



Submitted via email to
CDconsultations@ofgem.gov.uk

Monkton Park Offices,
Monkton Park, Chippenham,
SN15 1GH

 goodenergy.co.uk

 hello@goodenergy.co.uk

 0800 254 0000

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Dear MSR team,

Good Energy's response to the Microbusiness Strategic Review

Thank you for the invitation to respond to the Statutory Consultation to modify the SLCs of all gas and electricity supply licences as part of the Microbusiness Strategic Review. Good Energy supplies 100% renewable electricity and carbon-neutral gas to homes and businesses across the UK. Good Energy is working towards a renewable future, helping to support technologies including wind, solar, biofuel and tidal. Our purpose is to power the choice of a cleaner, greener future together.

Summary

- We support Ofgem with their continued work to provide more transparency and protection for microbusinesses.
- For a uniform approach and to accommodate for the substantial changes, we believe the proposals should be brought in together on the same date from 2022.
- The assumptions about the cooling-off period on suppliers underestimates potential risk, whilst also creating the possibility of a secondary market for brokers to exploit at the expense of consumers.
- We are supportive of Ofgem's view that the Ombudsman Services would be best placed to deliver the ADR scheme for brokers. However, we would like to see clarifications on exactly what recommendations they can make for energy suppliers.
- To improve transparency there should be a public register for brokers who have signed up to a qualifying ADR scheme.
- We would welcome further clarification on the definition of brokers and specifically whether this includes price comparison websites (PCW) and aggregators.





The proposals should be brought in from 2022 to cater for the substantial changes for consumers and suppliers

The changes put forward in this consultation present significant changes for all relevant stakeholders in the energy sector. We appreciate the recognition from Ofgem that two of the proposals, the Cooling-Off period and the Alternative Dispute Resolution (ADR) scheme, should come in from January 2022 due to the larger resource and financial requirements to implement these schemes. However, having two separate implementation dates could present issues. Therefore, it is our view that all the proposals put forward should be brought in from 2022.

The current proposal to bring in the majority of measures from October this year presents a very short time frame to implement these changes. By bringing in all the proposals at the same time, this would create a more uniformed and consistent approach.

Granting an extension for the implementation date would not only allow suppliers the necessary time required to implement these changes to internal processes, but it would also give consumer groups and brokers time to prepare and communicate these changes to business customers.

If the proposals go ahead with an implementation date in October and a separate date in 2022 for the two policies mentioned above, this could risk creating unnecessary confusion for consumers. Microbusinesses could quite easily be falsely under the impression that the cooling-off period applies from October this year as an example if they are informed of other measures such as no requirement for termination notices are brought in from October 2021. To prevent confusion and to ensure that suppliers do not have to make two separate changes to their T&Cs in a short period of time, we believe bringing in all the measures at the same time next year is a more preferable solution.

The cooling-off period presents greater risks market-wide and could create an exploitative secondary market for brokers

We welcome Ofgem taking into account the previous concerns raised with the interaction of the faster switching programme in relation to a cooling-off period. However, we believe the design of the cooling-off period presents opportunities for manipulation from some brokers, which if fully utilised could come at the detriment of consumers.

The wholesale market, especially in the last year has shown to be extremely volatile at times. We conducted our own analysis and found that on average the swings over a 14-day period for electricity and gas were 4% and 5% respectively, which is higher than the figures quoted in the consultation document. Further granular analysis revealed that the highest day-to-day swings were 12% for electricity and 17% for gas. This volatility already presents challenges for suppliers and the proposals could present an extra level of risk that suppliers will have to manage if brokers look to exploit the cooling-off period.



This level of risk will have to be factored into suppliers pricing and hedging strategies, as it is yet to be determined the level of brokers and businesses that will utilise the cooling-off period. We would challenge the assertion that ‘the impact would not be significant and that suppliers should be able to efficiently manage their exposure’. Depending on the volume that is being traded, even a 1% swing can present a big financial shortfall.

Whilst the intentions behind the cooling-off period are understandable, as in a small number of cases it will be of value to consumers, this may risk underplaying the larger picture where brokers use this a commercial opportunity. Specifically, we have concerns about some brokers using the swings in the market to their own personal advantage at the expense of consumers. The cooling-off period could encourage brokers to bet on large swings in the wholesale market, which we believe is not the desired intention of this policy proposal.

We have concerns that Ofgem’s analysis has not factored this into the underlying assumptions. Suppliers will have to factor in this risk considering there is a possibility that it could be exploited. If this does come to fruition then prices could end up becoming less competitive for market wide for microbusinesses.

