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Sent by email to:
CDConsultations@ofgem.co.uk

Dear Jonathan

Opening Statement – Strategic Review of the Microbusiness Retail Market

SSE welcomes Ofgem's Strategic Review of the Microbusiness (MBC) Retail Market and the opportunity to provide input to this review. We recognise that energy is an essential service and that customers should be at the centre of energy policy. However, our view is that regulatory intervention should be carefully targeted where it is needed and that, generally, prescriptive regulatory interventions may be ineffective – and have even proven to be counter-productive¹ – to the achievement of the underlying policy objectives. The starting assumption should always therefore be that no regulatory action is needed, with intervention only where there is clear evidence justifying action. As we shall set out in more detail below, SSE does not believe that the case for intervention in the MBC market has been clearly evidenced by Ofgem (or, indeed, the CMA) to date.

Under existing licence conditions, at each stage of the customer journey, consumers are provided with the necessary information to inform their decision making when considering tariff and contract options from a supplier.

Furthermore, a number of protections exist across the market designed to ensure the best experience for microbusiness customers. For example, Supplier Guaranteed and Overall Standards of Performance place service level requirements on suppliers when they have

¹ The stated purpose of Retail Market Review (RMR) was to promote customer engagement in the retail energy markets in order to improve the competitive constraint provided by customer switching. However, some of the RMR measures restrict the behaviour of suppliers and constrain the choices of customers in a way that may have distorted competition and reduced customer welfare. (Page 41 [CMA Final Report](#))

certain interactions with their customers. In November 2018 rules preventing suppliers from backbilling customers beyond 12 months were extended to microbusiness customers with the aim of ensuring billing accuracy for consumers. Additionally, remedies introduced following the CMA investigation were designed to promote MBC engagement in the energy market.

These simple and fair protections ensure businesses are enabled to get the best deal from the energy market.

CMA Investigation

During the CMA investigation, SSE submitted its views, addressing the CMA's theories of harm relating to this area of the energy market. In its Updated Issues Statement, the CMA identified the themes of: customer engagement; price transparency; and unfair broker practices as being the main challenges facing the MBC market. These themes are similar to those explored by Ofgem in the present review. Our views on the MBC market, expressed to the CMA, also remain the same today. We have therefore included a relevant extract of our CMA submission at Annex 1 (separate document).

A high-level overview of our view is as follows:

- The MBC sector is competitive and is becoming increasingly more competitive over time. This increase in competition is driven by the increasing number of suppliers in the market, improving digital engagement and the use of TPIs to enable customers to access the market;
- Strong levels of switching continue to be in evidence (see further detail on this below);
- There are a number of positive examples of supplier activity designed to encourage customer engagement (such as touchpoints at contract renewal time, offering discussion with consumers to understand the best deal available to them);
- The poor outcomes identified by the CMA in the MBC market were not strongly supported by the evidence;
- Other market developments, such as continued roll out of smart metering, are expected to have a positive impact on customer engagement with the energy market;
- There are generally high levels of customer satisfaction in this market as evidenced in Ofgem's 2018 State of the Market report which notes that around two-thirds of small and microbusinesses reported they were satisfied with their current supplier's overall service in 2017; and
- Unlike the domestic sector, the majority of MBC customers are not on default products.

In summary, there is not an obvious case for intervention as the market is already working effectively.

Ofgem's Strategic Review

Ofgem's theories of harm are predicated on the assumption that small Microbusinesses are not able to effectively engage with the market. This assumption seems to be inconsistent with Ofgem's earlier findings published in its State of the Market Report 2018². In that report, Ofgem noted that:

- There were signs of improvement in the level of engagement for microbusinesses. Ofgem reported that the proportion of microbusinesses that have had some engagement with the energy market, either through switching supplier, tariff or comparing deals, increased from around 66% in 2016 to 68% in 2017.
- There was an increase in contract renegotiation and a reduction in the proportion of rollover contracts, with the number of renegotiated contracts rising from 39% in 2016 to 45% in 2017.
- The majority of microbusinesses are on negotiated acquisition and retention contracts. Between Q1 2015 and Q1 2018 the number of microbusiness consumers on these contracts increased from 70% to 76% in gas, and from 70% to 73% in electricity. In both fuels there was a similar reduction in the proportion of microbusinesses on a default tariff.

