

Jonathan Blagrove
Senior Manager Consumer Policy and Insight
Ofgem
9 Millbank
London
SW1P 3GE

19th October 2020

Dear Jonathan,

Re: Microbusiness Strategic Review

Thank you for the opportunity to engage with Ofgem around the proposed Microbusiness Strategic review.

Dyce Energy has built a reputable broker network which has enabled us to compete with some of the UK's largest energy companies. We urge you to consider our response with diligence and consider creating a positive market for all. We strongly feel that, to maintain a competitive open market, brokers are a key part of the supply chain for all energy companies in the UK, in the main, brokers offer great value and protection for the consumers.

Through our research via our supply chain, including 193 brokers, industry stakeholders including shippers, suppliers and consumer advice bodies, we are happy to provide you with a summary below of our collective response to the proposed changes.

Knowing about opportunities and risks

❖ ***Question: What are the most effective ways to ensure that microbusinesses can access key information about the retail energy market?***

We feel that energy suppliers have a responsibility to ensure that customers have access to key information about the energy market, including relevant information about taxes and charges, how to understand energy bills and more. As brokers are a key part of the supply chain, we also feel that they too should be responsible for providing key information.

We feel that Brokers are a great source of information and support for micro businesses. However, we strongly feel that brokers should undergo basic training to ensure that they are competent in their ability to provide accurate advice. We would not expect a mortgage broker to trade without the relevant training and accreditations.

A central hub for key information should be available that all brokers and suppliers can refer businesses to for the latest advice and updates. We believe that a register for accredited brokers should be created, much like other industries, we should have a list of reputable brokers that have the relevant training and skills to provide advisory service to consumers.

We also believe that, due to the lack of understanding from consumers about the energy market and brokers, an awareness campaign is needed to drive consumer confidence in accredited brokers and how they can help end users save time, money and handle complex supplier queries.

Please be aware that Dyce Energy receives 40% of enquiries from brokers, who represent the customer. They continually act to protect customers from in-correct bills, readings and more. A broker's role does not end at point of sale.

Browsing: Searching for deals

❖ **Question: Do you agree with our proposal to strengthen the requirements to present a written version of the Principal Terms to customers?**

Yes – this is standard process for Dyce Energy. All Brokers currently present our terms and conditions upon point of sale. We also provide our terms online for customers to view at any time.

74%¹ of our brokers believe that sales and marketing could be improved with a standard principle terms to abide by. We agree that a standard should be met from anyone selling to end users. Basic information should be required from any sales agent to switch a customer.

❖ **Question: Do you agree with our proposal to require that suppliers disclose the charges paid to brokers as part of the supply contract, on bills, statements of account and at the request of the microbusiness customer?**

Transparency of commission is a positive step forwards to consumer engagement in brokers and the value of their role to help source the best deal and support them through the life of the supply contract. However, if presented in the wrong way it could have an adverse effect on the positive role that brokers play to represent customers.

60%² of our broker network do not think showing commission at quotation stage is a good idea and 72%³ believe it is even worse showing commission on bills statements and other documentation.

We agree – commission values change throughout the life of the contract. The initial agreed commission could end up being a different value to the end reconciled commission. Consequently, customers could be confused as to what the actual amount of commission agreed was vs the amount paid. Showing commission on bills would highlight seasonal variance of the commission value. Commission paid in winter could be much higher than that paid in summer, if paid in arrears of usage. In addition, invoices showing commission would mean any credits would need to show commission reconciled and claimed back from brokers. Again, this is further confusion.

Commission at stage of quotation could also fluctuate based on the market. Often our brokers reduce their commission to honour customer quotes which have expired. The market changes daily and therefore the value of commission would vary on each quotation. Customers are often quoted several times prior to sign up, the value of commission changes with every quote based on market movement.

We strongly request not to show commission on bills, statements, quotations and more for the above reasons to ultimately avoid consumer confusion and a lack of confidence in brokers.

49%⁴ of our brokers believe that providing annual estimated commission on customer request is another fair option, and 30%⁵ believe at point of contracting is also a good idea.

