

Emailed to: retailpolicyinterventions@ofgem.gov.uk

17 January 2022

Dear Sir/Madam,

Ofgem Statutory Consultation on potential short-term interventions to address risks to consumers from market volatility.

We write in response to the Ofgem Statutory Consultation on potential short-term interventions to address risks to consumers from market volatility. We have provided some comments on the proposed short-term interventions outlined in the consultation paper, from our perspective as the Energy Ombudsman.

2: Risks to consumers from continued wholesale market volatility

Question 1: Have we correctly identified and assessed the risks to consumers from continued wholesale market volatility?

Question 2: Do you believe that intervention is warranted in the interests of consumers

The consultation paper summarises some of the risks facing consumers and suppliers. As the Energy Ombudsman we would highlight another related risk. A potential knock-on effect of wholesale volatility is that increasing financial pressure on retailers can (reluctantly) lead to decisions around where to prioritise cost and resources. We might see, for example, areas such as customer service suffer as suppliers do what is necessary to remain financially stable.

In terms of whether additional short-term intervention is required, others will be better placed to describe in more detail the current effect on suppliers, but we do think each of the proposals has potential downsides for consumers, and therefore we agree with the high bar Ofgem has set..

3. Options to mitigate risks to consumers

Question 3: Which of these possible interventions, if any, would be most effective and proportionate in addressing the risks identified in consumers' interests?

Question 4: For each option, are there particular benefits or risks for consumers, including those in vulnerable circumstances, that we have not identified?

Question 5: For each option, do you agree that we have identified the full range of expected impacts on suppliers, consumers and competition?

Question 6: Where applicable, do you agree that the draft Licence Condition text accurately implements the intervention as described?



For each of the options we have provided some points from our perspective as the Energy Ombudsman.

Option 1: Requiring suppliers to make all new tariffs available to existing customers

Requiring suppliers to make all tariffs available to all consumers does seem to be a potential way to disincentivise suppliers from offering price risky tariffs. Similar measures have, for other reasons, previously been introduced in other markets (such as Communications). We think there would be some perceived benefits from consumers who think that loyalty should not cost more. It might also bring some simplicity for consumers during what could be a difficult time for them to consider the best course of action with regards to tariffs and switching.

As Ofgem highlights, however, this option carries significant uncertainty given its dependence on the reactions from suppliers. Limiting the tariff offerings of suppliers has been done (in different ways) in the past and it is worth considering any potential dampening of competition, albeit in the short term.

Option 2: Allowing suppliers to charge exit fees on some Standard Variable Tariffs

We appreciate that there are challenges with the volume of consumers currently on standard variable tariff who are likely to switch to more competitive tariffs once prices return to more usual levels, and this may cause further volatility for suppliers, depending on hedging strategies. However, we think applying exit fees to consumers who previously were (or had reason to believe they soon would be) free to switch supplier at any time is difficult to justify.

We know that consumers who are on standard variable tariffs – in energy, and on equivalent tariffs in other sectors – are less likely to engage with the market and could be more likely to have vulnerable characteristics. Consumers who are financially prevented from switching once may be less likely to do so in the future, even if exit fees were to be dropped. This at a time when consumers may more actively seek to switch to help manage their own increasing household costs. More broadly, we think the ability of these consumers to switch supplier easily is an important protection for them and an equally important incentive for suppliers to treat consumers fairly. The loyalty of these consumers should need to be earned by suppliers.

We also wonder if the proposal to set the termination fee at a level that recognises the costs that the energy supplier might incur as a result of the cancellation could cause uncertainty for consumers – in particular, if consumers do not know how much they might be charged until the point they try to switch. In addition, many domestic consumers have been charged relatively low termination fees historically, so they may assume that a termination fee will be low only then at a later date find they are charged more than expected.

Question 7: Do you agree that the methodology outlined in Appendix 2 best delivers the charge described in this consultation document?

Question 8: Do you agree that an ex-ante publication of the charge delivers the best outcome for customers?

Question 9: Do you agree that a weekly publication represents an appropriate frequency of charge update?

Question 10: Do you agree that the payment mechanism described here is the most effective way of ensuring that charges are collected and paid?

Option 3: Requiring suppliers to pay a Market Stabilisation Charge when acquiring new customers

This proposal has the benefit of avoiding visible upfront costs to consumers who want to switch. In the event of a significant drop in wholesale prices, financial incentives to switch are likely to be there, albeit dampened by the cost the acquiring supplier would have to pay. Suppliers will be better placed to comment on the likely effect on acquisition strategy but we think by avoiding potentially significant upfront and visible costs to consumers, this may be preferable over Option 2.

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

Your sincerely,

A handwritten signature in black ink, appearing to read 'Ed Dodman'.

Ed Dodman
Director of Regulatory Affairs

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Appendix A

Background to Ombudsman Services

Ombudsman Services is a not-for-profit private limited company established in 2002 which runs a range of discrete national ombudsman schemes across different sectors including energy, communications and an appeals service in private parking. Each scheme is funded by the companies under our jurisdiction and our service is free to consumers.

In 2020 we received 160,024 initial contacts from complainants and resolved 65,472 complaints. In the energy sector we received 115,523 initial contacts and resolved 51,451 cases, and in the communications sector, we received 44,237 initial contacts and resolved 14,217 cases. We also received over 58,000 appeals in our private parking appeals service.

But our role as an ombudsman goes beyond achieving administrative justice for individuals. Where we identify shortfalls in consumer outcomes, we use our data and insight to work with suppliers to improve the service they offer their customers to help build trust and confidence in our sectors. Where we identify systemic consumer issues, we work with regulators to address these, and we support regulators and government to help design consumer protections where these are needed in new or existing markets. These are examples of how strategic redress reaches beyond more basic ADR.