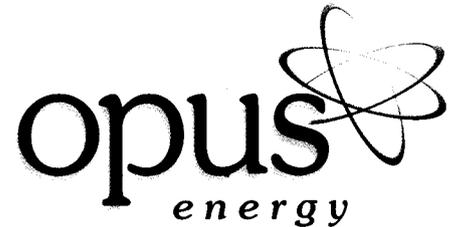


Stefan Bojanowski  
Retail Markets  
Ofgem  
9 Millbank  
London  
SW1P 3GE



24 May 2011

Dear Sirs

**Re: Retail Market Review**

Please find below the response from Opus Energy Limited to the above consultation document.

***Introduction***

Opus Energy is an independent supplier of electricity and gas to the UK business sector. Typically classed as a "smaller supplier", Opus supplies around 100,000 business sites ranging from SMEs to large Corporate groups.

***Response to Proposals 2 and 4***

**Proposal 2 – Access to Wholesale Market Products**

***Question 8: Do stakeholders consider that low electricity market liquidity constitutes a barrier to entry in the domestic retail supply market?***

Yes. Without liquidity and a healthy number of market participants, independent suppliers could become unable to acquire the wholesale products they need which enable them to offer consumers a viable alternative to the "Big 6". As a consequence competition, and the check that this brings to the pricing policies of the "Big 6", may falter.

***Question 9: Do stakeholders consider that our two proposed interventions (the MA and the MMM) could improve the ability of the wholesale electricity market to meet independent participants' needs, and will ultimately improve the likelihood of retail supply market entry?***

Yes, particularly the Mandatory Auction.

We consider that intervention is necessary, following a sustained period of decreasing liquidity that has created a vicious circle of further liquidity destruction. Mandatory auctions will provide the impetus needed to break out of this cycle and will hopefully attract new players and financial intermediaries to the market. The active participation of these players is vital in providing new supply entrants with access to wholesale energy.

***Question 10: Subject to the results of our further wholesale market assessment, do stakeholders consider that both interventions could be necessary to meet the objectives stated in questions 8 and 9?***

Yes, but we would suggest some form of Cost Benefit Analysis is performed with regard to the MMM solution. If the volumes traded under this mechanism are very small it may be more appropriate to place an obligation on the VIs to offer reasonable market terms to new entrants rather than to prescribe and set up a trading mechanism for this nascent market.

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**Question 11:** *Do stakeholders consider that there are other intervention options we should be developing?*

No, we consider that these are the most viable solutions.

#### Proposal 4 – Further Action in the Non-Domestic Sector

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

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

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

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

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

**Question 24:** *Do stakeholders have any comments on the costs and risks of any of our suggested policies under Proposal 4?*

#### *Regulation of TPIs*

We consider that TPIs play an important role in encouraging switching and assisting customers with the switching process.

Although TPIs may act for a number of suppliers we think that where TPIs introduce customers to a supplier this should only be done where there is a written contract between the TPI and supplier. This contract should lay out the standards of conduct that the supplier expects the TPI to follow. In practice, it would be very difficult for Ofgem to regulate TPIs, many of who are very small companies or individuals, in a sector where there is a lot of churn of active players.

#### *Call Recording*

It is essential that any verbal sales contract is recorded to ensure the quality of that sale. We consider that suppliers should be obligated to keep a copy of that recording and a copy of the written contract confirmation script for a period of 6 years after the contract is entered into.

However, we do not think it is practical to insist on full call recording of all calls. This is because:

- Full call recording would be prohibitively expensive for smaller TPIs who typically play an important role in encouraging customers, particularly small businesses to switch; and
- A requirement for full call recording could promote further mis-selling. (If the absence of one telephone conversation invalidates the correctly recorded verbal sales agreement it would encourage unscrupulous TPIs to ask customers to break a contract by saying there was a missing call. Of course it would be impossible for a supplier to produce a recording of a non-existent call.)

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*Proposal to make customers aware that they are paying a commission*

We think that the proposal to ensure all TPIs make customers aware of commissions is unworkable and unfair.

**Internal Sales v TPIs**

If there were no similar requirement to make the customer aware that there has been an internal sales cost associated with the sale, this proposal would be disproportionately disadvantageous to smaller suppliers.

Typically smaller suppliers rely to a greater extent on TPIs to acquire new customers than do the Big 6.

**TPI Sales vs Price Comparison Sites**

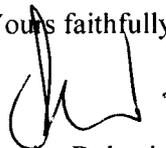
We also think that this proposal will deter the customer from switching, particularly via the switching websites, which are also TPIs. This sector of the market is increasing significantly in the non-domestic sector. This is positive and making these websites include commission statements will have a negative impact on this route to market.

*Objections*

We do not think additional licence conditions relating to objections are required. The regulations are clearly defined in the MRA and licence and generally the objection process is used in the manner it was intended – ie to prevent erroneous transfers. The creation of market monitoring reports allows Ofgem to monitor and regulate this area where there is evidence that objections are not being used according to the regulations.

If you have any questions on any of the views above, please do not hesitate to contact me.

Yours faithfully,



Louise Boland  
**Director**

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