UKHOSPITALITY

OFGEM NON-DOMESTIC MARKET REVIEW: POLICY CONSULTATION

UKHospitality is the authoritative voice for over 740 companies operating around 100,000 venues in a sector that employs 3.5 million people. The body speaks on behalf of a wide range of leisure and 'out-of-home' businesses, from FTSE 100 enterprises to medium-size groups and independent single-site operators, as well as 6,000 affiliated operators. Engaging with government, the media and the public, UKHospitality works to develop a robust case on how to unlock the industry's full potential as the biggest engine for growth in the economy and ensure that the industry's needs are effectively represented. The sector creates £140bn in economic activity and generates £54bn of tax for the Exchequer, funding vital services. Hospitality represents 10% of UK employment, 6% of businesses and 4% of GDP.

KEY POINTS

- Overall, we welcome the proposals in the consultation, and the report is helpful for the sector within the remit of Ofgem's existing powers, and positive in terms of future recommendations – recognising as it does the challenges facing hospitality businesses specifically.

- Our primary request is that Ofgem, energy suppliers and Government **must move at pace** to implement the recommendations made. Ofgem's statement *"(we will) encourage suppliers to work constructively and flexibly to provide viable solutions for both parties"* is particularly welcome and it is of vital importance that this messaging to suppliers is taken forward quickly, including awareness raising for those who have taken out contracts through TPIs (brokers).

- Within Ofgem's remit, the proposed regulatory changes on transparency and dispute resolution with TPIs (brokers), customer complaints and deemed rates are positive, and we would urge rapid delivery of these. Our comments on the relevant consultation question can be found below.

- Ofgem's recommendations to Government are also welcome. We believe it is important that TPIs are regulated to deliver better behaviours in this part of the market. Giving wider access to the energy ombudsman would also be a positive step.

- At present the route to get redress from suppliers is very narrow, and businesses feel it is skewed in favour of the suppliers. Access to the ombudsman would rebalance this.

- Outside of Ofgem's remit, we note the report highlighted the issue of perceived creditworthiness, with ramifications across energy supply to hospitality. Ofgem should put in place measures to prevent the blacklisting of entire sectors as this dramatically reduces competition.

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CONSULTATION QUESTIONS

Pricing and contract behaviour

Q1. Do you agree with our proposal to agree voluntary improved pricing transparency and if so, please include comments on the particular areas you would like to see made more transparent?

On pricing and contract behaviour in general, we welcome and support Ofgem's comments regarding the hospitality sector and the specific challenges it faces in the report.

We agree with Ofgem's view that there needs to be an improvement in pricing transparency. We support – and stand ready to assist in – a programme of work with suppliers and customers to agree where and what additional transparency can be given more consistency, for example around online information and breakdowns on the bill itself.

As highlighted in our key points above, speed is crucial and we therefore welcome Ofgem's commitment to have improved transparency measures agreed and in place by Winter 2023.

Q2. Do you agree with our proposed definition of 'significantly exceeds'? Please provide your reasons.

With regards to the suggested wording of 'significantly exceeds', using this phrase as a definition runs the risk of potentially creating a secondary unclear definition of 'much higher'. To provide clarity for non-domestic customers, we suggest a percentage figure above the equivalent contracted rate (for example, deemed rates should be no higher than 15% above the equivalent contracted rate).

Q3. Do you agree with our proposal that suppliers should review deemed contract rates quarterly? Please provide your reasons.

We agree with the proposal for a quarterly review of deemed rates, and we agree with the rationale set out (i.e. that six months+ is too long a period to reflect change, less than quarterly would be too unpredictable for the customer). Rapid delivery of these is crucial.

Q4. Are there any potential implications for domestic customers that the proposed guidance on deemed contract rates may impact on?

No comment.

Q5. Do you have any further comments on our proposals for the deemed contract guidance?

The overarching point that the proposed reforms should be implemented as soon as is practically possible stands here, and we look forward to working with Ofgem to achieve this.

Q6. Do you have any other comments on the other proposals in this pricing and contract behaviour section?

On pricing overall, welcome Ofgem's statement *"(we will) encourage suppliers to work constructively and flexibly to provide viable solutions for both parties".* It is of vital importance that this is enacted now, including for those who have taken out contracts through TPIs (brokers). This will protect those currently struggling with excessive contracts and will, crucially, unlock capital for businesses keen to grow and invest.

Well financed and stable hospitality businesses (both large and small) are being treated as an excessive risk. They are being denied supply, charged a premium or are having cashflow restricted – this is worrying for growth, investment and business stability. We believe there needs to be an urgent investigation into supply issues to the hospitality sector, potentially through a Competition and Markets Authority investigation.

Competition in the market and customer service

Q7. Which documents, or combination of documents do you believe would provide a robust evidence base to demonstrate a genuine CoT/CoO?

