



The Retail Market Review: Non-domestic Proposals

FPB response to the Ofgem consultation

February 2012

About the Forum of Private Business

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 by providing a collective voice for them in local, central and European Government, and the provision of tailored solutions that promote business success.

This is the response from the Forum of Private Business to Ofgem's Retail Market Review for non-domestic users. Our submission is organised around the main themes of the Review and recommendations put forward are based on discussions with - and polling of - our members and other industry stakeholders. Unless otherwise stated, polling in this submission comes from our Utilities Panel Report (Dec, 2010) and our Referendum 197 - The cost of doing business (October, 2011). In 2011 we launched our Get Britain Trading campaign to promote the needs of small businesses and support growth in the UK. Proposals made in this response are supplementary to our 'Reducing Business Costs' section in the Get Britain Trading manifesto.

Introduction and context

In March 2011 Ofgem set out initial proposals for the Retail Market Review. The Forum responded to that interim review and is pleased to see many of the recommendations included in the latest document. The Retail Market Review (RMR) sets out clear guidance as to its objectives. They are to:

1. help more business customers be aware of their contract terms,
2. improve the supplier switching experience for business customers,
3. increase confidence when using third party intermediaries,
4. improve customers trust in suppliers.

The measures put forward in the RMR should go far in ensuring the relationship between supplier and user is more fairly balanced. It is often easy to forget that whilst a supplier has a sole focus on energy provision, the procurement and payment of energy costs to a small business is one of many administrative tasks they juggle.

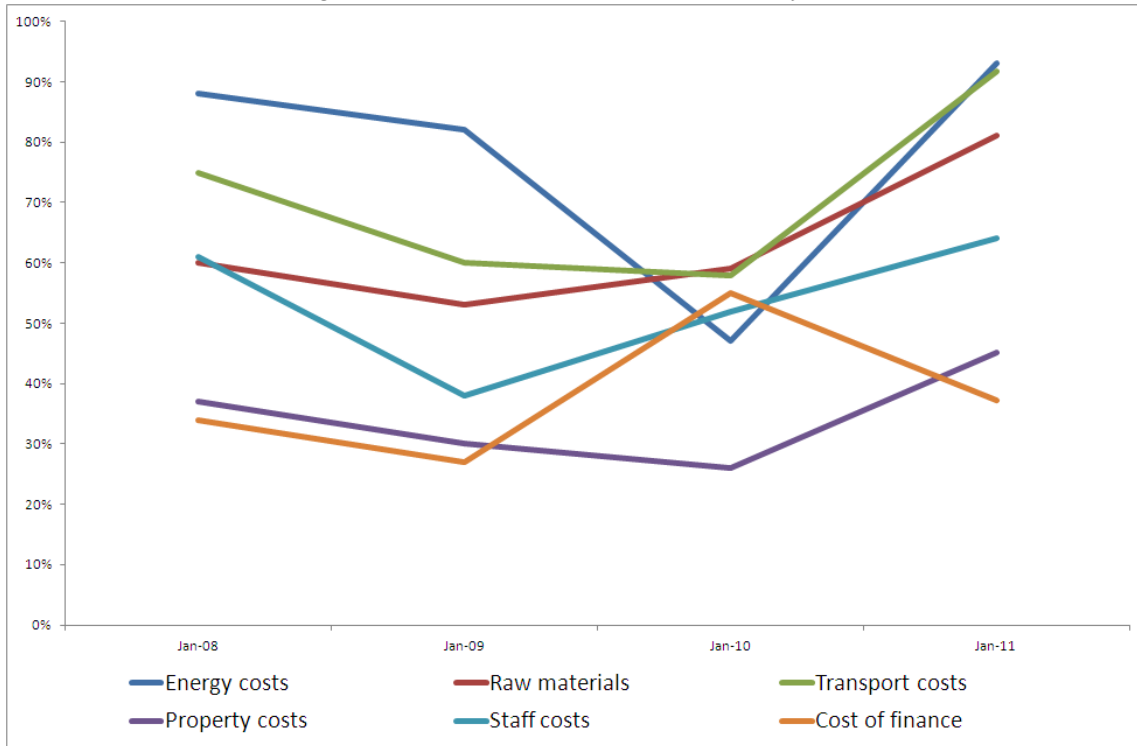
Over the past year businesses have seen a continued rise in the cost of doing business. In energy in particular, 94% of businesses have seen an increase in costs. Many Forum members have had to cut costs simply to keep prices at the same level and smaller firms are suffering from business inflation than at any time over the last 3 years. Figure 1 gives an idea of overall costs.

