

Emailed to: cdconsultations@ofgem.gov.uk

9 July 2021

Dear Jonathan,

Ofgem Statutory Consultation: Microbusiness Strategic Review

I write in response to the above consultation. In our response to Ofgem's 2019 Strategic Review of the Microbusiness Retail Market, we welcomed the package of proposals that were put forward aimed at tackling the harms identified. We also think the proposed measures will help to build a fairer retail market for microbusinesses. Our additional responses to the questions set out in the statutory consultation are below.

We have focused mainly on the proposals to require suppliers to use only those brokers that are signed up to ADR. We have been pleased to work with Ofgem so far on its ADR plans (including running the broker trial scheme from October 2020 to March 2021) and hope these comments are helpful in addition to the ongoing engagement we continue to have.

We do have a few brief comments on some of the other proposals, as set out at the end of our response.

Answers to the specific questions:

Q2. 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 strongly support the proposal to introduce a requirement for suppliers to use only energy brokers signed up to ADR. Having operated the Energy Ombudsman Scheme for over 12 years, we believe we have the experience and expertise to run an equivalent scheme for the energy broker part of the market. We have been working with Ofgem, brokers, suppliers and other stakeholders to look at how an ADR scheme could be introduced in the most effective way.

As we have outlined previously, we think there are many compelling reasons why a single scheme (as opposed to multiple ADR providers) in line with the existing supply sector will result in better consumer outcomes. For example, by:

- ensuring a simple and consistent consumer journey when a microbusiness makes a complaint – being able to come to the same ADR provider regardless of whether a complaint is about the broker or supplier (if indeed the consumer knows);
- avoiding a race to the bottom with multiple ADR schemes, whereby brokers choose preferred ADR schemes in a way that does not align with the interests of consumers;
- having a complete overview of complaints in the broker market – and being able to use the data as critical insight in supporting improvements to the market;



- aligning the broker ADR scheme to the Energy Ombudsman, it also makes sure remedies can be joined-up and effective;
- offering consistent on-going support/guidance and information that will need to be provided to brokers;
- making sure any register displays which brokers are signed up to the ADR scheme is accurate and that the same entry and exit requirements are applied to all brokers; and
- aligning with the existing supply market, it future-proofs ADR for the possible introduction of regulation in both the domestic and non-domestic third-party intermediaries (TPIs) sector.

For these reasons, certainty over a single scheme is an important consideration for us in determining how to continue preparing for the scheme, and we hope this will be an outcome of Ofgem's consultation process.

On timing, it is clear from our engagement with the sector that some suppliers and brokers have concerns about the practicality of the suggested start date of January 2022, and there remain some important questions that need to be worked through around the ADR scheme to make sure it works properly for consumers from Day 1. Once Ofgem has concluded its consultation there is also a significant amount of other work to be done in advance (including finalising and delivering the on-boarding process, undertaking any complaint handling process checks, designing the register and expulsion process, contractual arrangements and terms of reference, and system design and development to ensure the new scheme is connected to the existing one), and so we think this certainty is also important so that the scheme can be delivered in a timely way.

Q3. Do you have any other comments on our proposals?

We think that banning the notification to switch requirement will help ensure that microbusinesses can switch providers more easily. Many microbusinesses face similar challenges to those of domestic consumers and it seems right to ensure that switching can be made as efficient as possible. Similarly, we think that microbusiness consumers should have access to equivalent levels of information, advice and guidance that domestic consumers have. So, we support the collaborative work Ofgem will be doing with Citizens Advice to ensure that there is up-to-date guidance and communication with microbusinesses to help them understand their rights and how the market operates. Through the Tripartite working that exists between Ofgem, Citizens Advice and us as the Energy Ombudsman we will continue to contribute to the improvement of the sector through our data and insights.

We understand the reasoning behind not taking forward the proposals around broker conduct and the informed contract choices in light of the policy work under development with BEIS on regulating TPIs in both the domestic and non-domestic energy sector. If regulation of TPIs in the energy sector is a possibility, then it makes sense that the broker ADR scheme being established now is fit for purpose for when that regulation comes into effect. As the Energy Ombudsman we have considerable experience of operating effective strategic redress in the regulated energy market which includes complaint resolution, data and insights gathering, partnership support, policy development so that we can act in a preventative way and spot customer detriment early, help energy suppliers improve how they deal with complaints.

Please do not hesitate to contact us if you would like further information regarding our response. Our response is not confidential.

Yours sincerely,



Ed Dodman
Director of Regulatory Affairs

For more information regarding this consultation please contact:

David Pilling
Head of Policy and Public Affairs

Ombudsman Services
3300 Daresbury Park
Daresbury
Warrington
WA4 4HS

t: 07595 449366

e: dpilling@ombudsman-services.org