

Amy Jennings
Ofgem
10 South Colonnade
Canary Wharf
London
E14 4PU

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Dear Amy

We would firstly like to thank Ofgem for giving the market an opportunity to provide views on the proposals to introduce guidance on the Third Party Intermediary Alternative Dispute Resolution (TPI ADR) scheme as introduced by Ofgem in the outcomes from the Microbusiness Strategic Review (MBSR).

We welcome Ofgem's ongoing work in this area, however we are disappointed that the feedback provided to Ofgem during the consultation phases for the Microbusiness Strategic Review were not progressed as part of the reforms. Namely, we are disappointed that our suggestion of a TPI Code of Practice (TPICoP) was not considered viable as compared to the arrangements implemented as an outcome of the MBSR, as a TPICoP appears to be a more equitable approach to resolving many of the theories of harm as identified during the review. Mandating Suppliers to only work with Brokers who sign up to a TPICoP, which can be administered by a neutral and existing central industry body, in a Meter Asset Manager Code of Practice (MAMCoP) style regime, would ensure that Broker standards remain high and a centralised assurance scheme run by the TPICoP administrator would ensure a uniform approach across the industry. Such an approach would provide an ADR route that is not reliant on the Ombudsman, allowing for a true independent alternative and transparent approach to arbitration. Additionally, now that the Retail Energy Code (REC) has been fully implemented this would appear to be the ideal governance framework that could facilitate a TPICoP.

It is also our view that although Ofgem have noted that they do not have the vires to accredit a TPI dispute resolution scheme, it is not clear as to why this is. We would suggest that it is within Ofgem's remit as the regulator and within their definition to provide accreditation for such a scheme due to the consumer benefit nature of an ADR Scheme:

"We work to protect energy consumers, especially vulnerable people, by ensuring they are treated fairly and benefit from a cleaner, greener environment."

¹ Ofgem, 'Our Role and Responsibilities' <<https://www.ofgem.gov.uk/about-us/our-role-and-responsibilities>> (accessed 16 March 2023)



We have provided our responses to the consultation in the appendix below and would be happy to support Ofgem in further developing policy changes in this area in future.

Yours sincerely

Dan Fittock
Senior Regulatory Policy and Compliance Manager
Corona Energy

Appendix A

1. Does the proposed guidance clearly set out the guideline structures for a provider to offer a high quality and effective service for microbusiness customers seeking TPI dispute resolution services?

While we believe that the proposed guidance sets out the guideline structures for a provider to offer a TPI resolution service, we do not believe that the service would be high quality and effective. Essentially a guidance document is non-enforceable and with Ofgem's current position confirming that they have no vires to accredit a Qualifying Dispute Settlement Scheme (QDSS), we are unsure as to what would 'qualify' a QDSS. Additionally it is not clear to us how a Supplier would identify a suitable QDSS in order to fulfil its license requirements. Without either an accreditation scheme or a more defined approach stipulated under licence, we have major concerns that this proposed guidance will not be followed and that new ADR schemes will be established which focus solely on driving down costs rather than having a focus on satisfactory consumer redress.

2. 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?

Yes, we believe that the key to a successful QDSS would be Ofgem accreditation, or a centralised TPICoP approach. The current guidance will not aid the potential issue of increasing numbers of TPI ADR schemes creating increasing uncertainty in this area of the market. Although currently there is only one TPI ADR, run by the Ombudsman, upon increasing numbers of TPI ADRs being implemented it is unclear how a Microbusiness customer will be aware of which TPI ADR scheme both their TPI and their Supplier work with – leading to decreased transparency and increased risk, ultimately resulting in detriment to the customer experience.

We would also appreciate confirmation of the reasons Ofgem believe that they are not able to provide accreditation for QDSS schemes. We would suggest that Ofgem's future role as the Strategic Function should consider TPI related consumer redress as a priority due to TPIs forming an integral part of the non-Domestic retail market.

Assurance and monitoring of QDSS schemes is not clear from this guidance, with the only requirement being the carrying out of 'periodic assurance monitoring'. We would welcome further clarity in this area as assurance and monitoring will be key to assessing the effectiveness of any individual scheme. A uniform approach to assurance and monitoring across various QDSS schemes would be welcome to set a minimum standard to allow Suppliers to develop a clear, transparent and

effective approach to performance assurance across all Brokers operating in the Microbusiness market.

3. Do you have views on how QDSS providers can inform customers, TPIs and suppliers that they meet and can continue to meet these requirements - and therefore give microbusiness customers confidence in using it?

The approach to engagement between Suppliers, TPIs and customers will be key in the effectiveness of any individual ADR scheme. We would suggest that as a minimum standard would be the introduction of a Complaints Handling Statement as Suppliers are required to provide, and as per the current Ombudsman-run ADR scheme. Such a statement would provide all three parties a clear understanding of the route that resolution will take, as well as clear and concise methods of escalation where required.

We are concerned that such a stringent framework, although effective, would represent a significant infrastructure investment which some QDSS providers may not seek to make. As such, either a TPICoP style arrangement or an Ofgem accreditation scheme would be key in ensuring this minimum standard.