We agree and strongly urge Ofgem to simplify this process. Commission based on estimate usage at point of contract is the easiest solution for better customer understanding and building a level of trust.

We believe the best outcome for all would be:

- Transparency of estimated annual commission at point of contract
- Transparency of estimated annual commission upon customer request

¹⁻²⁻³⁻⁴⁻⁵ See Appendix 1 - Dyce Energy Broker Survey Response

Most of our brokers believe that there is a need for transparency and customers should understand that there is an uplift in unit rates. However, they all agree that it could cause further confusion if presented in too many places and with varying values.

We ask that Ofgem considers the adverse effects this could bring. If we confuse consumers, we could reduce the number of switches due to consumer negativity towards brokers. We could limit the potential for new entry suppliers, like Dyce Energy, who do not have direct sales teams. We could reduce the competitive nature of the market and push customers back to the larger energy suppliers.

Most customers would end up online, direct to suppliers who have the largest marketing budgets. We strongly urge you to consider how brokers help smaller suppliers and customers alike. To add to this, we ask that an awareness campaign is needed to ensure that customers understand the value of accredited brokers. We do not want to push consumers to the big suppliers to give them more control and reduce competitiveness.

- ❖ **Question: Do you think that further prescription or guidance on the presentation and format of broker costs on contractual and billing documentation would be beneficial? If so, how should broker costs be presented?**

As answered above, the only place we feel broker commission is relevant and simple to understand is at point of signing a contract. This should be based on estimated usage. Likewise, if a customer requests this information then we should provide the agreed contracted estimated commission. Any other values or documentation could confuse the customer and create a negative view of brokers. In turn it could cause supplier queries to increase significantly around broker commissions, which in turn leads to increased supplier costs. Dyce Energy aims to remain lean on resource and any changes resulting in more queries will drive up our price to the end user.

- ❖ **Question: What challenges do you think suppliers and brokers may face implementing these proposals?**

Dyce Energy currently has a capped commission level, and all sales are via our online broker platform, which has a controlled sales approach. Any change will represent a cost for set up in our IT systems.

If it is agreed that commission is shown at point of contract then the challenge for suppliers, in our view, is the cost to implement changes.

If it is agreed that commission will be shown on bills, statements, and quotes, then the cost for set up will increase for suppliers to implement. The number of queries will increase surrounding commission levels and the confusion to the end user will create a negative approach to brokers. This would see customers switching to the well-known larger suppliers. Thus, resulting in slowing the growth of small suppliers.

If bills and statements etc are to show commission it would make it difficult to implement without revealing existing commissions in the system to existing customers. Due to our IT systems we would have no option but to reveal all existing commission on bills and statements. This would come as a new item on bills to customers. Which is why at point of contract or on request is the best option to avoid existing customer dissatisfaction.

Please be aware that we could drive customers to go direct to suppliers, who will then only add margin to a similar level of brokers, therefore transparency should be to improve customer understanding and to ensure that they see the value of brokers. The negativity currently comes from those commissions which are too high. The majority of brokers trade fairly and represent value for money to the end user.

- ❖ **Question: Do you have any comments on the associated draft supply licence conditions in Appendix 1 of this document?**

0A.4A The licensee shall ensure that Brokers achieve the Standards of Conduct in respect of Broker Designated Activities

We seek clarity how we will ensure that brokers achieve standards? We want to understand if further cost is needed from our current method of monitoring brokers. We also find it difficult to accept this clause without the

clear definition of what the standards are. Who will check suppliers are managing this appropriately? How will we be monitored?

❖ **Question: Do you think there are other changes which would better address the consumer harm that has been identified?**

Yes – we believe that a register for accredited brokers would drive increased consumer confidence. This coupled with a cap on uplifts, transparency of commission at point of contract and an awareness campaign to SME's would benefit all parties. All underpinned by a code of conduct and regulatory body would help consumers significantly trust brokers. It will also help customers who currently do not use a broker.

Contracting: Signing up to a new contract

❖ **Question: What do you think the impact of our proposal to introduce a broker conduct principle will be? Are there any particular reasons why suppliers/brokers could not achieve the broker conduct principle?**

We are concerned at the cost to implement and manage brokers. We feel that we already manage our broker networks accordingly. We have not received any complaints surrounding our brokers due to our robust broker sign up and management.

