

of behaviour require a lot of scrutiny. We require a predictable approach to regulation, while recognising that the rules need to keep changing in the light of industry change.

You asked specifically about what else we need from regulation, beyond a predictable approach to the rules, to be able both to innovate and to grow our business. As I mentioned earlier, we are very concerned about Ofgem's approach to regulating for financial resilience among energy suppliers. We are a very resilient business. During the energy crisis, we took on the customers of the largest failed energy company, and, on top of that, we grew through the crisis. Yet, if we were to translate the rules that Ofgem imposes on us into the other seven countries where we are a retailer—and were we to be operating there on the same scale as we do in Britain—Ofgem is, in effect, imposing a requirement on us to lock up capital equating to well over £1 billion. That is capital we cannot put to use. We cannot give back to customers, in terms of lower prices, or invest in growing and employing more people.

That remains the single biggest area where we would like to see a regulatory change and a much more holistic approach in looking at the sources of financial resilience that companies have, rather than imposing a balance-sheet-heavy, capital adequacy approach. That may work for a long-established company, such as a listed company or even a company that has a Government as a shareholder, but it simply does not work for us; nor does it reflect the sources of financial resilience from new challenger businesses, which are, ultimately, the ones coming forward with innovation and generating growth.

**Viscount Thurso:** Thank you; there was a lot to take on there.

Q60 **Baroness Drake:** Continuing with this theme of predictability versus flexibility in regulation, there can be a tension between prescriptive regulation, with clear rules and guidance, and principles-based regulation, where outcomes are clearer but companies have more flexibility in how they get there. People tend to vary between the two, in terms of which way they are looking.

This triggers three related questions. How would you define the regulation with which you work against those two types? What are the benefits and challenges of each type from your perspective? What is the balance of benefit between those two approaches in your area of operation? Do you want to start, Maria?

***Maria Tjader:*** Absolutely. Again, it depends a lot on the policy issue. We definitely face a mix. Prescriptive rules around product safety and permitting thresholds are critical. This goes back to your point about patient safety; product safety is obviously crucial. Prescriptive rules can give certainty and make consistent enforcement easier but, when it comes to technology and innovation, we need a little more flexibility sometimes.

I come back to the point about the supply chain and switchgear for manufacturers. Ofgem has done quite well in the new price control for distribution networks. The previous price control was more flexible, whereas this one—ED3—is more prescriptive, and for us that means more certainty. At the moment, we are also working together with Ofgem, DESNZ, DNOs and the supply chain to develop a new sector plan for distribution networks. This is a good example of where industry and regulators are working well together, because we have all identified that there is an issue here. For us manufacturers, there has been an issue: the flexibility around how much DNOs could spend led to us not really knowing and being able to predict how much we were going to produce in terms of products. I think they listened to us; the new price control is going to be more prescriptive. That is good, and an example of where perhaps flexibility did not lead to growth, if we are going back to the growth that we all want to see. But at the same time we want to commend Ofgem—and DESNZ—for being involved with industry at the moment, trying to come together and just figure out how we are going to work together on this without regulation. That is also an interesting example.

***Antony Shimmin:*** MyCardium works under the hybrid model with our regulators when it comes to prescriptive regulation, for example. Prescriptive regulation works really well for quality systems and also clinical and or patient safety, where there is a set of clear, defined principles that we absolutely need to be adhering to. If we think about the quality systems, for example, what cannot be underestimated is that it is a burden in some respects. But, again, it is a predicate to a lot of what businesses like ours have to go through when ascertaining clearance for products. The quality systems that we adhere to, such as ISO 27001 and ISO 13485, are again a little bit hybrid as well. We are subjected to annual audits for recertification, and it is interesting, really: we are often challenged on how we adhere to the policies and procedures and if they are fit for purpose. We are absolutely fine to be challenged in that area. Actually, to be fair, that is where it works quite well.

To focus on principles-based regulation, I made a point in an earlier answer around the evolution of software and AI and what actually helps our business and businesses like ours. For example, if I take ISO 13485, that is a standard that defines the policies and procedures relating to software as a medical device. As long as we are annually accredited to that standard and that is under regular review, that means that we as a business have a lot more flexibility when it comes to further improvements down the line for our products.

Principles-based approaches require confidence and consistency from the regulatory bodies to avoid uncertainty. Certainly when we think about the prescriptive regulatory challenges when it comes to clinical safety, I would call for them to be at the forefront of what they talk about because, again, this is a hugely growing area in this country. There are many businesses that are looking to get their products on the market. Not everyone can and not everyone should be able to get there, but what

would certainly help the notified bodies—I believe, anyway—is this idea of being very clear with industry about, "If you do not meet these standards, you cannot speak to us". At the moment, they are being inundated with every idea that is out there, and we need to find a way to ensure that the best ideas rise and also give the resources to the notified bodies to address that demand.

**Baroness Drake:** Just staying with that point: in one of your earlier comments, you said that the cost of meeting compliance is beyond many small, innovative businesses in the UK. Taking that and taking the principles-based approach, which is where you would want the flexibility, what would be the top things you would look at if you were doing the regulation around this?

***Antony Shimmin:*** Think about the cost. The cost is associated with having your product and/or policies and procedures reviewed by another body. In this emerging domain, that is a very unique skill set. If I talk about our approach to working with the notified bodies, we had to go through a robust set of clinical, technical and AI reviews. We had three sets of question-and-answer responses for each of those domains—so three sets of Q and As with technical, three sets of Q and As with AI, and three sets of Q and As with clinical. The notified bodies need to be assured that they have got the expertise within their organisation to properly scrutinise what is being presented in front of them. What that leads to is very rare and very expensive individuals that are best placed to make these reviews in highly innovative areas.

If I think about the principles-based approach or perspective-based approach, in my opinion, good businesses figure that out, with the capability that they have got within that. Actually, the big challenge is, again, the costs and the availability of the notified bodies to process these as fast as possible without compromising patient safety.

**Baroness Drake:** Do you have—just off the top of your head; it does not matter if you do not—another nation's examples of where their regulation is more supportive of innovation? Who would you name?