Figure 1: Which of the following costs have increased over the last year?

	Increased	Decreased	Stayed the same	Do not know	Not relevant
Energy costs	94%	1%	4%	0%	1%
Raw material costs	82%	0%	4%	0%	13%
Transport costs	92%	0%	3%	0%	4%
Property costs	49%	4%	36%	1%	10%
Staff costs	67%	2%	30%	0%	1%
Cost of finance	42%	4%	27%	3%	25%
Insurance costs	74%	4%	22%	0%	0%
Business support costs	62%	0%	19%	6%	12%
Other costs	74%	0%	12%	5%	9%

Figure 2 shows the widespread nature of costs in the last year after a slowdown in the number reporting cost increases in 2010. The proportion reporting increases in finance over the last 3 years has reduced from 2010 although the figures are more in line with figures from the National Business Survey.

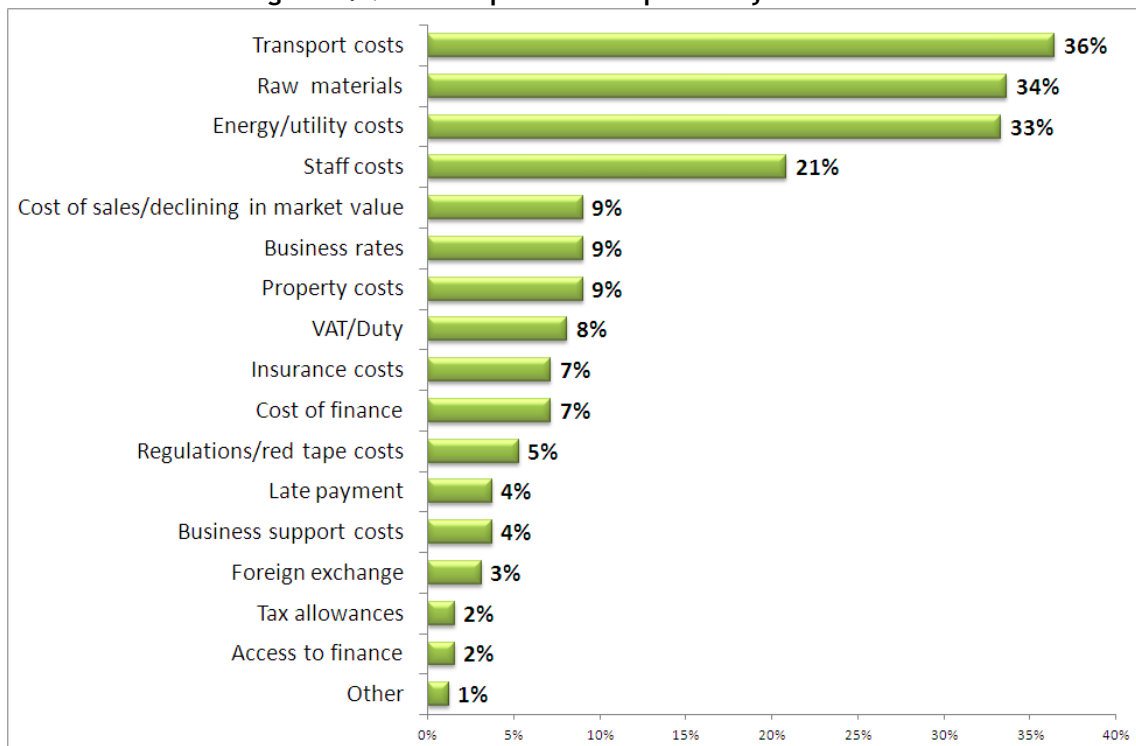
Figure 2: Cost increases over the last 3 years



Energy cost is clearly the most noticeable spike with a sizeable number of businesses reporting a cost increase after a number of years where that number had been in decline.

We also asked businesses their main cost pressure at the moment. Just fewer than 20% gave no reply and responses from the remaining business owners are shown below.