In addition, there are fundamental market reforms already in train for MBC that are designed to further improve the environment for customer engagement. These market reforms include: smart metering and associated smarter market opportunities; Faster Switching; and Half Hourly Settlement. Our position is that Ofgem should focus on the opportunities presented by the changes already in train, rather than making additional shorter-term interventions.

Responses to the questions posed by Ofgem within the Strategic Review of the microbusiness retail market opening statement, published on 3rd May, are contained within Appendix 1.

In finalising a decision on formal intervention Ofgem must also consider the features of the MBC market which make it significantly different to the domestic market. The characteristics of microbusinesses differ far more than those between domestic customers. The current market structure protects the interests of MBCs and ensures they are provided with necessary information at regular intervals. Any reforms to the market should be fair,

²

https://www.ofgem.gov.uk/system/files/docs/2018/10/state_of_the_energy_market_report_2018.pdf



proportionate, ensure a level playing field and encourage efficient operations by market participants without adding unnecessary complexity and cost.

The challenge, and opportunity, for this review is to settle on an approach that strikes the right balance between these objectives, achieves consensus and is open and transparent about the implicit choices and trade-offs. Any policy or regulatory developments must look to obligate the correct party. For example, any regulation on TPIs should be directly between Ofgem and the TPI, or an independent party on Ofgem's behalf. Requiring Suppliers to impose regulations would be ineffective and costly. Large suppliers interact with hundreds of TPIs, therefore for each supplier to assure all TPIs would be very challenging. Finally, the outcome must also be mindful that microbusiness consumers vary in size, while some are sole traders others are much larger, therefore the same consumer protections may not be appropriate.

Given the lack of evidence to suggest that MBCs are being taken advantage of, extensive obligations entering the licence would be unlikely to have an impact, instead creating more onerous work and cost for suppliers.

SSE looks forward to further interaction with Ofgem as this review progresses and would welcome the opportunity to further discuss the issues highlighted within this letter. In the meantime, should you have any questions or require further information, please do not hesitate to contact me.

Yours sincerely

Fiona Millar

Senior Regulation Analyst

Appendix 1 – Questions Responses

Question 1: Do you agree that our theories of harm, represent the most significant and impactful areas of consumer detriment.

SSE has not seen any evidence which would either confirm or refute Ofgem's Theories of Harm. We consider that the lack of evidence available to support significant customer detriment should dissuade significant intervention by supplier, Regulatory Bodies or Government.

Question 2: Are there any other key areas of consumer harm that should form the focus of our review?

MBCs typically have a small, or no, work force. This likely places the management of daily business operations on one person. It can be argued, that in these circumstances, time is an issue for these customers. Often energy is not a main priority in comparison to other business necessities. To fully engage with the energy industry consumers must process information across multiple suppliers to get quotes for their business.

It may be possible to improve, to a certain extent, customers' engagement with the energy market by providing additional information. However, being cognisant that many small business owners are time poor, introducing more detail, either within current communications, or outwith the regular communication intervals of contract sign-up, billing and renewal, may prove to have little, or even a negative impact. It is important that consumers are not overwhelmed with information, which may cause them to become less engaged, rather than improving engagement

SSE considers that Ofgem should focus on removing the barriers to achieving a centralised service for customers which would offer all non-domestic consumers the best route to accessing the 'whole of market'. As noted in Ofgem's State of the Market report 2018, in the domestic market 54% of customers who switched, or compared supplier tariffs used a price comparison site to find deals. Additionally, these companies increase competition within the market as the model develops to offer services such as automatic switching.

Question 3: Do you think awareness raising materials/initiatives would be of significant benefit to microbusinesses?

What information should any new material focus on and how would they best be delivered to microbusinesses.