***Antony Shimmin:*** I would name the FDA.

***Rachel Fletcher:*** In energy retail, I have already mentioned the 600-page licence, so it is full of quite prescriptive rules, but there is an umbrella-principle outcome in the licence around treating customers fairly. Both have merits and pitfalls as well. The rules are not always that clear, so there is a risk that you think that there is a detailed rule and it would be obvious what you had to do. Sometimes the rule will require you to take "all reasonable steps" to achieve something. Now, a company's view of what "all reasonable steps" are—they understand the cost, the effort and the technical aspects of what they are doing—may not be the same as a regulator's who is looking at this from the outside.

It is not always clear; in fact, it is quite often not the case. There are rules there that are very difficult to comply with for new products. An

example is our smart tariffs. We still have to comply with reporting on the cost of energy, but we have smart tariffs that we offer to some customers where the price changes every half hour, which means that we actually have to provide a bill to the poor customer for every half hour in which they are charging their electric vehicle, for example. There are other examples, particularly around the price cap and information to customers about whether they are on the cheapest tariff. But if they are on a smart tariff, where the cost of running their home might depend on when they use energy, it is quite hard to tell the customer in advance whether they are actually on the best tariff for them until we know how they are going to respond to that tariff.

I would warn against equating rules with certainty. There are grey areas even with rules in our experience, and it is those grey areas that a lot of the engagement with Ofgem is focused on. What we end up with, even with a very lengthy licence with lots and lots of rules, is having guidance on top of those rules. Some of that guidance might have been published by Ofgem. Some of it may have been sent to companies individually at a particular point in time. Heaven help the new entrant that comes in who does not have that history of engagement on a particular topic and around how the regulator sees a particular area of activities. It is fraught with difficulties.

Generally, I tend to favour principles-based regulation. Any decent company should know what it means to treat their customers fairly. It should realise that it makes great business sense and it gives much more flexibility for innovation. Also, something we quite often forget about is that an outcome-based regulation can be better at protecting customers than a very specific rule.

Going back in time, there was a rule in the licence to regulate how companies went about doorstep-selling. Then companies switched from selling to people on the doorsteps to selling to them over the telephone but, magically, that was not covered by the licence. So you can see how a principles-based approach might in some cases not just allow for more innovation but be more resilient to change as a form of customer protection.

Having said that, I am generally in favour of a more principles-based approach than we currently have in energy retail. If the regulator or, indeed, society, especially government, think that a particular standard has to be in place, then it should be on the face of the licence. The company should not be expected to have to infer that this is how a principle or an outcome should be interpreted; so we probably do need a mix of both in energy.

Ofgem currently, to its credit—and something we hugely welcome—is reviewing its approach to energy retail regulation, and particularly this balance between the focus on customer outcomes versus the focus on prescriptive rules. We very much look forward to working with Ofgem on that journey, which no doubt will take quite a long time.

By contrast, to cover the FCA very quickly, I think many of you will know that its approach tends to be much more principles-based, with a handbook putting in one place the FCA's views on what those principles really mean in practice, which acts as guidance to anybody who is FCA-regulated. That seems to work reasonably well.

**The Chair:** Viscount Chandos, I know that you want to come in. We will have to tighten up on timings, otherwise we will not get through everything.

Q61 **Viscount Chandos:** Can I follow up on the question of the economics of regulation and innovation for a small business such as yours? I am very struck by your view that the FDA is a better deal. If you talk to companies from the life sciences industry in the US, they tear their hair out about the FDA. Based on your Companies House filing, it looks as though your company has raised £3 million to £4 million to date.

***Antony Shimmin:*** Yes.

**Viscount Chandos:** Do you think it is acceptable that a reasonable proportion of that is spent on meeting the regulatory hurdles? In saying that smaller companies could not do it, it seems to me that it is a legitimate cost. Within the global scheme of things, you are a small company with relatively small amounts of money that have been raised.

***Antony Shimmin:*** I would say that we are an exception, not a rule. We are quite unique as a business in that we have been able to generate revenue in other areas to fund our business. Without wishing to go through what we have achieved as a business over the past three years, a majority of the businesses that work within the medtech sector are a combination of loss-making and pre-revenue.

We are quite a unique business because of the capability that we have and our ability to service other markets. We are quite unique in that respect. Aside from MyCardium, I sit on the Liverpool City Region health tech cluster board, so I engage with the business community in the city of Liverpool, or the city region, and the anecdotal feedback I get is, "We can't afford these regulatory costs".

It is a bit of a vicious circle in the sense that, if you are going out to raise money from investors, particularly here in the UK, they want to see that regulatory coverage. They want to see that regulatory clearance beforehand in many cases, so it is quite a challenging economic climate.

We have been funded in different ways as a business, which, again, I am happy to go into. We have also been supported by the Innovate UK programme; it has been hugely supportive of us. So, again, I would make the point that we are an exception, not a rule, when it comes to small businesses.

**Viscount Chandos:** On that analysis, in general, could you not say that the problem is with investors having an unrealistic expectation of what a company at that stage can have achieved? Therefore, the problem is on

the funding side, not on the regulatory side.

***Antony Shimmin:*** It is the context for everything, I would say. You are absolutely right in what you are saying. I am quite passionate about promoting UK business and seeing businesses succeed. When smaller businesses are going for regulatory clearance as well as going for funding, it is quite challenging. So, yes, in summary, I would agree with your comments.

**The Chair:** I think that leads into what Lord Udny-Lister wants to ask.

Q62 **Lord Udny-Lister:** I want to head into the area of risk, which is where you were going anyway with that answer. Do you think the regulators should take a more open approach to new products, services, delivery systems or whatever it is, even if that increases the risk, perhaps to consumers, patients or—I do not know—the environment?

The second part of my question is: if you do think that, what practical action would you like to see from the regulators in a more risk-open way so that they strike a balance between innovation and regulatory projections? It follows on from what you have started to say.

***Antony Shimmin:*** Absolutely. The short answer is no; we do not want the regulators to decrease their risk appetite, particularly in our domain. I can complain about the costs and I can make points about other areas, but clinical safety is the most important aspect when it comes to regulations in our domain.