Figure 3: Main cost pressures reported by businesses

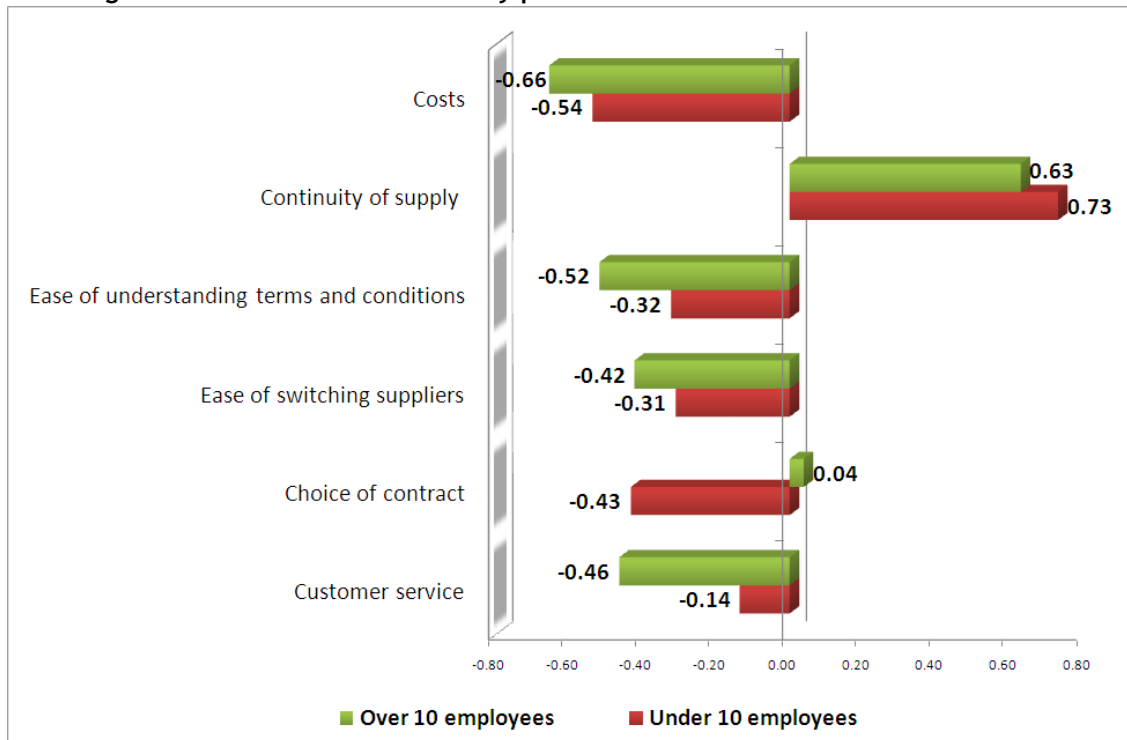


The three most frequently reported higher costs are interlinked as energy costs are traditionally linked to oil costs and raw materials/stock increasingly requires transportation from overseas.

Standard Licence Condition 7A: Protections for smaller businesses

SLC 7A licence conditions have been welcomed by our members for the enhanced protections they receive. Figure 4 gives scores to utility providers based on the size of business. It shows the positive impact the SLC 7A has had for micro businesses.

Figure 4: Current scores for utility providers based on the size of the business



Given the increase in satisfaction for businesses covered by these conditions compared to those that aren't, the Forum called for the licence to be widened to include small businesses with up to 49 members of staff (one of the definitions of small businesses as set by the European Commission). Whilst in practice many suppliers of gas and electricity already treat all non-domestic customers under SLC 7A licence conditions, widening the scope of the businesses covered will ensure that all suppliers begin to treat their small business customers with more reasonable terms.

In our view, all suppliers should treat the entirety of their non-domestic customers under these conditions which would remove potential complexities of the definition of a small business. In the absence the Forum calls for Ofgem to look closely at how the different definitions of a small business can be met in different sectors. We support proposals that small business customers must meet one of the following criteria: fewer than 50 employees; an annual turnover of less than £10million; be electricity customers on Profile Classes 3 and 4, and gas customers who consume no more than 293,000 kWh per year. The one difference in these definitions to that of Ofgem is the use of pound sterling in the turnover criteria, as we feel this is an easier self-assessment for a business to make.

We welcome the announced review of the rollover clause in SLC 7A. More than one in three businesses does 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. Ofgem rightly points out that if rollover contracts were banned, many businesses that were not on top of their energy usage would be deemed 'out of contract' and maybe be subject to even higher rates. Whilst the Forum does not want to see businesses locked into new contracts we cannot condone the placing of businesses onto 'out of contract' rates. The middle approach of allowing businesses to fall into 'deemed' rates seem sensible and the Forum will work with Ofgem to look into how, and the level at which, such rates are applied. Ideally, the Forum would 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. For small businesses, information is power, but only if easily accessible.