If Ofgem feel that there should be a recognised broker regulator or code of principles, we ask you to consider who will pay for set up and management of this. Suppliers will not appreciate spending money on new codes when they already have existing principles which work.

If there is a cost to any changes then unfortunately, we would have to increase our prices, which would stunt our growth. We should also note that several large energy aggregator companies and system providers will need to improve their systems in order to include the new industry standard.

The impact of the changes could be beneficial, but we do not want to pay for this service as we feel our existing systems and processes are satisfactory.

❖ **Question: Do you agree that our proposal to introduce specific sales and marketing requirements on suppliers and the brokers they work with is important to help customers make more informed choices and increase trust in and effectiveness of the market? If so, do you agree that face-to-face marketing and sales activity should be covered alongside telesales activity under these proposals?**

We believe that anyone providing advice around utilities should follow basic rules. We agree that the proposed introduction of measures will protect consumers. However, we would like to make it clear that those measures are targeting a minority of brokers. In which case those measures should not penalise the brokers who already follow good sales and marketing principles. We feel that an energy broker acts in a position of influence whether verbally, or face to face.

The main point to note around this topic is that we cut out the minority of brokers who give the industry a bad reputation. Most brokers make it clear already that they make commission, they put the customer first and they represent the customer throughout the life of the supply contract. Our broker network is not concerned at any new measures, as they already abide by clear principles set by Dyce Energy.

In which case, we should make the basic principles below to help customers feel that they can trust energy brokers:

- All brokers to achieve accreditation to pass basic principles to be able to sell energy contracts and advise customers, including:
 - appropriate sales and marketing tactics
 - appropriate training methods and spot checks of sales advisors
 - basic energy market training
 - training around putting the customer first
- All brokers to use basic sales tools (standard quote documents, supplier contracts)

- Industry wide agreed cap on commission
- All brokers/suppliers to present estimated annual commission at point of contract
- Industry regulator to provide the above principles, training, and monitoring
- Industry register of accredited and trusted brokers for consumers to check that their broker is a trusted adviser

These basic changes would bring trust within the market and target the minority of brokers who do not follow such rules.

- ❖ **Question: Do you agree that our proposal to introduce a cooling-off period for microbusiness contracts represents an effective way to protect consumers during the contracting process? If so, do you agree that the length of the cooling-off period should be 14 days?**

We understand that Ofgem aims to improve trust in the market. However, the basic principles around broker activity should suffice. We do not feel that suppliers should introduce a cooling off period. 40%⁶ of brokers disagree with a cooling off period 15%⁷ are neutral and 45%⁸ agree. However, brokers do not have the responsibility of purchasing gas or electricity from the wholesale market nor do they administer registrations with notifications, data flows and welcome calls to customers. Their role stops at sales and support for customers. As a supplier a cooling off period could cause significant damage and risk to our business.

See below some key reasons why a cooling off period could cause more problems than it solves:

- It will make purchasing and hedging of gas or electricity harder and increase prices for the customer in the long term due to the higher volume of cancellations
- If the market drops dramatically another broker could offer a lower price but in turn add higher commission, not benefiting the customer or only passing on a small amount of the benefit
- Customers could sign multiple contracts with suppliers knowing that they can cancel with no repercussions
- This in turn leads to the potential for more than one supplier looking to register the meter point and an increase in erroneous transfers
- Multiple registrations from one site will see the customer claim that they are in the “cooling off period”
- How many cool off periods are they allowed, a customer could sign, cancel, sign cancel and so forth
- Every time the market changes customers will cancel for the best deal, which is not a fair market for all
- Will wholesale companies provide a cooling off period for suppliers if implemented?
- Could create less competition because the new or existing supplier will match whatever rates have been offered elsewhere and customers will just opt to stay with the current supplier
- Increased cost due to our charges for data flows and registrations being wasted on customers who cancel

We feel strongly, that if the consultant has acted fairly and correctly no cooling off should be required for the above reasons.