As a responsible supplier, SSE provides MBCs with key pieces of information within regular periods as set out in the supply licence conditions. As outlined in the answer to question 2

above, SSE would consider that providing more information could confuse customers and be unnecessary. As well as the information offered to consumers when entering into new contracts as discussed in response to question 5 below, consumers are also provided with other information necessary when making decisions throughout their customer journey:

- SSE writes to customers who are out of contract every six months to remind them that they are out of contract and that better deals may be available to them.
- Customers are offered various ways to communicate with SSE as their energy supplier, across a range of topics, including by phone, email post and via web-enquiry. Details of each communication method and an offer to contact SSE should the customer have any queries is made within all written communication with the customer, including in customer bills.
- Renewal offers include details of customer annual consumption and the offered rates. This can be used by the customer when seeking quotes from other suppliers.
- All customers are provided with details of 'What Happens Next' following the end of their contract.

Question 4: What do you see as the most impactful issues hindering microbusinesses attempting to effectively browse the market in search of an improved deal/service offering?

To date there is no centralised service for customers which would offer all non-domestic consumers the best route to accessing the 'whole of market'. Removing the barriers to this service would ease the pressure on MBCs from the current status of having to review and compare the tariffs and contracts available from multiple suppliers.

Question 5: What do you see as the key issues microbusinesses face when they come to enter into a new contract for their energy supply?

Microbusiness customers have a right to be treated fairly and to be given simple and accurate details of the contract they are entering.

SSE ensures MBCs understand applicable terms by providing relevant Principal Terms following the agreement of the contract. These include the contract term, the end date, relevant charges and details of how to terminate the contract. Furthermore, dependent on the type of contract the customer chooses, details of how factors such as non-commodity prices or wholesale market movements impact pricing are also provided.

Question 6: Do you have evidence demonstrating the extent and impact of malpractice by brokers dealing with microbusinesses?

SSE does not have any evidence to demonstrate malpractice in the broker space. Any evidence which SSE could provide would be anecdotal. We would note the publicised repayment of £7.6m of commissions to a supplier by Utilitywise due to evidence that forecast customer consumption had been consistently overstated by the broker. That broker subsequently ceased to trade in February 2019.

Over the last 12 months, SSE has worked diligently to strengthen contractual terms between itself and Third-Party Intermediaries (TPIs). SSE maintains positive relationships with the TPIs it is associated with. Ultimately, however, the quality of customer experience with TPIs is a matter that lies outside of the control of the supplier. Regulating Third Party Intermediaries and Price Comparison Websites, outside of the supply licence, including setting requirements to display information on service standards and requiring TPIs to provide an option to show all tariffs available in the market will enhance the consumer experience and provide customers with additional protections.

Question 7: Can you provide evidence demonstrating the extent and impact of any consumer detriment caused by providers' approaches to dialogue with consumers about debt management issues?

SSE recognises that it is in the best interests of the energy supplier to maintain a dialogue with customers, specifically in situations where there is debt on the customer's account. Although, as an energy supplier, SSE is limited as to how much help can be provided to a customer, especially given that SSE may not be the only creditor of that business, it aims to proactively manage the situation with the customer. For example, a team of Business Resolvers is available to offer guidance to customers including offering an opportunity for the customer to set-up a payment plan to ease a debt situation.

Data published by Citizens Advice illustrates a disparity across the energy retail market in terms of complaints data. Figures published for quarter 1 2019 show that SSE has increased to 1st place on the table with a ratio of 17.7 per 1,000 while the worst performer at number 16 has a ratio of 625.9.

Question 8: Are you aware of microbusinesses facing significant and impactful issues when they come to exit a contract with their provider?

There are only two key areas which SSE identifies that may cause significant issues to consumers exiting a contract. Where a customer tries to exit a contract while there is debt on the account a supplier is able, under the supply licence conditions, to object to a registration attempt by another supplier. The other issue would be an attempt by a customer to exit a contract during the fixed term period.

If suppliers were prevented from objecting to a customer move while there is debt on the account, the end result would likely be that debt costs increase across the market which would ultimately increase costs for all customers.

Although these circumstances may be considered barriers for consumers, it is a freely understood concept that commercial contracts contain a fixed term. The inclusion of this term allows suppliers to mitigate price risks by hedging. In a situation where fixed terms did not exist suppliers will be subject to greater price risk which will be priced into contracts.

Question 9: Please provide evidence of the extent and impact of consumer detriment

SSE is unable to provide the evidence requested above.