One thing I would say in support of the regulatory bodies here in the UK is around robustness. I mentioned in a somewhat pained way the phases that we had to go through. Notwithstanding that, it was a very robust—albeit time-consuming—process. Certainly, we were happy to have gone through that.

What I would say in addition is that, when we have gone for regulatory coverage—where our CE marking with the notified bodies in the UK has been a predicate—it has been much more widely accepted, as it were.

On the practical steps, fundamentally they need to do what they are doing, but they need to do more of it and much more quickly. That is quite difficult to do. There are many businesses across many different clinical areas that have new innovations. For example, we frequently attend and exhibit at RSNA, which is a conference for radiologists in North America. What has been interesting over the past few years is that there has been a consolidation of small companies that have roughly the same idea. The cream is rising, as they say.

Here in the UK, what would help is certainly a prioritisation from government to say, "Right, these are the sorts of companies that we are looking for. These are the health challenges that we are prioritising". That would hopefully achieve a better outcome for business, but also a better outcome for those who actually need it themselves.

***Maria Tjader:*** I agree; I think it has to be outcomes-led. The focus should be on outcomes. I do not think we are against regulators taking more risk, especially when it comes to new technologies, but there have to be guard-rails around it. It has to be focused on what the outcome should be, but your point around it being tied to wider policy aims is also really important; that is probably a theme for the whole discussion. What the regulators are doing cannot be completely separate from what the Government are doing and the Government's long-term ambitions. Regardless of which Government are in power, we are always going to face certain themes, including the climate, energy transition, the growth of technology and AI.

Regulators have a really important role to play in looking at the long term a bit more, but no one should be put at risk, whether that is through a product or a medical approach. We would be open to supporting regulators taking more risk.

On practical actions, regulatory sandboxes are good. Schneider has not participated in any regulatory sandboxes but they have proven to be very good, especially around the energy transition and new technologies. Again, because they are confined pretty tightly—there are guard-rails and it is clear who is looking at them—they are not really being developed where there is a risk to the public or the environment.

***Rachel Fletcher:*** I agree that it is important that we are able to innovate and grow while managing risk in all its different forms. However, I would support Antony in saying that, where those specific regulatory approvals are required, they need to be done much more quickly.

The comments I am making are directed at the FCA. We found that the FCA has breached its own—quite generous—service-level agreements on giving regulatory approval for new financial services products. I am thinking about our crowdfunded retail investor platform where people can invest as little as £25 into, say, a new wind farm. That is a new financial product, but it took 14 months to get approval, and approval was given only after we had escalated right to the very top of the organisation. We need speed.

Also, when it comes to risk, there is not always an appropriate assessment of risk by the regulator. Sticking with financial regulations, tax-free ISAs are prohibited for retail investment into renewables. You can make a bond investment in renewables and get tax-free ISA benefits from it, but not if you make an investment into a renewables scheme. Obviously, that has affected our collective. Equally, you cannot promote bonds to small-scale retail investors where it is for a project that is in the construction stage; of course, for a renewable project, the construction stage is where the finance is required.

So we have these prohibitions, if you like, based on the regulator's view of risk. However, we would say that the risk is manageable, with the right product and responsible companies that have then been authorised by the FCA.

Another really good example of where risk is assessed badly and holds things up is the planning rules. At the moment, there are planning rules that have an impact on normal households that want, for example, to install a heat pump on their property. Around one in three of them requires planning permission, which requires the customer to pay £300 and adds eight to 12 weeks to the process. If you are replacing your gas boiler with a heat pump in the middle of winter because it has broken down, you are not going to wait 12 weeks for planning permission; yet the risk associated with a heat pump—one particular concern tends to be about noise—is absolutely minimal. This technology has a sound output equivalent to that of a domestic fridge, and the number of noise complaints associated with heat pumps is minimal. For me, that is a good example of where risk has been mis-assessed and, as a result, restrictions that get in the way of good things happening for the country have been put in place.

***Maria Tjader:*** I agree. Another point on planning concerns electric vehicles and charging. Again, it comes back to the point around heat pumps. On EVs, we hear the Government say that we need electrification, and we have targets, whether they are for electric vehicles or for heat pumps. We fully support all that, but the regulation needs to support it as well. Whether we are talking about heat pumps or EVs, when the planning and regulation are not supportive, it puts businesses and consumers off and makes us quite confused.

***Rachel Fletcher:*** It is well worth noting that the Government are giving very generous subsidies to people for heat pumps; obviously, that is costing the taxpayer, but they are not having the desired effect.

Q63 **Lord Best:** The Government have been busy in this space. We had the action plan in March and an update in October. There is lots of emphasis on the growth agenda. How do you feel they are doing? Are they going in the right direction? Have you noticed any changes yet, on the part of your regulators, in how they deal with you?

***Antony Shimmin:*** I have not noticed any changes in how the regulators deal with us; it is probably a bit too soon, in fairness. Again, we ascertained our regulatory clearances from the regulators in the summer of this year and we have had very little reason to engage with them since, so I do not think I am in a position to comment on that.

Let me touch on the Government's action plan. One area it spoke about was the 25% reduction in administrative costs. I would like clarity on whether that concerns—how can I put it?—indirect costs or direct costs. Our business would certainly have felt the benefit of it being direct costs, such as the costs that we have obviously had to pay to the notified bodies.

The reality is that, when it comes to internal admin, would I much rather be speaking with customers or writing forms and documentation? I go back to the point that, if you do it well and do it right, regulatory compliance is not a burden; the burden is the pricing where we pay third

parties to get us through this exercise. I would like clarity on that from the Government.

***Maria Tjader:*** I would agree with that; it is too soon to say. However, how you define growth is important; it needs to be defined, and it has to have measurable outcomes in order for it to have an impact.

To be fair to the regulators, they will always face balancing their various duties. It is right that they have a growth duty—this is really important because regulators have a very important role to play—but it would not make sense for different regulators to have widely different definitions of growth. Obviously, their definitions will depend on which areas they regulate, but having a bit more consistency would probably be helpful in the long run.

