

December 21, 2012

Retail Markets Team
Ofgem
9 Millbank
London
SW1P 3GE

Dear Sir,

The Retail Market Review – Updated Business Proposals

Please find First Utility's response to the above consultation below.

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?

We believe that implementation in Winter 2013 is achievable, subject to the appropriate statutory consultation.

Chapter 2: Market Overview

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

We believe that an increase in switching rates would be an appropriate indicator of success, as well as reductions in contacts to Citizens Advice relating to issues around unclear terms and contract termination. Objections to supply transfers should also decrease.

Chapter 3: Protections for Small Businesses

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

If Ofgem were to allow an expansion of SLC 7A to cover small as well as micro-businesses then this should not have a significant impact as the incremental increase in the number of non domestic customers covered by the SLC will be relatively small. We believe that this is also good practice in order to restore the faith of small businesses in energy suppliers.

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

No, please see our answer to Question 3 above.

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 do not believe there will be any significant cost implications as suppliers will already be in possession of this data.

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, as this will ensure that customers are in full possession of the necessary information to exercise their right to switch supplier should they desire to do so. We do not believe any significant cost implications will result from this.

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 do not believe that there will be any signification implications as the contract will still run for the agreed term before termination and implementation may even increase certainty for suppliers from a hedging point of view as they may get a clearer view of what a customer intends to do earlier on.

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, as a customer that requires half hourly metering as a result of increased consumption needs to be charged on a basis which reflects that additional cost. In fact, under the current rules, suppliers without half hourly accreditation would be breaching the BSC if they did not install half hourly metering technology but would be breaching SLC 7A if they attempted to revise the contract. The removal of this contradictory situation would therefore be welcomed.

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

These seem appropriate.

Chapter 4: Objections

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

Yes, we believe that these could be streamlined in order to alleviate issues around this, although the appropriate consultation should be held with all stakeholders so any individual systems concerns can be discussed.

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

Yes, as we agree that improved monitoring and enforcement around TPI activities coupled with the proposed changes to industry processes mentioned above should improve the situation without requiring amendment to licence conditions around objections.

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

Yes, as this is likely to give a better view of the overall picture and encourage appropriate behaviour. This in itself may go some way towards resolving concerns around this issue.

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 limiting the application of the Standards of Conduct backed by the licence to small businesses is the most appropriate approach as it strikes a suitable balance between implementation costs and benefit to those customers who are most likely to benefit from safeguards of this sort.

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

Yes, although it would be appreciated if Ofgem were to provide guidance around this issue to assist in reducing any regulatory uncertainty, particularly in relation to smaller suppliers.

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

Yes, please see our answer to Question 13 above.

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, as these appear to be the issues which businesses covered by the proposed rules appear to have most concern over.

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

We do not believe that suppliers will be likely to face any significant incremental costs in relation to these and believe that the benefits will be significant in terms of providing reassurance to small business customers.

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

This seems appropriate in light of the aims Ofgem is seeking to achieve.

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, as the option for multiple codes of practice might result in a wide divergence of standards between different codes and considerable customer confusion.

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

Although large businesses are generally well equipped to deal with contract negotiations with energy suppliers, there is a concern that limiting the code to TPIs dealing with smaller businesses could create confusion as well as arbitrary demarcation of what does and does not constitute a smaller business. It would therefore seem that this is best avoided by requiring application of the Code to all non domestic TPIs.

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 would like to reiterate our view that the code should be backed by a condition in the supply licence allowing suppliers only to work with TPIs accredited under the code and require suppliers to disclose to the customer the amount of any commission paid to TPIs. We believe that this would bring the energy market in line with good practice on disclosure of commissions in financial markets – examples of this kind of requirement in other markets include those for mortgage and insurance brokers. We would suggest that Ofgem would be the most appropriate body to monitor and enforce the code as this will give customers more reassurance than if a third party or industry body were to perform this function.

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

Yes, we would be interested in being involved in this process.

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?

We believe that it should be a requirement for non domestic TPIs to disclose the size of the commission that they are being paid so that customers can be better informed about this, particularly if they are paying or contributing to this commission through charges paid to the supplier. This would allow the customer to make an informed decision about which brokers to work with on the basis of cost and service, in much the same way as they would for any other service provider.

It is difficult to consider the two markets in tandem as there is much about them that differs. We therefore consider that it would be simpler for Ofgem to consider the role of TPIs in the domestic market separately.

Please do not hesitate to contact me if you have any questions or would like any further information.

Yours sincerely,

Chris Hill

Regulation Manager