

Jonathan Blagrove
Microbusiness Strategic Review,
Retail Policy
Ofgem



By email to: cdconsultations@ofgem.gov.uk

9th July 2021

Dear Jonathan,

Re: Statutory Consultation - Microbusiness Strategic Review

The UIA is a trade association for third party intermediaries (TPIs) in the utilities sector. Our aim is to promote and enhance the reputation of TPI's so to give confidence to business customers who utilise their services and for the UIA logo to be recognised as a guarantee of integrity, competence, and high standard of service. All members of the UIA must agree and operate to the [UIA Code of Practice](#) which in addition to setting the standards to which our members adhere to, provides redress for customers should a member fall short of standards expected from them.

Please find detailed below the UIA's responses to the questions raised in Ofgem's Statutory Consultation. Our responses are not confidential.

Yours sincerely

Rachael Gladwin

For and on Behalf of The Utilities Intermediaries Association



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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?

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?

We cannot answer because the thorny issues such as costs to join, governance, jurisdiction, redress and crucially Ofgem's qualifying criteria are yet to be determined.

We acknowledge the work undertaken by the Energy Ombudsman around a pilot ADR scheme, and information included in the IA, but strongly believe that a full disclosure of the proposed framework for the ADR scheme and Ofgem's criteria should form part of the statutory consultation given its significance and not sit outside of it.

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

We are concerned that the remedies proposed will ultimately reduce the level of competition within the microbusiness energy space and drive-up costs for consumers. There will be companies who in response to the remedies, will choose to opt out because the conditions are too onerous, and/or because the margins fall below a sustainable level. Costs will increase as the additional obligations for suppliers and third parties will be factored into the prices consumers pay.

As already mentioned, we believe that either covertly or overtly, suppliers will market the view that going direct will save the consumer money which will push a lot of brokers out of the market. Competition will be further dampened with brokers adopting similar charges to each other.

By creating a distinction between 'Broker' and 'TPI' Ofgem will split the TPI market into two distinct camps, and in doing so will limit both their reach and responsibility to only those third parties who collect their fees via the suppliers. In addition, this demarcation has the potential to confuse consumers.

Ofgem have not addressed concerns over how split commissions will be handled, even though this was raised by some stakeholders in the MBSR Policy Consultation. The UIA stated that *"Consumers could be potentially mis-lead over how much commission the broker receives as some suppliers require that any commission be split. Likewise if there is an aggregator involved, they too require a portion of the charge. In those cases, a consumer will wrongly assume that the broker is claiming all the charges. Furthermore, any charges retained by the supplier would represent pure profit as they will have already factored in overheads and profit margin into their prices, not so for brokers or aggregators"*

Under SLC 7A. A supplier can 'deem' a consumer to be a Micro Business Consumer regardless of whether the consumer meets the criteria. If a supplier has *deemed* a consumer to be Micro Business, would ADR providers be expected to do the same? - and can you legitimately expect to foist one person's contractual agreement onto another independent party? Can a supplier deem a consumer to be Micro Business when a broker has informed them they are not? Where a Micro Business Consumer definition is in dispute, who ultimately decides which one will apply?

With a large proportion of energy mis-selling in the microbusiness sector concentrated around verbal contracts, why has Ofgem not made it a requirement for the whole conversation between sales agent and consumer to be recorded not just the scripted part? The UIA have consistently called for this and urge Ofgem to take a leaf out of the water regulator's book and review [Ofwat's Customer Protection Code of Practice for the non-household retail market](#) section 6.1.3. Furthermore, Ofgem should consider aligning the cooling-off period with Ofwat's 7 days (Section 6.2) to create uniformity across the utilities sector, reduce the scope for abuse by those keen to intercept a switch for their own ends and reduce both the supplier and TPI's exposure to risk so that the customer does not end up paying for this.

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

We would ask that consideration is given to removing the term 'deem' in SLC7A.