

Microbusiness Strategic Review Team
Ofgem
10 South Colonnade
Canary Wharf
London
E14 4PU

Phone: 01253 335 181
Email: joshua.field@besutilities.co.uk

Via email only to: cdconsultations@ofgem.gov.uk

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Microbusiness Strategic Review Policy Consultation

Thank you for the opportunity to respond to Ofgem's consultation regarding proposed changes to the microbusiness market. Please note we have also contributed to the response submitted by our trade association, ICoSS.

None of the information provided here is confidential and we would be happy to discuss our views in more detail, should you feel it beneficial.

Summary

Broker conduct principle:

We have been actively involved in previous attempts by Ofgem and others to introduce a broker code of conduct; however, we are concerned about how the current proposals will be implemented. As we understand it from our engagement with Ofgem and ICoSS, each broker may need to have in place a different code of conduct to satisfy each of the suppliers they represent, making it difficult for them to manage their many and various expectations, but also potentially giving the more unscrupulous players in the broker market an opportunity to leverage suppliers against one another in an effort to relax standards.

In the interests of consistency and transparency, the market requires a single, accredited code that all brokers must adhere to in order to work with licensees. For example, an accredited standard like that seen with the AMICoP or MAMCoP, where brokers would have to show their continued commitment and compliance via an ongoing assurance process. Failure to do so would result in the broker losing its accreditation and would marginalise them from the market. If the intent is to protect microbusinesses and raise standards, this is the best approach.

Broker dispute resolution:

Overall, we are supportive of an ADR scheme for brokers; however, there are a number of practical considerations which require clarity. For example, suppliers need to understand any potential knock-on effect of complaint decisions which identify broker misconduct. Would a mis-sold agreement identified through a broker ADR investigation result in the requirement for the gaining supplier to terminate the agreement with the micro-business customer? Presumably, this would require suppliers to become parties to the broker ADR scheme, otherwise the scheme would have no power to enforce such a decision.

While supportive of the concept, we do have genuine concerns about which company will provide the proposed ADR service. We have reason to believe Ombudsman Services is likely to be appointed. BES has raised numerous concerns about this provider's current and ongoing performance, both individually and through discussions at ICoSS and Energy UK. We would be happy to discuss this further with Ofgem if more detail is required, but in our view Ofgem must take steps to ensure the appointed provider is adequately resourced and has sufficient knowledge of the micro-business sector.

Informed contract choices:

Suppliers are already obliged under licence condition SLC 0A (The Standards of Conduct) to ensure that each and every communication with a micro-business customer is clear, transparent, and written in plain English. In our view the introduction of this proposed new licence requirement is not only unnecessary and disproportionate, but also in direct conflict with Ofgem's commitment to moving towards a more principles-based approach to regulation.

Broker commission transparency:

BES is fully supportive of the sentiment behind this proposal and, as we have paid a flat contract commission rate for many years, we believe such a measure would therefore portray us in a positive light. However, as with any project that requires changes to IT systems (such as displaying commission rates on invoices), it should be borne in mind that the resulting costs will ultimately be passed on to customers.

It is also worth noting that this proposal may not be as easy to implement as suggested, as many TPIs have in place sub-broker arrangements whereby the initial commission paid by the supplier to, for example, an aggregator, differs significantly to the final amount paid to the end broker who had the direct contact with the customer. If we are to be fully transparent, this scenario needs to be properly accounted for.

For practical and cost reasons, we suggest that, instead of adding commission to bills and statements (which are already crowded with a range of different information), they are placed within the welcome pack as well as on any written contracts, which will ensure the customer has access to the information (during any cooling-off period). Given our IT teams are still dealing with the ongoing challenges caused by the Covid-19 pandemic and other significant industry change programmes, this would reduce pressure on suppliers and also minimise any costs being passed on to micro-business customers.



Cooling-off period:

Before moving to the practical difficulties this proposal presents, we should put on record our surprise that the concept of a cooling off period appears to have been suggested without consideration of the ongoing work of Ofgem's switching programme. Like all suppliers, BES has already invested significantly in system and process development to comply with the obligations imposed on us in relation to faster switching, and this proposal directly contradicts the work we have been doing. Another risk is the additional delay in customers benefiting from their newly agreed contract rates; in the case of deemed customers these missed savings could be significant.

It is unclear at present, how a supplier would be able to ensure that principal terms have been received by the customer. Suppliers will also need clarity on cancellations that occur during weekends and public holidays, and whether they need processing during these times. If so, this would require suppliers to provide around the clock services for an entire year which would add considerable running costs for many suppliers and disproportionately affect smaller companies. This proposal will prevent suppliers from passing the costs of contract cancellation to the customer, which is standard practice in other markets such as insurance. These market inefficiencies will therefore increase costs for all customers. There is also no concept of a 'lock out period' and so a customer could repeatedly agree and then cancel contracts and avoid any penalty in doing so and potentially faster than systems would allow. BES is concerned about this requirement as it will make it difficult for suppliers to purchase the customer's energy at the point of sale (when the rates are agreed according to the wholesale cost of energy and other factors) if the customer is able to cancel within 14 days. These market inefficiencies will therefore increase overall costs for all customers.

Banning notification requirements:

The notification period provides suppliers with valuable time to win back customers by providing them with a range of competitive products and pricing to suit their individual business needs. The removal of the notice period and the implementation of faster switching will impact the way in which the market operates and potentially create a less competitive market in which the customer may not find the best deal for their circumstances.

We trust the information provided in our response is helpful and will be happy to discuss our answers in more detail should you wish.

Yours sincerely,



Joshua Field
Regulatory Affairs Team