

Jonathan Blagrove
Ofgem
10 South Colonnade
Canary Wharf
London
E14 4PU

Phone: 07407 824 868
Email: Brad.Clayton@besutilities.co.uk

Via email only to: cdconsultations@ofgem.gov.uk

09 July 2021

Ofgem microbusiness strategic review statutory consultation

Thank you for the opportunity to respond to Ofgem's consultation regarding proposed changes to the microbusiness energy market, including arrangements for improving transparency and consumer awareness.

None of the information provided here is confidential and we would be happy to discuss our views in more detail, should you feel it beneficial. We have also contributed to the ICoSS group response.

Background

BES Utilities is a solely non-domestic supplier. We began supplying gas in 2005 followed by electricity in 2010 and, as one of the first totally independent suppliers, all of our customers have actively engaged in the energy market at some stage. Our innovative products and ability to respond quickly to a changing market have enabled us to stand the test of time.

Our main target market has historically been the change of tenancy (CoT) and new business sector. We have very minimal credit requirements for new customers and seek to manage this credit risk by offering Direct Debit only products, plus by building an element of risk into our pricing. In simple terms, our niche has been to offer a competitive price to a high-risk group of customers who would struggle to access the market without paying a significant up-front security deposit.

Summary

BES supports the objectives of the review and actions being proposed to drive up standards in the currently unregulated broker market, which should both protect microbusiness consumers and increase trust in the market. BES was actively involved in Ofgem's TPI Code of Practice working group, and we were disappointed when the good work done in this area was placed on hold (and not resurrected) in 2015.

We agree with the principles of the review including providing microbusiness consumers access to a broker ADR scheme; however, we have serious concerns over the proposed timelines and we do not believe that the current proposed date for implementing this measure and the cooling-off period is achievable.

Many of the theories of harm Ofgem's review seeks to address have been the subject of industry discussions going back over many years, and our view is that we have one opportunity to get this right. Our view is that the reputation of the industry could be further damaged by rushing these proposals through, especially given the current lack of detail around various fundamental elements such as the ADR scheme. Coupled with the complexities of the system and process changes needed to implement a cooling off period, the proposed timeline does not allow suppliers sufficient time to successfully implement the remedies.

As a smaller supplier, we have limited resource in our IT, Change and Regulatory functions, many of the key personnel responsible for implementing these measures are already heavily involved in the Switching Programme, as well as other industry change projects such as market wide half-hourly settlement.

Consultation questions

Question 1 - Do you agree that 1 January 2022 represents an achievable start date for implementing a 14 day cooling-off period for microbusiness consumers?

No. We do not believe the current timeline provides enough time for suppliers to implement a 14 day cooling-off period successfully. As a non-domestic supplier with a lot of our time and resource focussed on other industry projects such as faster switching, we do not currently have the technical capacity to build, test and rollout complex systems with very little lead time.

As such, we propose a period of six months following the go-live of the new switching arrangements, and we therefore recommend the microbusiness reforms are introduced as one package of measures, commencing January 2023.

Question 2 - Do you agree that 1 January 2022 represents an achievable start date for fully implementing both the proposed supply licence obligation and the associated scheme needed to introduce independent dispute resolution for microbusinesses in dispute with a broker?

No. We have been engaging with Ombudsman Services (OS) as part of its broker ADR working group. It is quite clear that OS still require clarity from Ofgem and the wider industry on fundamental elements of any ADR scheme. As such, we do not agree 1 January 2022 is an achievable start date for implementation. During the recent workshop held between ICoSS and Energy UK members, Ofgem and OS, numerous questions remain unanswered about the workings of the broker ADR scheme, including:

1. How will Ombudsman Services engage with brokers and onboard them onto the scheme by the end of this year? Ombudsman Services agree there are potentially thousands of brokers of all sizes and business models currently operating in the UK, and they are having difficulty engaging with them.
2. How will suppliers have visibility of related complaints that affect future relationships with their customers?
3. Given the proposed licence conditions apply to suppliers, how will we be made aware what brokers have acceded to the scheme, or are subsequently disqualified?

BES is supportive of the increased visibility of broker activity and accountability, but we remain concerned by the aggressive roadmap and lack of detail at this stage. We believe a January 2023 start date is required to implement this new scheme, and only then on the basis we are given proper detail about these fundamental issues.

Question 3: Do you have any other comments on our proposals?

Supplier involvement in the ADR scheme

Like other suppliers, we believe the “at fault” party should be responsible for all the supplier costs associated with implementing a remedy under the new broker ADR scheme. Where the supplier contract is to be cancelled because of the broker, for example in the case of a broker miss-sell complaint, we are open to the possibility the brokerage would be liable to cover the costs of any early termination fee. While this would mean changes to our products, it would significantly reduce the cost to the business and would help drive performance improvements and accountability for the brokerage.

Retrospectivity

The current proposal seems to indicate the principles would apply for all contracts including existing customers. Retrospectively applying requirements regarding termination periods would require significant changes to current contracts, resulting in increased cost for suppliers as they contact all customers to inform them of changes to their agreement. We believe that the proposed measures should only apply to new contracts after the new requirements come into effect.

Question 4: Do you have any comments on the draft supply licence conditions at Appendix 1 in this document?

Principal Terms

It is unclear within the current drafting how broker commission should be displayed. If this is to be prescriptive suppliers need to know as soon as possible to enable sufficient time for system development and amendments.

If you have any questions regarding this response, or any other matter, please do not hesitate to contact me via the details shown above.

Yours sincerely,



Brad Clayton
Regulatory Affairs Team