

Response to Ofgem's Retail Market Review – Updated proposals for business

21 December 2012

Retail Market Review – Updated proposals for business

Ombudsman Services' consultation response

Author	Mark Glover, Policy Manager
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1 Summary

1.1 About Ombudsman Services

The Ombudsman Service Ltd is a company limited by guarantee (not for profit) that provides ombudsman services for the energy including green deal, telecommunications, property and copyright licensing sectors, by appointment or approval from the relevant regulators. We provide dispute resolution and redress to domestic consumers and micro-businesses. Established in 2002, Ombudsman Services now has over 8,900 participating companies and last year we resolved over 18,000 complaints. The company employs around 170 people and has a turnover of just under £8 million.

Ombudsman Services complaints resolution service is free to consumers and is at no cost to the public purse. It is paid for by the participating companies under our jurisdiction by a combination of subscription and case fee. Ombudsman Services' governance ensures that we are independent from the companies that fall under our jurisdiction. The more complaints there are about a company, the more the company pays, ensuring an incentive for the company to improve their customer service.

To help 'level the playing field' between consumers and companies, we have a contact centre which provides information and helps those who have difficulty in making a complaint. We achieve proportionality by providing alternative dispute resolution through different processes, from early resolution to in-depth formal investigation.

2 Response to the consultation questions

2.1 Introduction

Ombudsman Services welcomes the opportunity to comment on the “Retail Market Review – Updated proposals for business” which was published in October 2012.

Ombudsman Services supports the overall approach of the Retail Market Review, the aim of which is to ensure that businesses, particularly small businesses, are able to get the best deal from the market and do not have to spend unnecessary time managing their energy accounts.

Question 1: Do you agree with the envisaged implementation timetable set out in this chapter? If not, what factors do we need to take into account in setting this timetable?

The consultation document envisages that the implementation of the changes will be complete by summer of 2013. Ombudsman Services sees no difficulty with the proposed timetable.

Question 2: Do you have any comments on our success criteria and the outcomes we expect to see?

Ombudsman Services welcome Ofgem's proposed outcomes of increasing the number of businesses who are required to get clear contractual information and the transfer between suppliers. We support binding standards of conduct when suppliers are dealing with small business when contracting, billing and transferring supply and the proposal to create a common Code of Practice for TPI's for business customers.

Question 3: Do stakeholders agree with our proposal for a revised definition for the expansion of SLC 7A?

Ombudsman Services supports Ofgem's proposal to extend the protection that is currently afforded to micro businesses to small businesses. We share Ofgem's view that it is important that small businesses are able to access an independent redress

outside the court process that is both quick and cost effective. As Ofgem is aware Ombudsman Services resolves 90% of its energy complaints within six weeks and is free to the consumer.

We also support the upper limits of either 100,000 kWh. (electricity) and 293,000 kWh. (gas) as proposed in the amended condition. Ombudsman Services should continue to have an element of discursion to accept complaints that exceed this limit. For example, in a complaint about a meter that is running too fast, the energy limit may have been exceeded and it is therefore the subject of the complaint.

Question 4: Do stakeholders foresee any significant costs or difficulties to our revised definition?

Although the consultation paper envisages that the number of companies that the proposed changes will affect is about 150,000, our experience is that there is likely to be only a small number that result in complaints to Ombudsman Services. We therefore do not foresee any significant costs and with our existing infrastructure, there is unlikely to be any difficulties in managing any complaints we receive.

Question 5: Do stakeholders agree with our proposal to mandate contract end dates on bills for consumers covered by SLC 7A? Are there significant cost implications?

Ombudsman Services supports the requirement that suppliers should provide the contract end date on the bills of small businesses. Such a requirement would avoid confusion and assist the company switching supplier if they wished to do so.

Question 6: Do stakeholders agree the last termination date should be included alongside the end date on bills? Are there any significant cost implications?

Yes. Including of the termination date along with the contract end date may help companies switch their energy supplier although Ombudsman Services is not aware of the cost this might be to the supply companies.

Question 7: Do stakeholders agree with our proposal to require suppliers to allow small business customers to give notice to terminate their contract (as from the end of the fixed term period) from the beginning of their contract? What are the implications of this proposal, including cost implications?

Ombudsman Services does not wish to provide a response to this question.

Question 8: Do stakeholders consider that it would be to the benefit of customers to allow suppliers to terminate small business contracts, signed under the terms of SLC7A, in specific circumstances where a customer's energy usage significantly increased?

Ombudsman Services feels it may be appropriate for suppliers to terminate small business contracts, signed under the terms of SLC7A, in specific circumstances providing that the circumstance is not the subject of a complaint to the Ombudsman Services.

Question 9: Do stakeholders have views on the proposed amendments to SLC 7A set out in Appendix 4?

Ombudsman Services considers that the proposed amendments as highlighted in Appendix 4 reflect the proposed changes that the Energy Market Review is trying to achieve and they appear reasonable.

Question 10: Do stakeholders agree that industry processes could be improved to alleviate current issues with the objections process?

Ombudsman Services feels that it is unable to provide a response to this question.

Question 11: Do stakeholders agree that we do not need to make further changes to the licence conditions at this stage?

