



The business people – an extension to your team

Retail Market Review findings and initial proposals

Forum of Private Business response

May 2011

This is the response from the Forum of Private Business to the initial findings and proposals of the Ofgem Retail Market Review, published in March. Our response is framed around questions 19-23 in the Retail Market Review and all research comes from our Utilities Report (December 2010), unless stated otherwise.

The Forum of Private Business is a proactive, not-for-profit organisation providing comprehensive support, protection and reassurance to over 18,000 small and medium-sized businesses. We add value to businesses through the collective voice for members in local, central and European government, and the provision of tailored solutions that promote business success.

Question 19: Do stakeholders consider that Ofgem should strengthen licence conditions to prevent unfair contracting practices in the non-domestic sector?

Given the profits made by many energy suppliers and the concerns raised by regulators that reductions in wholesale energy prices are not passed onto consumers as quickly as increases are, we believe there is ample scope for energy companies to provide more protection for their non-domestic customers. We believe there are a number of areas where existing licence conditions can be strengthened to prevent unfair contracting practices.

On back-billing

Back-billing is often the result of errors made by energy suppliers, not small businesses. We believe the voluntary code on back-billing that currently protects domestic customers should be extended to small businesses. We do not feel any small business should be subjected to back-billing beyond one calendar year, to match the conditions currently attached to domestic customers. Further, we would like to see suppliers provide repayment schemes for all micro and small businesses, rather than demanding one-off repayments.

The rollout of smart meters over the coming years may lead to an increase in back-billing of small businesses as more accurate energy assessments are made. We would therefore like to see assurances in this area as soon as possible, so businesses can be reassured over the course of the smart meter roll-out programme.

On roll-over contracts

More than one in three businesses do not know when their contract anniversary date is on their utilities contract and only 16% have a formal process to deal with the issue. In total, 42% of businesses have been caught out by a roll-over contract, the majority of which was related to energy contracts.

The Forum would therefore like to see all energy bills carry clear and prominently displayed information relating to the consumer's current tariff and that tariff's expiration date. Information should also contain a warning that small businesses may be placed on higher tariffs once they are out of their contract period.

Question 20: In particular, would stakeholders welcome additional licence conditions surrounding the objections procedure?

69% of our members felt it was difficult to switch suppliers so the Forum is aware of concerns from businesses about the high level of objections that are subsequently withdrawn. We would like to see, as a matter of urgency, a full investigation into the levels of objections raised by suppliers.

We support strengthened licence conditions in this area and feel the best solution would be to ensure any objection must be explained and justified to a business within a shortened time frame - we suggest one week - of it being made. If that timeframe is not kept, the objection is automatically removed with no further basis on which to enter another objection.

Question 21: Would stakeholders welcome the extension of some elements of the Standards of Conduct into non-domestic supply licence conditions?

Our poll suggests that micro businesses that are protected under SLC 7A are less dissatisfied than smaller firms who are not protected under these circumstances. However, in total 96% of business owners we polled wanted greater protection from utilities providers.

Whilst the Forum welcomes the extra protections for micro-businesses contained within license condition SLC 7A we believe the demand is there for that protection to be extended to all small businesses. For definition purposes, we would count these as businesses with fewer than 50 employees and a turnover not exceeding the European Commission definition.

Anecdotally, we are aware that some providers treat all non-domestic users as micro businesses and aim to provide the same conditions outlined in SLC 7A to all customers. However, not all take this approach and we would therefore like SLC 7A officially extended to cover small businesses, as we see no benefit to a business employing 10 people not receiving the same benefits as a business employing 9.

Question 22: Do stakeholders agree with our position, at this stage, not to extend our proposals on tariff simplification into the non-domestic sector?

We would like to see some further exploratory work in the area of tariff simplification in the non-domestic sector. Our position is that whilst simplification of tariffs is in the consumer interest in terms of understanding the market, it is not always in the consumer interest in terms of price. A simplified set of tariffs may lose more tailored packages for small businesses and consequently leave them worse off.

Question 23: Do stakeholders agree that Ofgem needs to look further at the role of third party intermediaries (TPIs) in the non-domestic market?

We recognise the essential work of brokers in navigating and negotiating a complex energy market on behalf of small businesses. However, the Forum believes that Ofgem should look further at the role of TPIs in the non-domestic market. Research from Consumer Focus suggested that some TPIs placed businesses in contracts not best suited to their needs and did not provide clear details on the level of payment they received once they had signed a business to a tariff. We recommend that a voluntary code of practice be introduced to cover all TPIs.

In calling for this we recognise an existing code of conduct under the Utilities Intermediaries Association. We are also aware of some proactive brokers in the energy market who seek to provide the best service for businesses. Nevertheless, good practice is not universal and accordingly we believe a standard code of practice will help ensure better consistency of brokers' dealings with small businesses. This code of practice can be voluntary but suppliers would be obliged to check as any TPI attempting to broker a deal with them must be certified. In order to ensure the code is adhered to we would support greater powers for Ofgem.

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