

POLICY CONSULTATION RESPONSE 13

Thank you for the opportunity to respond to your Call for Input

Firstly I must compliment Louise van Rensburg on a very comprehensive and thought provoking document

Secondly, I am a business owner of an SME based in the west midlands, I am not a lawyer, but my company, unfortunately, had to sign up to a three year fixed energy (electricity) contract in October 2022. Energy costs were soaring at the time and there were very few contracts available. We, like many SME's, purchased our energy contract through a broker, who convinced me to go into a 3 year contract, commenting "you don't know how high this may go [REDACTED], best to lock yourself in" we are currently locked into a contract at 46p/KWh where the market is currently at 28p/KWh. As your report indicates many businesses are in this position but few realise that SME's due to their size are disproportionately affected by these onerous contracts.

I attach a number of key points from the executive summary which I am very pleased your report picked up on.

I will be honest, the sheer complexity and detail of the rest of the report, meant I was unable to follow much of the detail as I am not an energy expert, however I believe our type of fixed energy contract was covered in chapter 2 and appendix B even though I did not follow many of the details.

Forgive me if the following points were covered in those sections but the following covers my submission

1. This report and the move towards bringing non-domestic users under the protection of Ofgem and the Ombudsman are very welcome, if long overdue
2. Your point that **we cannot intervene in commercial contracts** (i.e. between the business, the broker and the energy provider) is then [thankfully] apparently contradicted by the comment **This may mean finding commercial solutions to renegotiate contracts, reducing prices**. This must happen
 - a. Further, as regulators in other spheres (particularly FCA) have pointed out, the payment of commissions in any contractual

agreement, **must** be transparent. In many cases (including my own) this was not the case

- b. I have already said I am not a lawyer and so I may be wrong on this point of law, but, not providing transparency regarding commissions, is in common law, classed as a Bribe and so as a regulator Ofgem must cover the whole process from offer to signature (Ofgem cannot be half pregnant) and as such this lack of transparency provides an opportunity for Ofgem/The Ombudsman to intervene on behalf of those who have who have not been advised of such commissions
 - c. If Ofgem is to provide business with the protections outlined, it/the ombudsman, must have the power to intervene in commercial contracts if they are deemed onerous, I am not clever enough to set the bar, at what level overpayment/lack of transparency, is considered to be onerous or not but if these proposals are to go forward, it is the "duty" of Ofgem to protect Business from these onerous contracts.
3. The "standard" response regarding contract renegotiation, after "We can't get involved" is that the energy provider, upon agreeing the contract will have "booked" that "chunk" (clearly I am not a professional in the energy industry) of energy specific to that contract and therefore any re-negotiation will put the energy provider at a disadvantage. This is untrue. The fact some businesses (brighter than me) took out "day ahead" contracts gives lie to the "chunk" theory. Energy providers flex their costs in line with the market, like all traders in commodities and therefore re-negotiated contracts will not cause harm to the provider, but not re-negotiating will lead to the provider making excess profits at the expense of businesses in general and SME's in particular
4. The report notes We have received evidence that non-domestic customers are not always receiving the levels of customer service they need and have a right to expect You can say that again Therefore, we are requesting that government consider widening access to the Energy Ombudsman This must happen

If any of the foregoing is unclear or needs further explanation, please contact me directly

Regards

[REDACTED]