




 www.opusenergy.com

 contactus@opusenergy.com

 0843 227 2377

 Royal Pavilion, 2 Summerhouse Road, Moulton Park,
Northampton, NN3 6BJ

Louise van Rensburg
Ofgem
9 Millbank
London
SW1P 3GE

13th December 2012

Dear Louise,

The Retail Market Review – updated proposals for businesses

Please find following our response to the above referenced consultation, published 26th October 2012.

On the whole, we welcome the arrangements proposed in the document and consider that they are a pragmatic way forward. We particularly welcome the proposals relating to the regulation of TPIs. If implemented as proposed, these should significantly enhance the customer experience and resolve many of the TPI related issues that arise across the industry.

CHAPTER 1: Introduction

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?

Yes, implementing from Summer 2013 on a phased basis is achievable.

CHAPTER 2: Market Overview

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

Contact Termination and Back Billing Issues:

We agree with the success criteria relating to contract termination and back billing that are outlined in the document. If there are bad practices being carried out which are leading to customer dissatisfaction, the measures should reduce the number of customer complaints relating to these areas.

Objections:

We do not strictly agree with the proposed success criteria relating to objections - ie that "We expect to see fewer objections to supply transfer, as a percentage of total attempted transfers".

Objections are a natural part of the switching process. They ensure customers are not switched against their will or within an agreed fixed price contract term. The success criteria should be: "We expect to see fewer *erroneous or inappropriate* objections to supply transfer..."

CHAPTER 3: Protections for small businesses

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

Yes, we agree with the proposal for expansion of SLC 7A and consider that this should resolve any remaining issues that customer may experience with rollovers and the contract renewal process.

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

No, we currently treat all of our SME customers as micro businesses as it is difficult to differentiate between the two. The expansion will have no impact on costs or cause any difficulty.

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?

Yes, we would be happy to implement this proposal. We consider that the changes required to our IT systems in order to accommodate this addition to bills will not be significant in cost.

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

No, we do not think the last termination date and associated statement should be included on the bill.

We consider that providing the last termination date as well as the contract end date may risk saturating the bill with so much information that other, more important items are not seen by the customer. As well as the usual billing data, VAT and CCL information, bills must also contain advice for the customer on difficulties with payments, where to get advice and help with complaints and queries, as well as consumption data comparisons for energy efficiency purposes.

If the bill becomes too crowded and complex, this could reduce complaints about contract termination, but only at the expense of an increase in complaints about overly complex bills.

The customer is notified of the last termination date on the contract start letter and again in the renewal letter (once SLC7A is rolled out to all small businesses). We consider this is the appropriate place for this information to be provided, rather than bills.

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?

Yes we agree with the proposal and already allow small business customers to do this.

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?

Yes. If the customer is no longer a small business, this should be taken into account in its contractual arrangements with its supplier.

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

We consider that clauses 7A.10B (b) and (c) are inappropriate additions for the reasons outlined in question 6.

CHAPTER 4: Objections

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

No, we do not agree that industry processes need to be altered. Industry regulations relating to objections are, on the whole, fit for purpose.

There is one 'loophole' in the drafting of the MRA in that it does not explicitly state that a supplier should only use the COT Flag Indicator where it has reason to believe there has been a COT. Drafting to close this loophole is currently being reviewed by the MRA Forum with a view to implementation in the New Year¹.

Other than for the specific case above, issues concerning objections arise either (i) because suppliers fail to follow industry processes, or (ii) because of unscrupulous activity by rogue TPIs.

It is hoped that Ofgem's proposed new powers to regulate the activity of TPIs will alleviate these issues.

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

Yes. See Question 10 for further details.

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

The source of information is not as important as ensuring that information published is not misleading. Objections statistics will vary from supplier to supplier according to whether the supplier's products have fixed term price periods or whether they allow the customer to switch away at any time.

Additionally, independent suppliers are at the forefront of switching and their customer base is usually made up of pro-active customers that are actively switching, often because of change of tenancies. In contrast incumbent suppliers have portfolios with a high proportion of 'sticky' customers who have either never switched or who rarely switch. For these customers there will be no incidences of objections, simply because there is no switching activity.

¹ MRA CP0200 clarifies that the COT flag indicator should only be used when the supplier has been informed that a COT has occurred.

This means that comparative data on a supplier by supplier basis can be very misleading. Publication of data on this misleading basis can be damaging to competition, particularly if stats are provided as a % of total customer numbers.

CHAPTER 5: Standards of Conduct

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?

We agree that Option 4, Standards of Conduct restricted to activities around contracting, billing and transfers, is the most appropriate approach.

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

Yes, it does.

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

Yes. Larger businesses are, in our experience, more likely to understand their energy usage and requirements in greater detail and engage with specialist energy brokers when searching for the best supplier for their needs and transfers. Larger businesses are also more likely to have a dedicated account manager to resolve queries in areas such as billing and general account servicing. All of these factors would support the proposal that binding standards are only required for small 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)?

Yes.

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

We consider that we already work within the proposed standards of conduct and therefore don't foresee any additional costs from this proposal.

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

No.

CHAPTER 6: Third Party Intermediaries

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 believe that a single code (supported by an independent body with appropriate powers of enforcement) is likely to have greatest success in regulating TPI activity. We note DECC's question in their "Ensuring a better deal for consumers" consultation which asks for views on clarifying Ofgem's powers in relation to regulating TPI's and considers allowing Ofgem to create a new class of Licensee for this. We consider that the single code approach (which is generally agreed on as a suitable way forward by industry) will be a successful way of regulating TPI behaviour and that it should be given an opportunity to prove its effectiveness before

considering the introduction of a new licence, which would in our opinion reduce the number of TPI's in the market due to adding costs, further increasing regulation and creating even more red tape.

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

Yes.

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?

We consider that it is highly important that the monitoring and enforcement of the Code sits with an independent body that has appropriate powers of enforcement.

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

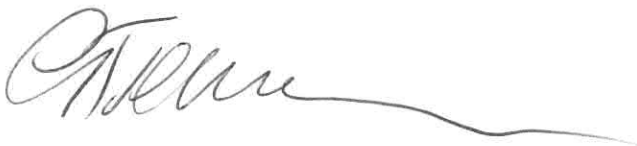
Yes.

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?

Regulation in this area should not be merged across domestic and non-domestic markets. Due to the vast range and fast pace of regulatory change that is currently underway it is essential that independent suppliers are able to focus on the regulatory issues that have an impact on them. This cannot be done if consultation docs, impact assessments, working groups etc are not restricted by sector. Also, there would be little benefit looking across the domestic and non-domestic markets since, in terms of contract sales, they are quite dissimilar. There are differences in relation to: pricing (regulated tariffs v bespoke quotes), contract terms allowed, cooling off rights, and general consumer protection legislation.

I trust that our comments are clear but please do not hesitate to contact either myself or Louise Boland if you require anything further.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Gemma Trembecki', with a long horizontal flourish extending to the right.

Gemma Trembecki
Regulations Manager