We agree with the proposals to develop an agreed set of documents as soon as possible, and welcome Ofgem's commitment to identify a range of suggested documentation this year based on the Retail Energy Code. We look forward to engaging as part of the consultation process around this.

Q8. Are Micro Business Consumers aware they can contact Citizens Advice for support? Do we need to introduce a rule requiring suppliers to signpost them more specifically?

We agree with introducing mandated transparency in this area.

Q9. Is an obligation requiring efficient and timely complaints handling needed? If so what are the costs and benefits associated with introducing this?

We welcome the fact that Ofgem has recognised this as a key issue for non-domestic customers. We support the identified outcomes, namely:

- suppliers must handle complaints from their non-domestic customers in an efficient and timely manner;
- suppliers record, handle and process these complaints according to consistent rules in order for Ofgem to monitor supplier complaints handling effectively.

Given this remains a problematic area, we support a mandated requirement for suppliers, to improve this.

Q10. Is an obligation requiring recording, handling and processing of complaints in accordance with consistent rules needed? If so, what are the costs and benefits associated with introducing this?

This would be beneficial to non-domestic customers as identified above, and should form part of reforms around better complaints handling.

Q11. Do you have any views on what (if any) threshold should apply on business size for complaints handling requirements, or views on which requirements set out in the Gas and Electricity (Consumer Complaints Handling Standards) Regulations 2008 should not be expanded to apply to all non-domestic customers?

We agree that the threshold should be expanded, to include any non-domestic customer regardless of size.

Q12. We are seeking stakeholder views on our suggested proposals to government around increasing access to the Energy Ombudsman. Should there be a threshold on who can access the Energy Ombudsman? If so, where should this be set?

Given hospitality business of all types and scale have been identified as a sector facing specific issues throughout this report, we believe access to the Ombudsman should be expanded to businesses of all sizes. Giving wider access to the energy ombudsman is a positive step. At present the route to get redress from suppliers is very narrow, and businesses feel it is skewed in favour of the suppliers. Access to the ombudsman would rebalance this.

Q13. We are seeking stakeholder views on the proposed changes to the rules requiring suppliers work with TPIs who are members of a redress scheme. Additionally, what are your views on the costs and benefits associated with the different proposals?

We support Ofgem's proposals in this area, namely policy option 2. We believe it is important that TPIs (brokers) are regulated to deliver better behaviours in this part of the market, and option 2 will deliver this to the widest range of customers. We note Ofgem's ask to Government to look into more formal regulation of the TPI market, including the need for a formal redress scheme, as there is in other sectors, with which we strongly agree. We will work with Government and other stakeholders to ensure there is timely implementation of such regulation.

Q14. What are views from stakeholders on how long it would take to set up and register for a wider TPI ADR scheme, one that goes beyond Micro Business Consumers?

We do not believe this should be an overly lengthy process.

Q15. What are your views on our proposal to expand SLC 0A (non-domestic Standards of Conduct)? Do you have any views on which consumers they should or should not apply to? Please provide any views on costs and benefits of making this change.

We agree with the proposals to expand the SLC 0A standard of conduct to apply to more non-domestic consumers, to ensure consumer protections are extended and suppliers also treat their non-domestic customers fairly. We agree that by expanding the standards of conduct it will better ensure suppliers focus on delivering good consumer outcomes

Q16. Do you have any further comments on the proposals in this section on Competition in the market and customer complaints?

Implementing the above proposed measures to increase transparency and complaints from non-domestic customers must be delivered at pace. UKHospitality very happy to be involved in work around this ahead of the consultation closing.

<u>Customer group focused support</u>

Q17. What are the views of Distribution Network Operators (DNOs), Independent Distribution Network Operators (IDNOs), Gas Distribution Networks (GDNs), and Independent Gas Transporters (IGTs) on the potential issues of targeting support to vulnerable end users supplied through non-domestic contracts?

No comment on this specific question, we will be engaging with the recently published Government consultation regarding protections for domestic customers on non-domestic contracts regarding situations in the hospitality sector more widely.

Q18. What changes to the Maximum Resale Price direction would improve its effectiveness and what are the potential downsides to any changes?

No comment on this specific question, we will be engaging with the recently published Government consultation regarding protections for domestic customers on non-domestic contracts regarding situations in the hospitality sector more widely.

Q19. What are the costs and benefits associated with the proposal to expand TPI commissions disclosures to all non-domestic customers? How long would it take suppliers to implement this policy?

We support the proposals to expand TPI commissions disclosure to all non-domestic customers. As the consultation notes, feedback has indicated this has been beneficial to micro-businesses and we expect the same to apply to any size of business.

Q20. Are there views on how commissions disclosure is best presented to be understood by consumers?

<For member impact>

Q21. Should we expand commissions disclosure to all non-domestic customers or a sub-set of customers, and if a sub-set do you have views on how to define this?

We agree that it should be expanded to all non-domestic customers.

Q22. Do you have any further comments on the proposals in this section on focussed consumer support?

No comments.

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