



Microbusiness Strategic Review: Statutory Consultation

Thank you for the opportunity to comment on the finalised package of measures designed to address the issues that exist in the microbusiness energy market. This response is on behalf of both E.ON and npower (and as such, any reference to E.ON unless otherwise shown includes npower).

Executive Summary

E.ON acknowledges the importance of ensuring Microbusiness consumers are treated fairly and receive good quality of service and is open to continue working alongside Ofgem and BEIS to help remedy any potential detriments observed in this area.

E.ON welcomes the decision to no longer pursue the Broker conduct principle & Informed contract choices proposals in line with industry feedback. We hope that the commitment BEIS have undertaken to have an independent body directly regulate third parties will move forward into a robust framework ensuring adequate protections are in place for consumers.

We are highly supportive of the introduction of the broker dispute resolution principle and brokerage cost transparency to address potential harms to microbusiness consumers, however, as previously mentioned we believe further consideration needs to be given to refining the details of the proposals to ensure effective implementation and functioning while also taking into account the administrative and financial burden of all recent changes on suppliers when determining and aligning achievable start dates.

As mentioned previously we believe independent regulation of the TPI sector is required and there should not be a requirement for suppliers to act as regulators for them as some of the revised licence conditions still require.

Our views are expanded further and addressed in our responses to Ofgem's questions regarding the proposed policy measures, achievable start dates and associated licence conditions below.

Cooling-off period

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?

E.ON believes that the implementation period for the 14 day cooling off period for microbusiness consumers needs to be aligned with the *completion* of the Faster Switching programme. This would allow suppliers to sufficiently allocate time, administrative and financial resources to ensure a robust compliance with all implementation requirements and enable their IT systems and processes to effectively adhere to all new obligations.

Whilst we appreciate that the proposal has been adjusted to address the interaction between the 14 day cooling off period and Faster Switching, we believe further consideration is needed taking into account the overlap in the implementation times for both these changes which place a significant administrative and financial burden on suppliers.

We believe the overlap between the two changes could create additional confusion and a feeling of lack of fairness for consumers, as the ones not agreeing contracts at least 28 days in advance of supply would not be able to benefit from the cooling off period. A customer who is no longer in a fixed term

contract and is charged a variable tariff would want to move over to a new agreement on the day of contracting to avoid continuing to pay higher rates. Although currently a significant number of consumers would sign on to an agreement in advance, there is no knowledge on how the introduction of Faster Switching might impact consumer behaviour, however, a reasonable expectation is that most would want to take advantage of its benefits and defer agreeing a contract to a later date especially if the market context points towards being able to obtain a better deal.

There is still a lot of uncertainty surrounding the impact of Faster Switching on consumer behaviour and engagement, in consequence, we believe that the current impact assessment looking at the benefits customers would experience from this proposal needs to be re-run taking into account these potential changes.

If the cooling off period is implemented prior to Faster Switching being in place there is also a possibility to inadvertently harm customers by reducing their engagement with Faster Switching to enable them to benefit from the cooling off period. We believe that unless the implementation period is aligned to the *completion* of Faster Switching the messages of both proposals will create more confusion instead of helping consumers make the best decision. While cooling off and Faster Switching are in the process of being implemented the enhanced protection of microbusiness consumers offered by the provision of written Principal Terms, inclusion of the brokerage charges and implementation of the ADR scheme will address a significant proportion of the concerns raised on the consumer harm identified in this consultation.

Qualifying ADR scheme requirement

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?

E.ON believes that in order to ensure effectiveness, careful consideration as to the scheme's set up and continued management are vital. At the moment there is still a high number of open topics and questions related to the functioning of the scheme awaiting clarification. We are concerned with the reduced progress on this topic following the workshop held by the Ombudsman in February and would want to see a more detailed impact assessment from Ofgem providing assurance on the scheme readiness prior to the deadline.

Suppliers cannot provide sufficiently comprehensive and adequate feedback on the implementation timeline until all open questions are addressed enabling them to analyse the required implementation changes.

The scheme needs to be implemented with a high degree of transparency allowing suppliers to verify whether a third party is signed up before the implementation deadline in order to avoid unintentional detriment to consumers caused by potential delays in ending relationships with the TPIs. We also foresee potential risks of delays in terminating arrangements and ability to mitigate customer detriment arising from non-notified changes in status, in the event that a third party should fall out of the scheme or not sign up to one.

The role of an aggregator in relationship to the scheme has not been defined. Further clarification is required to determine the obligations of suppliers in relation to aggregators should one of their sub brokers be removed from the scheme.



Considerations need to be given to the flow of information, looking at the implementation of a mechanism for suppliers, aggregators, brokers, scheme providers to share details and updates. In this respect the scheme providers should be subject to a clear set of obligations such as ensuring all updates are efficiently shared with the consumers and suppliers, especially in cases where the resolution could result in a contract cancellation.

We also believe further clarification is required for the cost of this service and charging methodology.

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

Requirement to provide Principal Terms

E.ON agrees that consumers should always receive key information about a new contract to ensure a robust contracting process takes place. We already share the Principal Terms in the welcome pack sent to consumers after contracting.