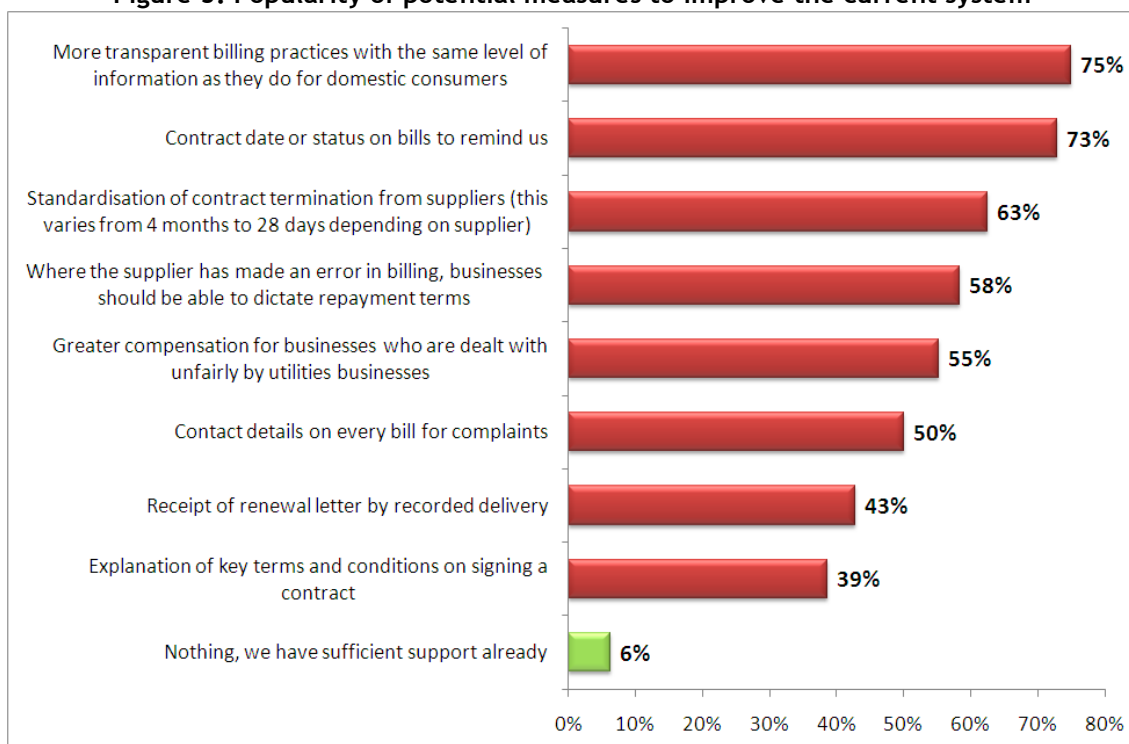
For Standard Licence Condition 7A the Forum supports proposals to extend the scope of SLC 7A but makes suggestions to amend the definition of businesses that are included within the widened scope. The Forum will work with Ofgem on reviewing termination procedures and the level of rates charged to businesses out of contract.

Customer transfer blocking - 'Objections

It is not always easy for companies to switch suppliers, particularly when owners compare their business contract to that of their own residential contract. Around 35% feel that the ease of switching suppliers could be improved, as often businesses only have a small window in which to change energy suppliers without penalty fines. Overall, 96% of business owners want greater protection from utilities providers, with more information on their current contracts being the most popular requirements. Around three quarters want their contract date or the status of their contract on the bill to let them know when their contracts are coming up for renewal. This would go some way to helping to understand objections.

Standardisation of contract termination periods would also help businesses to plan so that they avoid being rolled over on their contract rather than being frustrated by the small print of the contract when they want to change supplier. Figure 5 suggests potential measures to improve the current system.

Figure 5: Popularity of potential measures to improve the current system



69% of our members felt it was difficult to switch suppliers and the Forum is aware of concerns from businesses about the high level of objections that are subsequently withdrawn. We previously called for an investigation into the levels of objections raised by suppliers. We therefore 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 basis on for further objections.

With regard to the objections process, the Forum believes the levels of objections are too high to be consistently justified by suppliers. We support proposals to regularly publish data relating to supplier objections and recommend that strict timeframes be placed on suppliers that object to make the full

reasons/number of objections known to the customer at the outside. No further objections can then be added, aside from exceptional circumstances.