***Rachel Fletcher:*** I mentioned earlier that Ofgem has announced that it is going to review its approach to retail regulation, probably as a direct result of the Government's action plan. The Department for Energy Security is reviewing Ofgem as well. So there has been a lot of conversation around the changes that we need.

It is early days, and we have not yet seen anything tangible as a result of that, but there is a massive opportunity to cut burden. We did a back-of-the-envelope calculation: I reckon that we spend more than 2,500 person days a year on giving information to Ofgem and engaging with it on compliance actions. Some of that person input is exceptionally senior—it is at the CEO or CFO level in our organisation—so there is a lot to focus on and a lot to go after.

The action plan for Ofgem also talks about it promoting consumer flexibility as a way of helping the system run more efficiently and getting cheaper energy into people's pockets. I have to say that we have not seen any sign of real progress there at all. In fact, I worry that we have an accountability sink between Ofgem and the newly created arm's-length body, the National Energy System Operator, about which exactly is responsible for this area, with the potential for them to blame each other for lack of progress. Ofgem in that action plan also talks about focusing on new entry and getting new entry into the industry, which again, I would kind of support, but I worry that early indications suggest that it is looking to drop the kind of regulatory protections for new entrants which is at risk of creating customer confusion and an unlevel competitive playing field. So we have to proceed with caution there.

The FCA is talking about streamlining its reporting and consolidating its handbook, which we would welcome. But, as mentioned earlier, we would love to see it tighten up some of its approval service-level agreements.

**Lord Best:** Some of your response was about not reducing regulation—not for new entrants and not for your service agreements. Does this always evoke the balance that you require? I am just spotting that, although you are unhappy with a lot of regulation, at the same time you are also defending the need for regulation as is.

***Rachel Fletcher:*** I definitely think that regulation needs to evolve. What I was specifically mentioning just now is a concern that, in an attempt to encourage new types of businesses into the sector, we may end up with a very complicated patchwork of regulatory arrangements. It is already emerging. There is a potential for forum shopping, if you like, where we can decide whether we are an energy supplier, which requires us to have a universal service obligation, special regard to vulnerable customers—a whole lot of things, by the way, which I think are really important—or decide to be an aggregator: a business which is performing many of the same functions that we do but where the proposed regulations would not place those burdens on the business. So we need to be very careful about how we evolve the regulatory framework to make sure that we do not create those opportunities for forum shopping and confusion for the customer, and that we allow competition to do some of the work for us here, because it has been proven to be effective in driving improvements in performance and efficiencies.

**Viscount Chandos:** How meaningful is that 25% target and what are the trade-offs? Is there a risk that a reduction in the cost will slow a process up?

***Antony Shimmin:*** I am certainly not looking to reduce the time that we spend on regulatory and compliance within our organisation, because it is a big part of who we are and what we do, and it sets us apart. If I think about how our staff are onboarded into the business and the investment that we have made into that team in particular, I hesitate to put a figure on it like you did earlier, but it covers at least 10% to 20% of every employee's time within our business, and we are quite proud of that, because this is important. When we think about that cost, if the Government were to turn to me and say, "We're going to save 25% of your costs", I would say, "Well, are we talking about costs going out in the context of two third parties for being compliant, or about how my head of compliance doesn't have to do A, B or C?" Actually, I want my head of compliance to be doing this work because it is really important to do it the right way.

If I go back to our accreditations as a business; they set the standard and give consumer and patient confidence and give the bodies the confidence that we are doing the right thing. So that overhead in our domain for doing it in a regulatory, compliant fashion is not the problem. So when the Government say, "We're going to reduce 25% of that time", I am like, "Well, no, actually, because that's what makes us good—that's what sets us apart". But if I think about what we spent on regulatory and compliance with third parties since our inception, that 25% would make a huge difference to a business like ours.

***Maria Tjader:*** I am not sure how it could be done. Again, in theory it would be very good but, at the moment for us, looking at the UK landscape, this comes back to a question that we did not really talk about previously, about who introduces regulation. On the one hand, we have the regulatory action plan, which says, "We're going to reduce

administrative burdens and make regulation more agile", but on the other hand, you have new legislation around employment rights and cyber security that will increase regulatory and administrative burdens. I am not saying that we do not support those Bills; as a business, we will always critically assess and adhere to whatever the Government decide. But it is also about being clear with businesses, especially for international businesses, which are looking to invest in the UK, because at the moment there is a bit of uncertainty and we do not really understand what the right message there is.

***Rachel Fletcher:*** In energy retail there is a massive potential to cut the burden without having any lessening of regulatory effect in terms of protecting customers. If I just look at the information that we have to provide Ofgem, for example, we have about 50 routine data submissions we have to give to Ofgem every year, and yet they are not automated. They keep changing slightly as well, from one month to the next, so your ability just to automate them yourself is limited. This year, we calculate that we will have submitted 300 requests for information to Ofgem and to the Department about our business.

Quite often there is duplication between the information that government has asked for and the information that the regulator has asked for—for example, in the realm of smart metering, where both pay a lot of attention to our activities. We submit data that never seems to be used, and which does not result in any kind of best practice guides, findings or concerns from the regulator. If we just look at that alone and the 2,500 person days I mentioned, a lot of those person days are actually collecting data and then responding to follow-up questions that come when you submit it. So there is just a massive burden to go after here that would release Ofgem staff to do more meaningful things, as well as help us get on with our business.

**Viscount Chandos:** As a gamekeeper turned poacher—as a former regulator—looking back on your time as a regulator, why has that burden grown so much?

***Rachel Fletcher:*** I quite often think of regulation as like a cliff with the different sediment layers that have built up over time. Rules that were put in place 20 years ago because there was a particular concern still remain in place; they have not been removed—"We've always asked for this data; we're reluctant not to ask for it". So I feel like we are at the point in energy retail regulation—as I said, Ofgem recognises this—where we need a fresh sheet of paper and to think about how we are going to go about it in the light of the market as it is now, the technology as it is now and what the customers need now.