- ❖ **Question: What challenges do you think suppliers and brokers may face implementing these proposals?**

See above challenges. Namely suppliers will waste increased time and money administering contracts that can cancel. Brokers will also become frustrated at the new increased dropout rates due to their time and effort signing up customers to fair prices, at the time of sale.

- ❖ **Question: Do you have any comments on the associated draft supply licence conditions in Appendix 1 of this document?**

7A.10C.2 The licensee must ensure that the information that the licensee is required to disclose by virtue of condition 7A.10C.1:

⁶⁻⁷⁻⁸ See Appendix 1 - Dyce Energy Broker Survey Response

- (a) is displayed on each Bill and statement of account in a prominent position, and provided to the Micro Business Consumer on request;

We do not accept this clause on the above grounds that this will cause more confusion and negativity towards brokers. How many times do we need to disclose commission? In other industries it is not common practice to continually highlight broker commission. At point of sale is the only time we agree to show estimated annual commission.

- (b) enables a Micro Business Consumer to understand the amount or proportion of those sums that it is due to pay which are, or are attributable to, fees, commission or any benefit in kind ultimately due to the Broker, as well as any Charges (so far as they are different) or other sums. This may be expressed in cash terms, or percentage terms if not possible given the method of billing or calculation.; and

We do not agree to giving suppliers different options to show commission. There should be one uniform way of transparent commissions. This will again cause more confusion to consumers.

7A.13E.1 The licensee must include a term in a Micro Business Consumer Contract that enables a Micro Business Consumer to cancel the Contract at any time in the cancellation period, without giving any reason, by giving notice of cancellation to the licensee.

7A.13E.2 Notice of cancellation includes any communication by the Micro Business Consumer to the licensee, made in the cancellation period, setting out the Micro Business Consumer's decision to cancel the Contract.

7A.13E.3 The cancellation period begins the day on which a Micro Business Consumer enters into a Contract with the licensee and the Micro Business Consumer has been provided with a copy of the Principal Terms in accordance with paragraphs 7A.4(b) and 7A.9(a).

7A.13E.4 The cancellation period ends at the latter of:

(a) 14 days after the day on which the Contract is entered into; or

(b) 14 days after the day on which on the Micro Business Consumer has been provided with a copy of the Principal Terms.

7A.13E.5 Where a Micro Business gives notice of cancellation the licensee must not:

(a) charge the Micro Business Consumer a Micro Business Termination Fee; or

(b) apply terms and conditions or Charges for the Supply of Electricity which are not under the Micro Business Consumer Contract; or

(c) require payment of any Charges for the Supply of Electricity determined under the Micro Business Consumer Contract, other than in relation to what has been consumed by the Micro Business Consumer.

We do not agree to any of these clauses. We do not understand the reason for the cooling off period. We have not received a single complaint about registrations in 3 years from over 1000 businesses. If all other steps are taken to target rogue brokers and ensure that suppliers and brokers provide appropriate sales tactics and information, then there should be no need to terminate once signed up. We strongly believe that a cooling off period is not tackling the main issue of miss selling from a minority of brokers.

- ❖ **Question: Do you think there are other changes which would better address the consumer harm that has been identified?**

Two-way communication with service providers

- ❖ **Question: Do you agree that our proposal for a mandated ADR scheme represents an effective way to fill the existing consumer protection gap where a microbusiness has a dispute with their broker?**

Yes, and 64%⁹ of our broker network agree that an ADR scheme represents an effective way to help the consumer with disputes. 43%¹⁰ of our brokers also said, "this would be a great idea!".

For too long customers have had nowhere to turn about complaints against brokers. Suppliers could use this data to monitor their broker network. We would be keen to see complaint data against our existing network to help us manage brokers.

⁹⁻¹⁰ See Appendix 1 - Dyce Energy Broker Survey Response

❖ **Question: What challenges do you think suppliers and brokers may face implementing our proposal regarding dispute resolution?**

We would be very concerned at the cost to manage this service as to who pays for the management of this scheme. We would like to see an independent body manage brokers but who will fund the ADR scheme?

❖ **Question: Do you have any comments on the associated draft supply licence conditions in Appendix 1 of this document?**

30.5A The licensee must ensure that any Broker is a member of a Qualifying Dispute Settlement Scheme.

