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Date: 16/03/2023

Dear Amy Jennings,

Thank you for providing us with an opportunity to comment on Ofgem's consultation on what should be included in Alternative Dispute Resolution (ADR) scheme criteria, to ensure that they are a suitable Qualifying Dispute Settlement Scheme (QDSS).

Citizens Advice fully supports the requirement introduced by Ofgem that, when securing microbusiness contracts through Third Party Intermediaries (TPIs), suppliers must only work with TPIs that are members of a QDSS. We also support the requirement that these schemes must be able to demonstrate that they can provide independent, fair, effective and transparent out-of-court dispute settlement services to support microbusiness customers.

Citizens Advice has previously established that, although many brokers/ TPIs help microbusinesses get a good deal, a significant minority continue to cause detriment to consumers.¹ Often, this detriment is exacerbated by the fact that, unlike non-domestic energy suppliers, TPIs are not regulated by Ofgem. The introduction of a comprehensive and effective ADR scheme is therefore of great value to consumers affected by poor TPI practices, and we welcome any guidance that will contribute to raising the standards of ADR schemes.

I would like to use this consultation response to express two concerns about the overall impact the presence of multiple QDSS schemes would have on consumers, before moving onto specific concerns about the guidance:

Patron HRH The Princess Royal

Chief Executive Dame Clare Moriarty

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Complexity as a barrier to getting help

Our previous research has identified that challenges present in the Energy Retail market means that the presence of multiple ADR schemes has the potential to negatively impact customers.²

Specifically, the research showed that some of the major barriers consumers face when complaining are that they don't know how to complain, and that the process is too complex. Awareness of ADR schemes is also poor, and their role is not well understood by consumers.³ Although this research was focused on the domestic market, we also know that non-domestic consumers - particularly micro-business consumers - are often similarly disengaged with the energy market, and have limited communications with their suppliers.⁴

Considering these barriers, we are concerned that having multiple ADR schemes could lead to consumers being more confused about their rights and who to complain to. Ofgem may want to consider further research into whether multiple QDSS providers/ ADRs would lead to outcomes that are in the customers' best interests. If multiple ADR schemes are created, every QDSS provider should be held to the same guaranteed minimum standards to reduce the risk of varying practices and outcomes. Strong, specific guidance on what qualifies as a QDSS is a good place to start to achieve this.

Monitoring requirements and capacity

Under the current 2015 ADR regulations, all ADR schemes are required to be approved by Ofgem to operate in the energy sector. This is an appropriate measure, and helps to

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ensure oversight across all ADRs and a basic standard of service. As part of these oversight requirements, Ofgem must maintain a list of ADR applicants approved under the legislation, and must receive annual activity reports from scheme providers along with other “information obligations.”

With multiple ADR schemes in the market, sufficient time and resources should be set aside to maintain and monitor such a list, and to respond to any concerns raised about providers as appropriate. We have previously raised concerns about how insufficient resource can hinder abilities to fully investigate emerging issues in the domestic market, so careful planning will be needed to ensure similar problems do not arise in the non-domestic sector.⁵

Relatedly, the presence of multiple ADR schemes may disrupt Ofgem’s current mechanisms to monitor the market in depth, together with other consumer bodies. For example, one ADR provider can be incorporated into the [tripartite process](#) to respond quickly to specific concerns raised or to emerging themes. With multiple schemes, such arrangements would be less practical, and could require significant revision over time.

As such, before permitting multiple ADR schemes to be active in the market, Ofgem must devise and publish a plan to capture the information and feedback that arises from ADR case work. Such a plan must consider how common areas of detriment are to be captured, and how potential areas for investigation should be escalated.

Response to the draft guidance:

Q2. Is there anything missing from the draft guidance that could result in a provider offering ineffective TPI dispute resolution services now or in the future?

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Citizens Advice recommends that Section 1.1.b of the draft guidance be amended to provide more powers to the relevant ADR scheme to compel action when rectifying acknowledged issues. Ideally, redress options for non-domestic customers should match those available for domestic customers.

When compared to the outcomes offered by existing ADR schemes, the outcomes written in the draft guidance require more specificity, particularly around compelling specific, practical action.

Citizens Advice therefore recommends that section 1.1.b of the guidance is expanded to include:

- A practical action (for example: apply a credit, cancel an account, apply a specified tariff)
- Recommendations for the company to prevent the issue from happening again
- Or, a combination from all of the above. ⁶

Conclusion

This letter has responded to the questions outlined in the consultation on guidance for TPI ADR scheme criteria, and has outlined additional concerns about the feasibility and value of having multiple schemes within the energy sector.

Apart from these concerns, and with the exception of the specific issues highlighted above, we agree that the proposed guidance will broadly ensure that QDSS providers can deliver independent, fair, effective and transparent out of court settlements to support microbusiness customers.

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It is Citizens Advice's opinion that all ADR schemes are held to established minimum standards to ensure consistent and quality service. The guidance outlined in the consultation goes a long way to articulating these minimum standards.

Kind regards,

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References:

1. Citizens Advice, [Closing the Protection Gap](#), February 2021. .
2. Citizens Advice, [Response to open letter on Utilities ADR's application for certification as an ADR provider](#), February 2018
3. Djs Research for Citizens Advice, [Understanding Consumer experiences of complaint handling](#), June 2016.
4. Citizens Advice, [Getting through to business](#), June 2020
5. Citizens Advice, [Market Meltdown: How regulatory failures landed us with a multi-billion pound bill](#), 2022.
6. Ombudsman services, [Process](#), last accessed: 07/03/2023

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