Q64 **Baroness Harding of Winscombe:** I just want to explore the administrative burden of regulation a bit more. The Government's action plan targets a reduction in the administrative costs, as opposed to the overall cost of complying with regulations. I wonder if each of you could unpack the relative cost of administrative costs, the burden of implementing regulation and the senior management time spent on

regulation, as three different sort of buckets of costs. We have heard from some people that, despite the focus on administrative costs, they are actually a smaller proportion of the total cost. You have sort of alluded to this, but could you explicitly set out those three groups of costs for your different businesses?

***Antony Shimmin:*** Yes, certainly. I can talk through how we achieve product compliance. People often forget that it is about the organisational compliance, which is a predicate to achieving clearance for products, particularly software as a medical device. We are a start-up business; as I mentioned, we are three and a half years old. It took us 12 months to get the first of our accreditations in place, with the information security management system. Then it took us a further 18 months to get our ISO 13485 in place. They are two separate systems with two separate policies. Part of what you have to do when you achieve those accreditations is to define the policies and procedures and then have a period in which you can evidence that you are working towards them. So it is not a case of just writing a policy and then getting the accreditation; you have to actually work with them for some time.

Once you have those accreditations in place, you then need to obviously have that evidence. The evidence then allows you to engage with notified bodies and regulatory bodies to talk about how the software was developed and so on. In thinking about the admin cost and the burden of that, I again go back to the point that I raised earlier. The nature of our business—medical AI software—means that we have quite specialist individuals within our business who needed to be involved in that process and to ensure that best practice was implemented. For example, when engaging specifically with the notified bodies as part of the Q&A process, or indeed with the auditors, it is the people on the ground who engage more in that order process than perhaps the senior management staff.

In my most recent audit, for example, although I was available to the auditors who visited us, I think I spoke to them at the beginning and at the end of the audit, whereas, in the middle of it, we had people ranging from project managers, software developers and programme managers. I would say that the senior management involvement in all that was actually quite limited. What is quite interesting about our business, because we are founded by world-leading clinicians, is that they often had to contribute to that themselves. As well as being founders of the business, their expertise meant they had to be part of part of that review process. Again, we are quite unique in that respect.

When it comes to these accreditations in particular, you have to demonstrate that the whole business is working towards it. It is not a case of picking and choosing. I mean, they pick and choose, but you have to make sure that everyone is prepared because they might pick someone who is not. You make sure that everyone is involved in that, including the senior management team.

To answer your question, fundamentally, the administrative costs are not the problem. I hesitate to put a figure on the cost burden, but I would

say that over 50% is on ascertaining the regulatory clearance with the notified bodies, and perhaps 25% on administrative and a further 25% on engaging with auditors for recertification. That is how I would split it.

**Baroness Harding of Winscombe:** That is really helpful, thank you. Maria, can you do the same for your business?

***Maria Tjader:*** To focus on compliance costs, I think back again to the example that I raised around reporting and just submitting the same data three times instead of once, for example, and the cost of the person who is doing it. Often, it will not be the legal director who does it, but the legal director will obviously have the ultimate responsibility. That is something that could be made much more efficient. It would then save compliance costs because that person could do something else.

However, at a higher level in terms of the cost of regulation, I think there is also sometimes a cost that we do not think about in terms of deregulation. Look at what the EU is doing at the moment; it is revising some of its sustainability and other regulations. A business like Schneider—there are also others—has spent the past three years preparing for this, hiring experts or perhaps employing consulting firms to make an assessment of the risk. So to all of a sudden be told, "This is not going to be the case anymore" is an example that we definitely do want to see in the UK. We need better and more efficient data sharing, but also to be clear and consistent in what you intend to do, so that businesses can plan.

***Rachel Fletcher:*** I talked at length about the cost of information requests and monitoring and compliance. We see three other costs of regulation in energy retail, in particular. On the first, the cost of complying is not so much of an issue except where we think that the compliance does not add anything of value to the customer. If this is what will make things great for the customer then we would not even see it as a cost because we would absolutely do it anyway. However, the rules require us to do things in which we struggle to see value for the customer. One example might be where we have to provide a final bill to a prepaying customer when they leave their rented—or quite often rented—accommodation. Yet, if they have a traditional prepay meter, we have no idea what credit is left on that meter. We have now had to spend millions on a kind of manual workaround to comply with a piece of regulation when, frankly, the customer can see what credit is on their meter when they leave the property. We are struggling to see the value of that. There are a number of other examples where regulations force us to do things of limited benefit to customers.

The second is—I have mentioned this a couple of times—the rules requiring us to tie up regulatory capital are hugely expensive, burdensome and, to our mind, not necessary. They certainly do not add to our financial resilience. Then there are the costs associated with uncertainty and risk. We touched on some of that earlier, but regulatory uncertainty is one of the few things that, as a business, there is no way to really mitigate. That adds to the cost of capital.

If you are at risk of having a rule interpreted and, in a way that is different to your business and in particular, of your reputation being damaged through publicity around that, then it will drive up the cost of capital. In fact, if you talk to ratings agencies, they will say that the regulatory risk associated with energy retail in particular—because it is so much in the spotlight—really does affect credit ratings of energy retailers, particularly if they do not have big businesses in other parts of the supply chain. All these things need to be recognised as almost different categories of costs and in how they present themselves to companies.

**Baroness Harding of Winscombe:** For three quite different businesses, you have all given good examples of where admin costs could be streamlined and saved. But that is only one of the types of costs that that regulation is placing on your businesses in different ways, and we should be looking in the round, not just at admin.

***Rachel Fletcher:*** Absolutely—we should certainly be thinking about the additional risk. In energy retail, our margins to a large extent are regulated through the price cap for the majority of customers who are on default tariffs. So we have thin margins and high risk, which is not a recipe for a highly investable sector.

***Antony Shimmin:*** On the administrative costs, I am not sure whether this is in the scope of this committee, but certainly in the medtech arena—thinking about all the accreditations that we have achieved as a business, and certainly our clearances—we often find ourselves having to engage predominantly with the NHS, repeating the same questions in a different format. That in itself is an administrative burden, not just within our organisation but actually for the NHS itself because, for every institution within the NHS that we engage with, we have to provide a differently formatted document with the same answers. Again, that is an administrative burden in itself, although I accept that it is not directly linked to regulators.

