

ACS Submission - Ofgem Non-domestic market review: Findings and policy consultation

ACS (Association of Convenience Stores) welcomes the opportunity to respond to Ofgem's consultation on new proposals to make the non-domestic energy market fairer. ACS represents 48,590 local shops and petrol forecourt sites including Co-op, BP, Rontec and thousands of independent retailers, many of which trade under brands such as Spar, Budgens and Nisa. These retailers operate in all locations, such as neighbourhoods, villages, on petrol forecourts and in city centres, but our primary trading location in secondary shopping areas close to where people live and work.

Due to the unique requirements of convenience retail, including long business hours and essential refrigeration and equipment use, energy costs are a major financial concern. The expenses linked to energy use are crucial in shaping the economic viability and sustainability of convenience store operations.

ACS welcomes the proposals aimed at creating a fairer energy market and extending protections to a broader spectrum of businesses. These much-needed initiatives, focusing on accountability, cost reduction, and transparency, are seen as vital steps toward ensuring a more equitable and responsive energy market.

In addition to what is being proposed, we also recommend:

- Adopting a standardised pricing model for energy to promotes transparency, reduces price volatility, and allows for easier comparison of costs.
- Introducing time limits for suppliers to complete a change of tenancy; alternatively, mandating suppliers to uphold the previous tenant's pricing during the 'change of tenancy' process, as opposed to applying deemed rates.
- Implementing a cap on the difference between contracted and deemed rates, moving away from a percentage-based increase.
- Broadening access to the Energy Ombudsman to encompass all SMEs, ensuring they have the necessary support when required.

Answers to the consultation questions can be found on the next page.

If you have any questions about this submission, please contact
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Pricing and Contract Behaviour

Q1: Do you agree with our proposal to introduce voluntary improved pricing transparency?

Somewhat agree, as this would provide retailers with a clearer understanding of the various components of their energy bills, including standing charges, deemed contract rates, distribution/transition network charges and third-party intermediary (TPI) commissions. Other charges, including green levies, should also be made clear. This also allows them to easily compare offers, leading to more competitive rates.

Ofgem should introduce a standardised pricing model for energy. By establishing a consistent market price, negotiations can then focus on the costs associated with supplying the energy, labor, and infrastructure maintenance. Additionally, uniformity in metering rates should be implemented, allowing consumers greater autonomy to select their preferred meter type, rather than being constrained by the options energy suppliers provide.

Q2: Do you agree with our proposed definition of 'significantly exceeds'?

Yes, as this ensures that deemed rates are set in a manner that is fair and not unduly onerous for retail businesses.

However, the recent energy crisis has shown the need to establish a cap on the disparity between deemed and contracted rates, ensuring that suppliers don't capitalise excessively during periods of heightened energy prices. Before the energy crisis, the difference between deemed rates and contracted rates was relatively low, typically ranging between 6-10p per unit. However, this gap has expanded considerably, primarily because suppliers have persisted in using a percentage-based difference between the two rates. While a 30-60% difference might have been justifiable when it equated to a mere 10p difference, such a percentage becomes excessive with today's rates. Therefore, transitioning to a fixed amount cap, rather than a percentage-based one, is crucial for fairness and equity in the market.

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

Yes, as this would ensure that the rates are fair and reflective of the current market conditions. Energy prices already fluctuate due to changes in wholesale prices and regulatory adjustments¹. Some suppliers only adjust their deemed rates manually when prices are stable, whilst others may adjust rates monthly but only on an upward basis. Requiring suppliers to review deemed rates regularly would encourage fairness and transparency on the part of energy suppliers.

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

Don't know.

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

We welcome the guidance from Ofgem encouraging transparency in pricing and clear communication about deemed contract rates. Given the current disparity² in the deemed

¹ see evidence in [Appendix 2](#) of ACS submission to the last Ofgem review

² see evidence in [Appendix 1](#) of ACS submission to the last Ofgem review

rates charged by different suppliers, this guidance should hopefully address this issue, fostering a more equitable and transparent energy market.

