



## Ofgem Consultation – Micro-Business Strategic Review Statutory Consultation

### Consultation Response by ENGIE

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#### About ENGIE

ENGIE is a leading energy and services company focused on three key activities: production and supply of energy, facilities management and regeneration. Our 17,000 employees combine these capabilities for the benefit of individuals, businesses and communities throughout the UK & Ireland.

We enable customers to embrace a lower carbon, more efficient and increasingly digital world. Our customers benefit from our energy efficient and smart building solutions, the provision of effective and innovative services, the transformation of neighbourhoods through regeneration projects, and the supply of reliable, flexible and renewable energy.

ENGIE improves lives through better living and working environments. We help to balance performance with responsibility, enabling progress in a harmonious way.

Globally, the ENGIE Group employs 150,000 people worldwide and achieved revenues of €56 billion in 2020.

#### ENGIE Response

Thank you for the opportunity to respond to the consultation, please find our response set out below:

#### Executive Summary

- **The measures should be implemented as a complete package** at the same time rather than piecemeal. This would work best for micro-business customers and industry parties alike to ensure that all the elements of the package are in place and working together as a complete customer journey. Consumers then have a full suite of measures; price disclosure, a chance to change their mind via the cooling-off period and a means to redress if things do not go to plan via the broker ADR scheme.
- **The implementation date should follow on from the introduction of Faster Switching rules in summer 2022.** Industry must have stable market rules for change of supplier in place as part of the faster switching programme before the measures are implemented otherwise it is likely to be confusing and

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costly to implement, particularly in respect of the proposed cooling-off period. Additionally, it is likely that the ADR scheme will take time to implement given there is no framework currently and industry discussions are at an early stage. Brokers and the Ombudsman will need sufficient time to adjust their operational processes and resources and suppliers will need to amend broker their agreements and auditing process.

- **There is a lack of clarity** in some areas of the Supply Licence drafting and we would welcome guidance on the points we have raised in section 4 below.

### **Response to 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?*

**Response:** We view the proposals as a suite of changes that is best implemented together as a complete package on a particular date, rather than piecemeal. This is because there are interdependencies between the different elements of the proposals, for example there is likely to be a link between broker fee disclosure and the ability for micro-business consumers to be able to access redress via a broker ADR scheme. The proposed implementation date must therefore consider when each element of the work can be implemented.

We consider that 14-day cooling-off, along with the other elements is best implemented following the go-live of the faster switching programme scheduled for Summer 2022. At this point the new market rules will better allow for micro-businesses to benefit from accessing the market and switching suppliers more easily than today and this goes hand in hand with the ability for consumers to change their mind via the cooling-off process. It would be both confusing for consumers and costly for industry participants to implement cooling-off on one set of market rules, say on 1 Jan 2022 and then to change again within a short space of time once the faster switching regime is implemented.

We suggest that implementation of cooling-off and other aspects are scheduled once the faster switching programme is complete in Summer 2022. This also allows for any changes to supplier systems and processes to be consistent with the new ways of working.

***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?*

**Response:** As above we consider the proposals to be a complete package which should be implemented together post implementation of the faster switching programme in Summer 2022.

We note the discussions on a suitable ADR scheme to involve brokers are currently at a very early stage and there should be sufficient time allowed for the scheme design to be completed and for brokers to prepare and commit to the arrangements. We feel it is unlikely that these arrangements can be completed for a January 2022 start given the extent of the work required.

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

**Response:** There are several areas where the proposals lack clarity, and we would appreciate some guidance on the intent of Ofgem's proposals. We have set these out in response the SLC drafting in Q4 below.

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

**Response:**

There are several areas where there is a lack of clarity or the SLC is open to interpretation. We would welcome Ofgem's guidance on the following issues:

1. Condition 1.3 definition of "Broker"

**'Broker'**

*means a third party organisation or individual that, either on its own or through arrangements with other organisations or individuals, provides information and/or advice to a Micro Business Consumer about the licensee's Charges and/or other terms and conditions and whose payment or other consideration for doing so is made or processed by the licensee;*

The drafting of the broker definition appears to be broad and could be interpreted to include more third-party organisations than simply broker performing market search on behalf of customer. Is it Ofgem's intention to include third party sales agents (who are contracted by a single supplier) as part of this definition? Our interpretation is that third party sales agents are not meant to be captured but it would be helpful for Ofgem to clarify.

2. Calculation of broker costs to be presented to the customer

**'Principal Terms'**

and any other term that may reasonably be considered to significantly affect the evaluation by the Customer of the Contract under which electricity may be supplied to his premises including for the avoidance of doubt, in relation to Micro Business Consumers any Brokerage Costs, required to be paid or due to be paid in respect of the full duration of a Microbusiness Consumer Contract and to be presented as monies (whether actual or where that is not possible, **estimated amounts**).

How would Ofgem expect a supplier to calculate any broker costs that are not related to sales volumes (either p/kWh or number of contracts placed)? and how would these be presented to the customer?

3. Issuance of Principal Terms

*7A.9 Where pursuant to paragraphs 7A.4 or 7A.8 the licensee is required to provide a Micro Business Consumer with any relevant Principal Terms:*

*(a) it must ensure that the Principal Terms are: (i) set out in Writing; and*

*(ii) drafted in plain and intelligible language;*

*i (iii) sent by it, or by the relevant Broker, to a Micro Business Consumer no later than one working day after the Micro Business Consumer Contract is entered into.*

Our interpretation is that the micro-business contract is “entered into” upon the supplier accepting the contract once the customer has signed. Contract acceptance would be after the supplier has performed relevant checks such as credit checking which may not take place on the same day as the customer signature. We would be grateful if Ofgem would clarify this point.

#### 4. 14-day cooling off

*7A.13E.4 The cancellation period ends at the earlier of:*

*(a) 14 calendar days after the day on which the Contract is entered into and the Micro Business Consumer has been provided with a written copy of the Principal Terms as required under paragraph 7A.9; or*

*(b) 28 calendar days (or such other period as the Authority may specify from time to time) before the date on which the supply of electricity under the terms of that contract, is due to begin.*

The cooling-off period term should be simplified to the benefit of both micro-business customers and suppliers. The licence drafting above infers that in practice the cooling-off period could vary between 0 and 14 days depending on the proximity of the contract agreement relative to the start date. For example, if a contract was agreed at D-30 the cooling off period would last only 2 days, but if the contract was agreed at D-42 the customer would have the full 14 days to cancel. This variability would be extremely difficult to manage in practice and is liable to cause confusion for suppliers, brokers, and consumers alike.

A more workable solution would be to apply a “cliff edge” solution where the cooling-off period would not apply at all after D-42.

End of response.

If you have any questions or would like to discuss, please contact me as below.

Best regards

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Director of Regulation

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