Q65 **Baroness Valentine:** My question is about speeding up approvals and what options there are. In case it is relevant to declare, I was vice chair of UCL for a long time. The Government have suggested that companies could pay more to receive faster regulatory approvals—for example, through fast lanes. Can you see the need for these in your sector and what would be the potential advantages or disadvantages? As a supplementary to that, would you be prepared to pay for faster decisions? Do you see any potential drawbacks, for instance, for the fairness towards smaller companies?

***Antony Shimmin:*** We paid a premium to bring forward our application. I am not sure whether it was a formal fast lane, so I do not wish to mislead anyone in the room. We did that because, certainly in our domain, we are cognisant of competitor response—we work in a very competitive landscape—and certainly that ability was open to us. I would not call it a fast lane; although we obviously were spoken to much more quickly than someone else would have been, I am not necessarily sure whether our

timeframes altered from the point at which our application was evaluated.

However, on what we paid for that provision—going back to my earlier comments around businesses—I think that a very small number of businesses would be able to fund being on the fast lane. Thinking about the Government's growth agenda, about the innovations that will struggle to emerge through the current economic climate and about the ability to go on these fast lanes, we have quite a pot of challenges here. One thing we have learned in our industry is that it is often not the best technology that makes it; often, other challenges get in the way. The regulatory landscape here in the UK is one of those challenges. It potentially means that we all miss out on some fantastic innovations coming from our country.

It would inject some unfairness. I grant that we had the ability to pay that, but again I genuinely think we are an exception rather than a rule. There is a possibility that those fast lanes could be dominated by the larger organisations. We have used a process that has been escalated. I think they are needed. There needs to be a prioritisation of technologies that are needed within our healthcare system, and there should be greater support for smaller businesses to access those fast lanes.

***Maria Tjader:*** I agree with your points about the risk to smaller businesses. The principle makes sense, and the regulatory action plan has indicated that it is going to be targeted at the growth sectors identified in the industrial strategy. If you are going to introduce some sort of fast lane, it has to be clearly tied to the outcome and how it is reflective of the wider policy ambitions.

But I question something: if you feel you need to introduce a fast lane, surely that means that there is a problem in the first place. If you then require payments, you have already set out that that will favour larger companies that have compliance teams and the capital. In the long run, that will create market distortion, and it does not tally with what the Government have said about supporting smaller businesses, scale-ups and start-ups. So I definitely have a bit of a concern there. There needs to be a little more thinking before that is introduced.

***Rachel Fletcher:*** I agree. The Financial Conduct Authority has a 60-day service-level agreement for change of ownership approval, but some of those approvals are incredibly straightforward. Our recent investment round was all of our existing investors just putting in more money, so it was a straightforward change of ownership request. Yet, again—similar to the experience I mentioned earlier—it took a very long time and ended up getting resolved only after escalating. Contrast that with Spain, where those straightforward low-risk approvals take eight days.

We should aim for much tighter service-level agreements for the low-risk approvals, recognising that some approvals are more complicated and maybe require more scrutiny and therefore a longer time period. But this is not something that you should have to pay for; the regulator should

need to take a risk-based approach and quickly clear things that are low risk.

**Lord Teverson:** On heat pumps, most of those come under permitted regulation for planning. There are certain limits on noise and size, but mostly you do not have to have planning permission for that.

***Rachel Fletcher:*** Unfortunately, that is not our experience.

**Lord Teverson:** Maria, you have already answered something on sandboxes, so I ask Rachel: are they useful? You have also been a regulator—chief executive of Ofwat—so were they useful then, and can they be more useful now?

***Rachel Fletcher:*** It is difficult for a regulator to figure out how to encourage innovation in the monopoly parts of the industry. Ofgem does not use sandboxes for innovation in its monopoly areas. What it has done historically, and indeed when I was there, was devote quite a lot of money to trials of innovative products and technology, which would be funnelled through the network price control but accessible to people in the supply chain with new technology, for example. My view is that that has not yielded much in the way of benefits for customers, so there are quite a lot of trials but not a lot is being adopted into the network company business as usual. Ofwat is applying a similar approach in the water sector to figure out how to get innovation.

My view is that, quite often with monopoly businesses, the inherent risk aversion within those companies and their comfort with traditional ways of doing things—the cultural aspects—are a big barrier to innovation that even money, in the case of energy, has not really cracked.

**Lord Teverson:** So the problems are on the demand side, as opposed to the supply side.

***Rachel Fletcher:*** Maria may have views on this, but that is certainly true when it comes to the monopoly side. Ofgem had an innovation one-stop shop so that people could come to it and get advice and guidance when they were looking to launch a new product. That worked for a while. I understand that it is now running an AI regulation lab, where people can come forward with hypothetical or actual AI use cases and discuss them with an independent panel of experts; that might turn into an AI technical sandbox.

Again, our view is that the biggest thing Ofgem can do to improve innovation in this sector is to open up some of the monopoly areas to competition. It has been slow to do this—particularly with new transmission networks, for example, where we still have three regional monopolies and no competition is allowed there. Secondly, it must make sure that the way in which the market is run allows access to market and, therefore, revenue streams for innovative products such as demand flex and the grid services that we will be able to provide, particularly as we

get more two-way charging and vehicle-to-grid technology onto the system.

**Lord Teverson:** I may have missed this; apologies if I have. Octopus is a very innovative company—I am one of your customers—and what Greg Jackson does is superb, but is there an example of where you have used a sandbox at all or has that not been possible?

***Rachel Fletcher:*** No. Our experience of the innovation fund, for example, is that it was incredibly bureaucratic and very slow-moving; in fact, the pace of innovation in the sector was running ahead of the trials and what was coming out of them.