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

Ofgem urgently needs to implement regulations stipulating the duration permissible for completing a change of tenancy. The current lack of a definitive timeframe allows energy suppliers an undue advantage, enabling them to prolong the process indefinitely. This delay has real-world implications for retailers, with one retailer reporting that a supplier took a staggering four months to finalise a change of tenancy. During this period, the new tenant was subjected to the higher deemed rates, with no room for negotiation.

A potential solution to this issue would be to require suppliers to maintain the previous tenant's pricing during the 'change of tenancy' process. Not only would this approach accelerate the process, but it would also be cost-neutral for suppliers since they are already committed to supplying energy to the premises. The financial relief for incoming tenants would be substantial. Furthermore, Ofgem should consider imposing penalties on suppliers who exceed a three-week window for completing the tenancy change. Such a measure would significantly alleviate the financial burden on incoming tenants, ensuring a smoother transition and fairer pricing.

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?

There needs to be consistency amongst suppliers as to which documents, or combination of documents are required to demonstrate CoT/CoO. Feedback from retailers indicates a lack of standardisation, with each supplier having varied requirements. While some request legal paperwork, others seek invoices, and a few don't require any documentation whatsoever. As mentioned in paragraph 3.8 there should be an approved list of possible documents to provide the evidence, ensuring a standardised approach that can be easily understood and followed by all parties involved. This would minimise the delay in the change of tenancy.

Examples could include a lease agreement, purchase agreement, a letter from the previous tenant or landlord, or a building permit/occupancy certificate in the new tenant's name.

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?

Yes, requiring suppliers to signpost microbusinesses to Citizens Advice is beneficial as it ensures that smaller retailers can have access to independent, expert guidance and support.

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

Yes, as delays in resolving complaints related to billing, service, or supply interruptions can disrupt business continuity, leading to potential revenue loss. Convenience retailers rely on consistent energy supply for their daily operations and prolonged resolution of complaints can have financial implications for these retailers.

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?

Yes, a consistent approach is needed to ensure fair, transparent, and standardised treatment for all businesses regardless of which supplier they use.

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?

N/A

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?

ACS agree with the proposal to increase access to the Energy Ombudsman beyond microbusinesses and domestic customers. This expansion is seen as a positive step that will drive up standards and lead to better outcomes and resolutions for convenience retailers, who often face unique challenges and complexities in the energy market.

The threshold for access could mirror that of the SME definition, i.e. fewer than 250 employees, turnover of less than €50 million or a balance sheet total less than €43 million. Such a threshold would ensure that a broader spectrum of consumers, including many convenience retailers, have access to independent, expert redress when needed. This would also give them more confidence in navigating the energy market and negotiating their contracts.

Q13: We are seeking stakeholder views on the proposed changes to the rules requiring suppliers to 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 welcome these proposals as it ensures a standardised level of accountability within the energy market. Requiring TPIs to comply with certain guidelines would provide retailers with greater confidence and protection in their interactions with energy suppliers and brokers.

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?

Don't know.

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 support proposals to expand SLC 0A to ensure fair treatment and transparent communication from energy suppliers. This should apply to all non-domestic consumers, not just microbusinesses. This would grant retailers more confidence in navigating the energy market.

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

No.

Focused Consumer Support

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?

N/A

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

We recognise the importance of the Maximum Resale Price direction in ensuring that retailers are charged fair and reasonable prices for energy. We support efforts to review and potentially revise this direction to ensure its continued effectiveness in today's rapidly evolving energy landscape. However, it is important to avoid making any changes that could introduce unnecessary complexity or uncertainty into the pricing structure. Retailers value predictability in their energy costs.

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?

N/A

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

Commissions disclosure should be presented in a way that is clear and easily understood, so that consumers can make informed decisions and fully understand the costs associated with their energy contracts. Additionally, there should also be additional support or online resources for retailers who have questions or need further clarification.

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?

Yes, it should be expanded to all non-domestic customers, so that all convenience retailers, not just micro businesses can benefit from transparency and fairness in the energy market.

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

No.