Third party intermediaries

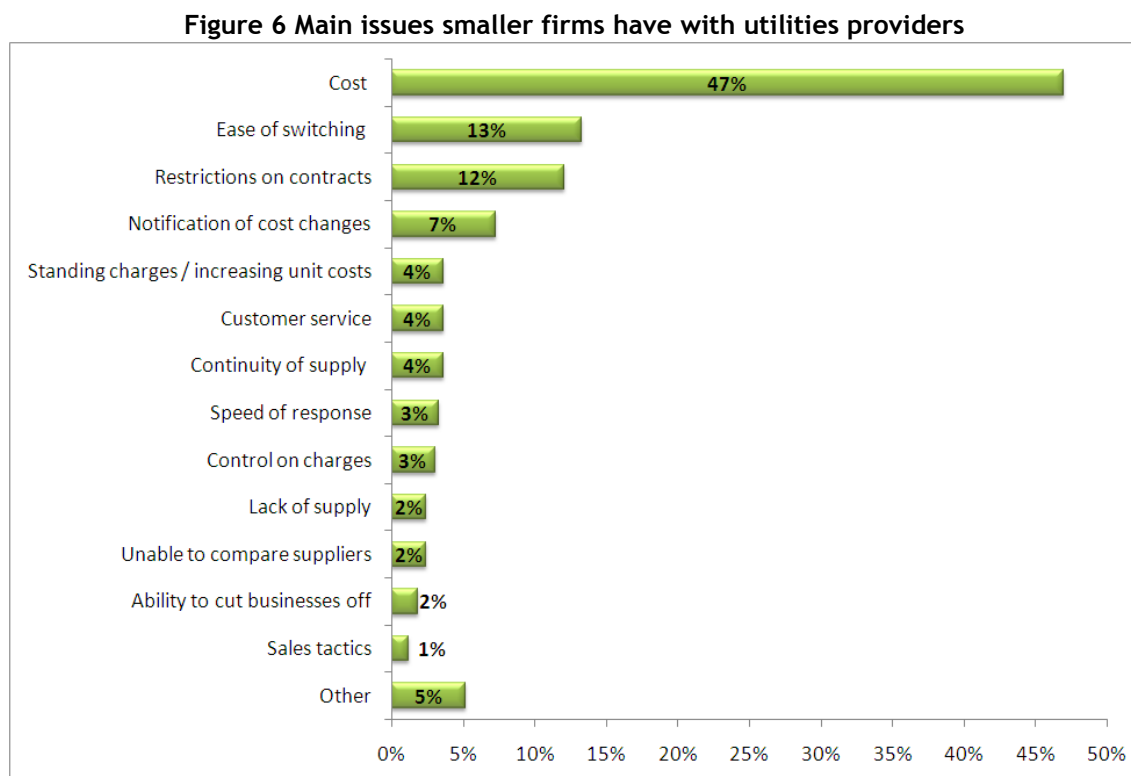
Brokers play an often overlooked, critical role in navigating and negotiating a complex energy market on behalf of small businesses. In the initial proposals outlined by Ofgem, the Forum suggested it looked further at the role of TPIs in the non-domestic market. Research from Consumer Focus suggested 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 therefore recommended that a voluntary code of practice be introduced to cover all TPIs. Since this proposal, we have consulted widely with individual TPIs and umbrella organisations, Ofgem, Consumer Focus and other energy stakeholders. Whilst we recognise the existing code of conduct produced by the Utilities Intermediaries Association we support the Ofgem idea that any self-regulatory code of conduct must include certain uniform criteria, including monitoring and complaints procedures. The proposed accreditation scheme for Codes of Practice in the non-domestic energy sector therefore has our support.

The Forum is also keen to explore how government could grant powers to Ofgem to enforce the Business Protection from Misleading Marketing Regulations proposal in the review, which would provide a further benefit to small businesses.

For Third Party Intermediaries, the Forum supports the accreditation scheme for voluntary codes of practice within the TPI sector, which should ensure such codes include a number of basic service levels. We do not believe this would be harmful to the TPI market. We do not support the need for TPIs to disclose their actual fee - the primary driver for the deal should be the overall, end cost.

Standards of Conduct

Figure 6 outlines the main issues smaller firms have with utilities providers.



The Forum has given thought to the first two options outlined in the RMR and at this stage we favour the first option - Legally binding via an overarching licence condition. Whilst we are open to debate on the issue we are mindful of the many opportunities that suppliers have had to treat customers fairly. That said, we equally know that suppliers differ in their approach to non-domestic customers and in general do not want those that have positive interaction with businesses punished for the misbehaviour of others. However, we are of the view that those who uniformly treat their non-domestic customers fairly have nothing to fear from option 1.

On Standards of Conduct, the Forum supports Option 1 of the proposals, recognising the good work done by many suppliers towards small businesses.