***Antony Shimmin:*** Currently, we do not participate in any sandbox processes; it makes sense to me to do so, but we have not done so. In the context of our organisation and what you are talking about, I would possibly refer to them as pilots. Let me ask the question back to you: when you think about sandboxing, do you think about an environment in which these technologies or innovations are tested? That is how I see them, I guess.

However, when it comes to the regulatory bodies, for example, what is of value to businesses such as ours is working alongside a hospital or a centre and using our software in some form of pilot. Notwithstanding a number of really positive conversations that we are having here in the UK, the majority of our initial pilots—all of them, in fact—post regulatory clearance have been overseas. Again, the NHS is quite risk-averse and we have risk-averse culture here, so it is much more difficult to get an initial pilot implementation or something equivalent to a sandbox up and running here in the UK. I note that there have been efforts to attempt to address that. We had the NHS AI Lab—that was part of NHSX, which has now been disbanded—and, obviously, there have been broader changes there.

We have not had to use a sandbox as part of our regulatory compliance submission. However, the other global regulatory bodies were much more receptive to being shown what we were doing to help set the context. The UK regulatory bodies were much more rigid. I am not making a judgment; I am merely making a point. We found that much more helpful when we were showing the other bodies our product, as opposed to simply writing down what it does.

**Lord Teverson:** Rachel, coming back to permitted development, could you let us know about that? I am very interested in it. If it is not working at all, it is useful for us to know that.

***Rachel Fletcher:*** Definitely—we would be delighted to come back to you.

**Lord Teverson:** I want to ask about one other thing you mentioned: capital adequacy being a big problem. We all know that, in 2021, there was decimation of the retail industry because of bad people running on

working capital and getting their long-term and short-term loans wrong. Octopus took over Bulb and got 1.5 million customers out of it, but there was an exposure to the Treasury—at first, it thought that there had been £6.5 billion of that going wrong—so surely we need adequacy in that area. I do not want a long answer, but am I misunderstanding what you are saying?

***Rachel Fletcher:*** Not at all; please do not take what I said as meaning that we did not need better financial resilience regulations, because we absolutely did, and those have been put in place.

My point was that the pendulum has swung too far. The one-off cost to customers of 30 energy suppliers going bust in the energy crisis was between £60 and £80 per customer. The benefit of competition to customers and new entrants is about £1 billion a year—ongoing, every single year—according to the Competition and Markets Authority. Ofgem has put in place lots of new rules. We fully support them—I would be happy to write to you about this, if that would be helpful—but its focus on capital adequacy and the balance sheet as a source of financial resilience is, in our view, based on the way in which the legacy energy retail companies run their businesses and find financial resilience.

We have a lot of financial resilience; that comes from arrangements off the balance sheet that are not recognised by Ofgem and, therefore, place a huge burden on us. It would be exceptionally rare to have an investment grade-rated parent after nine years in the market—and, by the way, one that is based in either the UK or Europe—yet that is, in effect, what is needed to meet Ofgem's capital adequacy requirements. Clearly, that does not work for a challenger business, let alone one whose investors are US, Japanese or Australian, for example.

**Lord Teverson:** Maria, I have one very quick question for you. You are a multinational manufacturer, right? On regulation, is regulatory divergence between the UK and Europe an issue to you, in terms of growth in the UK and, potentially, investment here?

***Maria Tjader:*** UK-EU regulatory divergence is an issue for us. We do not export much from the UK, but we did not do that much even when the UK was in the EU. This is primarily because we do engineer to order, so very much for the distribution network operators in the UK; we work closely with them on the specific equipment that they need.

On standards, take the example of SF6. If the UK followed that example, it would see more investment. This is an example of where the UK and the EU could probably be a little closer.

It is also about data; I would be happy to follow up on that. Data is another area where UK-EU standards could be closer; that would be beneficial for business.

Q66 **Baroness Nichols of Selby:** The Government have said that they will strengthen regulators' accountability, publish KPIs and expect

government departments to conduct more formal performance reviews. What would define good regulatory performance? What do you suggest the Government should use to assess regulators? To what extent should the Government take industry views on board when assessing regulatory performance? How often do you think this should be done?

***Antony Shimmin:*** I would compare and contrast regulatory performance with, let us say, a car test centre for driving tests. If a test centre passed absolutely everyone, you would be worried about the quality of the reviewers, for example. So the number of approvals that are passed is not a good metric for anyone's sake. However, a good metric is throughput: how many organisations are going through this process and either being cleared or not cleared, as the case may be? So there have to be KPIs on throughput within the respective industry, but not necessarily KPIs on what is approved.

However, I think it would be useful for government to track the economic impact of those which are approved, because, again, I firmly believe, particularly in the domain that we are in, that the next industrial revolution with AI and medtech will play a big part in our economy and our economic growth. So it is important to understand what the impact of that is and what more could be done to support those which perhaps did not make it to go again.

That is the first point. The second point is consistent interpretation, so referencing and being aligned with international frameworks and overregulated bodies and a very clear and transparent way: i.e. this is where we diverge or this is where we meet in the middle, as it were. There is transparency on decisions as well. What is really important, and something that in the UK we need to perhaps find a way to push through, is skills and capability in this domain. Again, if we take it back to our domain, this is a very new area of new disciplines and new experiences, combined particularly with clinical expertise as well. So that is quite rare, and there has to be a way in which we can bring those people on part of that journey.

I will just summarise. This is not about, "Let's get 10 approvals every month". It is about throughput and recording the impact of those that are approved and what that does for the economy.

***Maria Tjader:*** I agree with that. One thing would be fantastic: I was struck by what you said earlier, Antony, about having a sort of dashboard where you can see, "This is where the decision is and these are the next steps", much like you have in Parliament. It is a pretty clear process. That would be fantastic and would also save administrative costs, for example, because I could easily go into it and we would not have to go and speak to officials or try to track down the right person, especially when it comes to decisions that sit between different departments or different regulators. So I think we would really like to see that, and the transparency point is also really important.

***Rachel Fletcher:*** I am going to focus on Ofgem here, obviously, as our main regulator. It is worth saying that there is currently a strategy and policy statement from government to Ofgem that has gone through Parliament. It does not really provide clarity on the KPIs for Ofgem. It is not a helpful document, I am sad to say. I very much hope that the department's review of Ofgem results in a new strategy and policy statement, but that also needs urgent attention, and recognising it requires parliamentary time as well.