We still hold one concern related to the means of providing Principal Terms. When contracting is carried out via telephone and there are no means for the customer to see the Principal Terms at the time of the conversation or via e-mail, sending the written terms via post could have the potential to delay the process significantly. This could impact a time limited deal offered to the consumer which might no longer be available and/or also add an extension to the cooling off period. In effect this could mean that consumers could be treated differently depending on the means of communication they have access to, and that supplier internal processes would also need to be split in following two potential scenarios in a consumer journey.

In line with the feedback previously provided on the topic of suppliers acting as regulators and taking into account the current licence condition drafting, we want to highlight that suppliers are not able to fully ensure and enforce broker adherence to licence conditions. Whilst suppliers can take reasonable steps to try and make sure the Principal Terms are provided by the relevant broker by ensuring all adequate information is shared, they have no jurisdiction to undertake any enforcement action and would find it impossible in practical terms to verify and remedy each instance of potential non-compliance. Additionally, this seems unnecessary in the context of BEIS undertaking the commitment to introduce an independent regulatory regime for third parties.

The brokers we work with have all been provided a written contract which includes all Principal Terms which need to be shared with customers, however, Ofgem needs to consider that it is not reasonable to ask suppliers to physically verify that the terms have been sent out by the broker in every single instance. Ofgem has already acknowledged that suppliers are unable to regulate broker activity which could jeopardise a supplier's ability to adhere to licence conditions. The licence conditions drafting needs to align to this conclusion in all instances and consequently remove any remaining proposals where a supplier "must" ensure a broker carries out a specific action.

Transparency around brokerage costs

E.ON is in favour of the requirement to disclose the charges paid to brokers as part of the supply contract, however, there are a number of considerations shared in our response to the initial policy consultation that Ofgem still needs to take into account. Ofgem needs to consider that there is a possibility that due to the variety of charging structures and also due to the forecasting element involved, this proposal might generate additional confusion and an increase in the number of

consumer queries. This could also be the case for more complex contracts which include a mixture of microbusiness and non-microbusiness consumers, where the supplier would only display the broker charges for one side of the contract.

Ofgem must take into consideration the cost and time required to implement these proposals for suppliers. An estimated costing of the development to our systems would range between £250k to £500k. While we welcome most proposals, as Ofgem is aware, for E.ON in particular, we are currently undertaking a significant system upgrade involving the gradual migration of our customers to a new platform over the next two years. Our current customer servicing systems do not show broker commission and are held in a different platform not visible or available to customer service advisors. A gradual implementation of multiple proposals and upgrades of both old and new systems at different dates could prove to be very challenging and confusing given the business context we are in. We believe that aligning the implementation deadline of all proposals due to be implemented to 1 January 2022 would be beneficial in avoiding confusion for the whole market and would help ensure all suppliers have got sufficient time and resource to effectively implement long term comprehensive process and system upgrades instead of immediate workarounds prone to errors and failure.

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

Licence Condition	E.ON Comments
<p>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:</p> <p>(a) <u>it must ensure</u> that the Principal Terms are:</p> <p>(i) set out in Writing; and</p> <p>(ii) drafted in plain and intelligible language;</p> <p>(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.</p>	<p>In conjunction with our response to the Requirement to provide Principal Terms and prior responses on the topic of suppliers acting as regulators we recommend the licence drafting should amend all proposals and remove any references associated with a supplier “must” ensure a broker carries out a licence required action. We believe condition 7A.9 (iii) needs to be amended to reflect that suppliers can only take reasonable steps in trying to ensure that brokers comply with the requirement, however, they are unable to enforce this.</p>
<p>‘Brokerage Costs’ means any fees, commission or other consideration including a benefit of any kind, processed by the licensee and paid or made or due to be paid or made to the Broker in respect of a Micro Business Consumer Contract.</p>	<p>We recommend that the condition drafting should clarify that the only <i>Brokerage Costs</i> due to be included on the Principal Terms are the ones known and paid by suppliers in respect of consumption and supply of energy.</p>

Licence Condition	E.ON Comments
<p><i>20.5 The licensee must provide to each of its Non-Domestic Customers information concerning their rights as regards the means of dispute settlement available to them in the event of a dispute with the licensee or, in the case of a Microbusiness Consumer, any Broker by providing that information on any relevant Promotional Materials sent to the Non-Domestic Customer and on or with each Bill or statement of account sent to each Non-Domestic Customer in relation to Charges or annually if the licensee has not sent such a Bill or statement of account to them. Such information must include, but is not limited to, how the procedures under any Qualifying Dispute Settlement Scheme can be initiated.</i></p>	<p>In line with prior comments related to suppliers acting as regulators E.ON believes that Condition 20.5 needs to be amended, removing the obligation of suppliers to provide information in relation to the procedures under Qualifying Dispute Settlement Schemes. Due to the fact that there will be multiple providers with varying approaches and procedures, this will prove to be a significant administrative burden for suppliers, placing regulatory provisions aimed at supervising broker activity on them, which has already been recognised by Ofgem as a non-deliverable activity. We believe that the onus needs to be on each broker to provide all relevant details related to the procedures under Qualifying Dispute Settlement Schemes they have onboarded to consumers at point of sale.</p>
<p><i>20.5A The licensee must ensure that any Broker is a member of a Qualifying Dispute Settlement Scheme.</i></p>	<p>We recommend that the condition drafting is amended to clarify that the obligation of the licensee to ensure any Broker is a member of a Qualifying Dispute Settlement Scheme only applies for Microbusiness Consumers.</p>