Lastly, another aspect which we believe has not been given sufficient attention in respect to the cooling-off period is the definition of a microbusiness. Currently, there are some subsidiary organisations which form part of much larger parent/umbrella companies, who could well fall under the interpretation of a microbusiness. As these organisations tend to contract en masse, the contracted volumes will far exceed the 100MWh and 293MWh limits for electricity and gas respectively.

In this scenario it is not clear whether these organisations would be captured by these proposals. We would welcome some clarity from Ofgem on this point before any measures come into effect. If these organisations are included, then this could present far more substantial trading risks to suppliers than previously described.

The Ombudsman Services would be best placed to deliver the ADR scheme for brokers

Due to their position as administrator of an equivalent scheme for domestic energy suppliers, we agree with Ofgem’s position that the Ombudsman Services would be best placed to deliver an ADR scheme for brokers. Whilst we note that there may be competing qualifying providers administering different schemes, it is our view that Ombudsman services should be the only provider.

Nevertheless, we would caution against any rushed implementation of the scheme. It has become apparent in the document that the Ombudsman Services are still developing a model for scheme design, which does not leave enough time to inform all brokers and third parties of their new obligations.

We have two points to raise in regard to the proposed broker ADR scheme.



A public register for brokers who have signed up to a qualifying ADR scheme to improve transparency

To improve transparency for all parties impacted by these changes, we would like to see a public register that identifies the brokers who have signed up to a qualifying ADR scheme. As this will be a new scheme, it will take adjustment for both brokers and suppliers to ensure they have the correct processes in place.

A public facing register will be of most value during the sales and quotation periods. If extra time and resource is required by suppliers to confirm that a broker has signed up to an approved scheme, then this could delay the sales process and ultimately impact consumers. By having a central register that is updated regularly, this could provide a quick and efficient check for sales teams to verify that the brokers are compliant with the new regulations.

In addition to this, we believe the onus should be on brokers to make sure they are signed up to a qualifying scheme, rather than suppliers. Whilst we note that the license obligations will ensure that suppliers have to work with compliant brokers, we believe the onus should be on brokers to comply. The upcoming consultation from BEIS on third party regulation presents a good opportunity to encourage brokers with their new obligations.

Clarification on the scope of the recommendations a broker ADR scheme provider can make against suppliers

We are supportive of Ofgem's proposal to bring in a requirement that suppliers can only work with brokers who have signed up to a qualifying scheme. We note the clarification that there may be occasions where suppliers have to provide information in cooperation with a complaint raised against a broker. However, we would like to see clarification on how far-reaching the remit of a broker ADR scheme will be.

We have specific concerns on the extent to the recommendations a broker ADR scheme can make in reference to a supplier. We do not believe that a broker ADR scheme should be able to produce recommendations against a supplier, as this presents an excessive and unreasonable regulatory penalty on suppliers. Through the Ombudsman services, suppliers have their own ADR scheme. Brokers do not face recommendations from a supplier ADR scheme, so we do not believe the same should apply to suppliers in the design of a broker scheme.

It would be welcome to see Ofgem confirm that a broker ADR scheme would not have powers to cancel a supply contract between a customer and a supplier as the result of poor practice from a third party. Providing supporting information to cases where a complaint is raised against a broker should be the maximum level of supplier involvement. Having a reach beyond this presents an excessive step and we would like to see this clarified before any scheme is brought in.



We would welcome further clarification on the definition of brokers and specifically whether this includes price comparison websites (PCWs) and aggregators.

The current definition for brokers is incredibly broad and we would welcome clarifications from Ofgem on the exact businesses that fall under the definition of a broker.

In particular, we would like to confirm whether price comparison websites are classified under the definition. Our interpretation from the definition is that PCWs would fall under this definition as they could be classed as a 'third party organisation who provides information or advice to a microbusiness consumer'.

Price comparison websites are not mentioned explicitly in the consultation document which is one of the main reasons why we are seeking this clarification. If they are included under this definition then we would welcome this confirmation as soon as possible, as PCWs would also need to be informed that their brokerage fees would be made available in the principal terms following these changes, along with signing up to an approved ADR scheme provider.

This same point would also apply to aggregators and other third parties who operate in the sector and have a relationship with microbusinesses. It would be helpful therefore if Ofgem could provide a definitive list of the types of organisations that fall under the definition of a broker, so all market participants are clear and there is no room for ambiguity.

I hope you have found our response helpful. If you would like more information, or have any questions about our views, please do not hesitate to let me know.

Kind regards,

Simon Shaw
Regulatory Affairs Officer