If I were writing the KPIs—three very high-level ones—they would be:a)is it meeting desired customer outcomes through the retail market that it regulates and oversees, where it has competition powers, by the way, as well as regulatory powers? b)What is happening to the bits of the bill that Ofgem directly regulates? The problem of high bills is quite often seen as to do with retailers and yet the majority of costs on the bill come from either wholesale costs, which is a market Ofgem regulates, or the system operation and network costs, which Ofgem directly regulates, and c)what is its success in driving the change that allows customers and the economy as a whole to benefit from new technology and innovation that is coming through and removing the barriers, which are multiple? So those are the three objectives.

I would also really like to see government giving Ofgem clarity about its growth duty. I worry that quite often Ofgem's growth duty, as is, is interpreted as needing to be better at allowing energy networks to spend money in expanding their networks and doing so quickly rather than recognising that, actually, the most important thing Ofgem can do for growth is to help us navigate our way to a cheaper energy system which will unlock industrial and business growth.

Yes, I would love to see industry's views taken into account in assessing how the regulator is performing, and that would also help with some of the softer, "How does the regulator behave and is it predictable, transparent and accessible?" et cetera. But it is also important that it is not just the incumbents that are listened to; new entrants, new technology providers, quite often have a slightly different perspective on how a regulator is performing than those that have been around for a long time.

Finally, I would be really keen to see the idea explored of there being one parliamentary Select Committee that holds Ofgem to account across the full suite of its hopefully quite high-level KPIs. I have said this publicly on a number of occasions recently, and again, maybe as well from my own experience as a regulator, I think quite the regulator can be pulled in different directions. You can have one committee looking, for example, at how well you have been unlocking investment in new networks and then another looking at, "What has happened to the bill, and can you explain to us why bills have gone up?" while actually, the regulator needs to find a pathway through keeping bills down while investing for the future and making sure that we have the grid that we need, but so that it comes at the least cost. The difficulties with regulation come from looking at their

different objectives and figuring out the best way to optimise across all of them, and that is where we really need parliamentary scrutiny.

***Antony Shimmin:*** Can I just follow up on one point? What we have to be conscious of is that KPIs drive behaviour, and you do not inadvertently want to promote the wrong behaviour. In this domain, if we were to, for example, make our regulatory bodies responsible for economic growth or partial economic growth in their respective domains, that potentially injects risk. But as part of medical device regulations, there is this concept of post-market surveillance—to follow up when it comes to safety concerns for new innovations out in the field. So I wanted just to add that the Government should see the regulatory bodies as a real tool for economic growth, but then they have to be prepared to invest in those structures to make sure that patient safety and risk are not compromised, but that they are well resourced to address this growing marketplace by which businesses are emerging; not just here in the UK but businesses overseas are looking to bring their new innovations as well. So it has to be a place that makes it done better and faster but without compromising on safety.

***Maria Tjader:*** I slightly disagree with Rachel on Ofgem's growth duty. For Schneider, we really want the networks to expand and to spend more—we operate in the supply chain—but we also think that networks expansion is critical for energy security resilience. They go hand in hand; I do not think they are mutually exclusive at all. But, as part of a growth duty as well, it is also important to recognise the wider supply chain and the jobs and export opportunities that that comes with.

**The Chair:** It is interesting to hear the two views that you have. Rachel, you mentioned the need for parliamentary scrutiny. This committee has done a report that highlights the need for Parliament to be more vigilant and to have new methods of scrutinising the work of regulators. I think that that would be a very constructive way forward and perhaps even more relevant given the growth agenda.

Q67 **Lord Udny-Lister:** I want to deal with another government announcement—we have had several of them. They have announced that they have plans for every public body to review merging with or bringing functions back into their departments from regulators and other organisations. There have been a few announcements of this already. Have you experienced regulatory organisational change and has it affected you?

***Rachel Fletcher:*** Really, the answer is no. As long as I have been in energy regulation, which is 20 years now in Britain, there have been a lot of conversations about merging the utility regulators et cetera, but it has never happened, so we do not have that experience.

What we have seen is Ofgem expanding its activities into administering government schemes. There needs to be a question about whether it should continue that activity or whether it is best done elsewhere, whether within government or by another body, as I fear that the sheer

scale of what Ofgem has to do, particularly with its new regulatory responsibilities in the energy sector, means that it is becoming very difficult to govern. Staff numbers are ballooning. The cost of Ofgem is ballooning. There may be a very strong case for taking scheme administration, such as the warm home discount scheme and various environmental schemes, off Ofgem's hands.

We have also asked, slightly provocatively, whether, as energy retail becomes more complicated with new business models and new customer touchpoints through the energy transition, this fast-moving marketplace is not the kind of market that would typically be better regulated by the Competition and Markets Authority rather than by a dedicated sectoral regulator. While we are not actively pushing for that as a solution, that question should provide the backdrop of the reforms that Ofgem is implementing with energy retail and it should learn from the CMA, which is there to advise and support, about how you regulate a fast-paced industry where the technology is changing and the types of business models coming forward are evolving rapidly.

***Maria Tjader:*** I am not the best person to respond authoritatively on that.

***Antony Shimmin:*** Likewise, but in our domain I am quite interested to see how the Government are proposing to address the adoption of these new innovative technologies within the regulatory bodies, the NHS and what was the NHS AI Lab, in the context of all these changes. Where there is duplication, ideally it should be removed, but my message to the Government is that things need to be much more efficient. As long as whatever change happens makes things more efficient, we would be supportive of that.

**The Chair:** One of the issues that seems to come across is that you are dealing with different regulators at different times. You are being asked for the same information but in different formats, and then asked to produce it in ways which are an extra burden. You could have one common theme that went to all the regulators that you are involved with, which would seem a pretty straightforward change, but changes are never as straightforward as they seem, are they?

You have covered a lot of ground this morning and your diverse experiences have been very helpful. Thank you very much indeed.