



Federation of Small Businesses
The UK's Leading Business Organisation

Ofgem
9 Millbank
London SW1P 3GE

23 May 2014

Dear Sir/Madam,

RE: Proposal to make a market investigation reference in respect of the supply and acquisition of energy in Great Britain

The Federation of Small Businesses (FSB) welcomes the opportunity to respond to the above named consultation.

The FSB is the UK's leading business organisation. It exists to protect and promote the interests of the self-employed and all those who run their own business. The FSB is non-party political, and with about 200,000 members, we are also the largest organisation representing small and medium sized businesses in the UK.

Small businesses make up 99.3 per cent of all businesses in the UK, and make a huge contribution to the UK economy. They contribute 51 percent of the GDP and employ 58 per cent of the private sector workforce.

We trust that you will find our comments helpful and that they will be taken into consideration.

Yours sincerely,

Allen Creedy
Chairman of the Environment, Energy & Water Policy Unit
Federation of Small Businesses



**FSB response to
Ofgem's proposal
to make a market
investigation
reference in
respect of the
supply and
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energy in Great
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Introduction

The FSB represents and protects the interests of the self-employed and owners of small businesses across the UK. Many of our 200,000 members are firms with fewer than 50 members.

The UK's five million small firms account for 99 per cent of UK business sector, employing almost 60% of the private sector workforce. The small businesses sector is driving the UK's economic recovery.

In this context, we are concerned that **almost a third of FSB members highlight the cost of energy as a barrier to the growth and success of their business.**

The FSB supports Ofgem's view that there is a lack of effective competition in the energy market and that there is clear evidence that small business consumers are not being well served by current levels of competition.

We recently carried out a large-scale survey of our membership in which we sought views on the energy market. Only a quarter of small firms believe there is enough competition in the energy market and four out of five of our members believe that their energy suppliers do not care about their needs.

It is clear that energy suppliers have yet to regain the trust of their small business customers. Small businesses will not get a fair deal until all energy companies publish easily comparable fixed prices, have much clearer terms and conditions and operate in a more competitive and fair market.

Barriers to switching

In our recent energy survey, half of our members said they have either switched, are in the process of switching, or are considering switching energy supplier.

For those businesses that have recently switched energy supplier, more than half said they had seen a positive impact on their business.

However, despite the potential benefits from switching energy supplier, many FSB members have not considered switching. Two thirds of our members say they have found this switching process difficult. The biggest problems cited were unclear notice periods, complicated contract terms and the speed of the switching process.

It is clear that energy contract terms and conditions are too complicated to understand and compare, and that many businesses simply find the switching process too difficult, time consuming or misleading to engage with.

The FSB believe there are a number of key issues that would improve the way the energy market delivers for business customers.



Published Tariffs

Unlike the domestic market, businesses have to negotiate their contracts with energy companies on an individual basis. In theory, this provides an opportunity to negotiate the best possible individual deal, based on the precise nature and risks of the business in question. However, it is clear that, in practice, this opportunity is not being taken advantage of by many small businesses.

The time and resource costs associated with searching for a new deal are simply too high for many small businesses to feel the process is worthwhile. The majority of FSB members say their energy bills and associated tariffs are difficult to understand and compare. Four in five agree that published tariffs would benefit their business. Published tariffs would lower the costs associated with searching for a new deal, and thereby encourage competition by making it easier to switch accounts on the basis of full and clear information.

Regulation of Third Party Intermediaries

Third Party Intermediaries (TPIs) can play a role in helping small businesses to negotiate the best new deal from their energy supplier. However, it is clear that many of our members do not use a TPI because of a general lack of trust or confidence in the industry, often based on poor previous customer experience or the aggressive sales approach carried out by some.

The FSB is supportive of Ofgem's proposal that TPIs should adhere to a code of practice and that energy suppliers, as part of their license conditions, should only work with TPIs accredited to this code.

Our members continue to have very mixed experiences with energy brokers so it is critical to have a transparent, regulated TPI industry in which consumers can have confidence and trust. However, regulation should take a risk based approach that acknowledges that the costs of regulation should be proportionate depending on a pre-agreed set of criteria (e.g. turnover, risk, number of clients, scope of services etc).

End to automatic rollovers

The FSB welcomes the commitment from the Big Six energy companies to end automatic rollovers. This is a commitment that is popular with business customers and should be followed by all energy companies.

Automatic rollovers often see businesses placed onto crippling expensive energy tariffs which are difficult to negotiate out of. The FSB therefore wants a further commitment that all energy companies will rule out automatic rollovers for good.

Energy efficiency / information

With energy prices continuing to rise, many small businesses have begun to implement energy efficiency measures. The majority of FSB members have incorporated simple efficiency measures into their business, including switch-off policies, staff training and more efficient equipment.



However, less than a fifth of our members say that their current energy supplier has offered help or advice on improving their energy efficiency.

It is vital that non-domestic consumers, especially small and micro businesses, are given all the necessary information on which to base decisions around their energy use. The rollout of smart meters will be of critical importance to this. Small businesses must be empowered with the information they need to engage effectively and efficiently in the energy market, something which they are unable to do so at the moment.

Scope of the reference test

The FSB firmly believes that the reference test has been met in the case of the energy market (that there are reasonable grounds for suspecting that any feature, or combination of features, of a market in the United Kingdom for goods or services prevents, restricts or distorts competition in connection with the supply or acquisition of any goods or services in the United Kingdom or a part of the United Kingdom).

We warmly welcome Ofgem's plans to include small business customers within the scope of the proposed reference test. We also support their view that the CMA should examine any differences between small business and domestic customers in more detail.

In our recent report 'Small Businesses As Consumers' the FSB called on government to give small and micro businesses the same level of consumer protection as domestic customers when drafting legislation. As it stands, small businesses are disadvantaged compared to large businesses and domestic consumers when taking out a contract with a new energy provider.

These disadvantages include the following:

- **Lack of expertise in purchasing energy.** Most small businesses have a similar level of expertise as a domestic customer when purchasing most products and services and they are far less likely than large businesses to have staff with a specific procurement role.
- **High opportunity cost of time spent making purchasing decisions.** A small business will often be working flat-out trying to run its core business effectively. The perceived cost of spending a lot of time searching for a new energy supplier may, therefore, be high, compounded by the lack of published tariffs in the energy sector.
- **Low benefits (actual or perceived) of time spent making purchasing decisions.** A small business will typically have relatively low requirements for products and services that are not directly linked to its core trade – they want their heating to work and lights to be on. Small businesses often do not think they will benefit significantly if they by spending time choose their ideal energy supplier.
- **Poor bargaining power.** Smaller businesses have far less bargaining power, especially compared to large companies such as major utility service providers, and in some cases (such as energy) they may not have access to standard published tariffs.

The FSB believes the 2003 Communications Act which regulates the telecoms industry is a model of best practice that could be copied across all regulated industries. Under this law, the regulator treats micro



businesses like domestic consumers other than where there are clear reasons not to. This would give a much fairer level of consumer protection to these firms.

Summary of FSB members' views on the energy market

The recent FSB survey confirms the unfair energy market for small businesses.

- Only a quarter (27%) of small firms believe there is enough competition in the energy market.
- Almost all (81%) of FSB members surveyed said energy suppliers don't care about their needs.
- Two thirds (65%) of small businesses surveyed think it is difficult to switch energy supplier. Amongst those who attempted to switch the biggest problems cited were unclear notice periods, complicated contract terms and the speed of the switching process.
- Four in five (81%) firms agree that published tariffs would benefit their business, encourage competition and make it easier to switch accounts.

For further information:

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