Ombudsman Services considers that the proposed changes appear sufficient although Ofgem should keep the matter under review.

Question 12: Do stakeholders agree that we should collect and potentially publish information from industry sources rather than from suppliers?

Ombudsman Services is in the process of considering what data we should publish having just concluded a consultation exercise. While we agree that Ofgem should collect and potentially publish information from industry sources, this should not replace the requirement for suppliers to provide Ofgem with information which Ofgem can publish.

Question 13: Do you agree with our proposed approach to tackle issues in the non-domestic market? If not, which alternative proposals do you prefer?

Yes. We agree with Ofgem that business consumers should be treated fairly - and should expect to continue to be treated in this way. Consumers should be confident that when they engage in the market they will receive accurate information, can easily contact their supplier and when they do have dealings with their supplier, they will be treated fairly.

Question 14: Does the proposed approach to enforcement mitigate stakeholders concerns about the regulatory uncertainty and risk?

Ombudsman Services feels that it is unable to provide a response to this question.

Question 15: Do you agree the proposed binding Standards should cover small businesses only?

Yes. Unlike small businesses, larger businesses are in a better position to access legal and other advice to manage their energy needs. This being the case, it is our view that the binding standards should only cover small (and micro) businesses.

Question 16: Do you agree with the assessment that the scope of the binding requirements should focus on the relevant activities of billing, contracting, and transferring customers (and matters covered by related existing licence conditions)?

Ombudsman Services agrees that Ofgem's proposals to implement binding SOC for small businesses within the defined activities of billing, contracts and transfers appears reasonable and proportionate given these are the three areas of greatest problems in the market, covering more than two thirds of all small business contacts.

Question 17: Do you have any information about potential costs and benefits of the roll out of the Standards of Conduct?

Although Ombudsman Services has no evidence on the potential costs of the roll out of the Standards of Conduct, the potential benefits are that the new arrangements will allow small businesses to easily access redress that is both free and quick so allowing them to focus on their business.

Question 18: Do stakeholders have views on the proposed New Standard Condition 7B set out in Appendix 4?

We welcome the addition of condition 7B to treat consumers fairly. While we consider that the overwhelming majority of suppliers treat their customers in a Fair, honest, transparent, appropriate and professional manner it is always useful to provide a reminder that this should be the case.

We welcome the requirement that the information a licensee provides should be complete, accurate and not misleading. Ombudsman Services also welcomes the requirement that information should be communicated in plain and intelligible language; it relates to products or services which are appropriate to the small business consumer to whom it is directed; and is otherwise fair both in terms of its content and in terms of how it is presented.

We also welcome the proposal to be placed on the licensee to make it easy for a small business consumer to contact them and to act promptly to put things right when the licensee makes a mistake.

Question 19: Do stakeholders agree with the proposal for Ofgem to develop options for a single Code of Practice (the Code) for non-domestic TPIs?

Yes. We welcome Ofgem's proposal to undertake a consultation into third party intermediaries, with the intention of developing a single Code of Practice. Ombudsman Services has experience of third party intermediaries. While, we have no evidence that the third party intermediaries are acting illegally we believe that they are charging for their services. Although this in itself is not illegal, it is contrary to the spirit of alternative dispute resolution which is supposed to be free to the consumer.

Even third party intermediaries that act within the law can often have an adverse impact on the energy market and can undermine consumer's willingness to switch suppliers. By providing advance notice of Ofgem's intention to undertake a consultation on third party intermediaries with the intention of developing a conduct code, consumer confidence in the energy market can be reinforced. We believe that third party intermediaries should be regulated and subject to Ombudsman Services although the Office of Fair Trading and BIS are hoping to remove it from TPI.

Question 20: Do stakeholder consider the Code should apply to all non-domestic TPIs (including those serving small business and large businesses)?

Yes. As referred to in our response to question 19, Ombudsman Services periodically experience problems with TPI. We believe that if the code is aimed at helping to improve the operation of the energy market, it should apply to all non domestic consumers what ever their size; although we appreciate that only small businesses should be able to come to Ombudsman Services.

Question 21: What do stakeholders consider should be the status of the Code, the framework in which it should sit, and who should be responsible for monitoring and enforcing the Code?

Whatever the status of the code, Ombudsman Services should be able to use it when considering a complaint; we should be able to report systemic failures to Ofgem who should be responsible for monitoring and enforcing the code.

Question 22: Would you like to register your interest in attending the TPI working group?

If Ofgem considers that we are able to contribute to the preparation of the TPI working group, given our experience of dealing with TPI, we would be happy to attend the meetings.

Question 23: What issues should Ofgem consider in the wider review of the TPI market? What are the benefits and downsides to looking across both the domestic and non-domestic market?

Ombudsman Services considers it is important there is consistency in the approach adopted to the TPI market. Ombudsman Services suggests wherever possible the codes for both the domestic and non domestic markets should be the same in order to support transparency, ease of understanding and enforcement. The European Union are proposing to regulate TPI's. Ofgem may wish to consider that there is consistency between the two approaches.

Lewis Shand Smith
Chief Ombudsman
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