If not, do we need to stop the broker from selling? There needs to be a grace period for this clause. We need to allow brokers time to register and become accredited.

[X] The licensee must not and must ensure that Brokers do not mislead or otherwise use inappropriate tactics, including high pressure sales techniques, when selling or marketing to Micro Business Consumers.

There need to be more clarity about how we as suppliers are supposed to achieve this clause.

[X] The licensee must only Recommend and must ensure that its Brokers only Recommend, a Micro Business Consumer Contracts which are appropriate to that Micro Business Consumer's characteristics and/or preferences.

How will this be monitored by Ofgem and what is deemed to be 'appropriate'?

[X] Where a Micro Business Consumer to whom the licensee or Broker has provided information in the course of Face-to-Face Marketing Activities or Telesales Activities enters into a or Non-Domestic Supply Contract with the licensee, the licensee must maintain, or ensure that the Broker maintains, a record of the information which it provided to that or Non-Domestic Customer in accordance with this licence condition for a period of 2 years.

How will this be monitored by Ofgem? This will require a full review of our privacy policies and GDPR processes. This may be difficult to monitor. There are thousands of sales every day, each of which with correspondence. What information needs saving? We seek more clarity as we do not want to save unnecessary information.

❖ **Question: Do you think there are other changes which would better address the consumer harm that has been identified?**

We have stated above the basic improvements to target the minority of brokers who are acting inappropriately. We feel that Ofgem should stick to those measures which would tackle the minority of brokers. Some of the suggestions are a little un-necessary and have a wider impact on energy suppliers purchasing strategies and costs. The key issue is targeting brokers who do not provide appropriate advice and sales tactics. This should be the only concern. Cooling off period amendment and extending tariff rates for 30 days is not targeting those misleading brokers. Introducing a monitoring of brokers, a basic set of principles for brokers will stop the need for any other measures.

Exiting: Switching away from an old contract

❖ **Question: Do you agree that termination notice requirements represent an unnecessary barrier to switching and should be prohibited? If so, do you agree that a prohibition on notification periods should apply to both new and existing contracts?**

64%¹¹ of brokers believe that termination requirement represents a barrier to switching. However, brokers again have a limited role to play with the management of customers day to day. They will feel this way as it blocks their ability to sell. Dyce Energy has never delayed a switch. We allow customers to terminate at any time within the contract for the end date of their agreement, for this reason we see no reason to remove termination notices.

¹¹ See Appendix 1 - Dyce Energy Broker Survey Response

Termination notices:

- Help to avoid Erroneous Transfers
- Avoid customers leaving with debt and make our process much easier to manage
- Help us to manage objections, which are required in some cases
- Helps us to understand how much gas is required when purchasing, we know that we need 30 days minimum for non-termination. This helps us manage how much gas we buy
- Help to avoid rogue suppliers making bogus requests for meters from Dyce Energy
- Stops rogue brokers switching meters from our supply without customer consent

In the main, termination notices help suppliers manage their wholesale purchasing and avoid debtors leaving easily. In turn without the need to terminate we could have a significant risk when 24 Hr Switching comes into force.

We believe that suppliers who allow customers to terminate at any time are fair. If the customer chooses not to terminate, then they themselves are not acting responsibly. Termination has many benefits to both suppliers and customers; in which case we feel strongly that this would enable too much power to brokers and could have a negative effect.

- ❖ **Question: Do you agree that our proposal to require that suppliers continue to charge consumers on the basis of the rates in place prior to a blocked switch for up to 30 days represents an effective approach to limiting the financial impact of switching delays? If so, do you agree that the time period should be 30 days?**

We do not agree with this proposal. There are several negative impacts on suppliers and customers from this change. We would have to change our purchasing strategy to buy daily at the end of each contract. This may in turn mean that we must increase our tariffs across the board to protect us against the small number of customers who forget to terminate.

Variable contract rates protect suppliers against market movements. Pushing cost from the customer to supplier is not a good idea as it would mean an increase in prices across the market from all suppliers.

If a supplier has no criteria of when a customer can terminate the contract for the contract end date, we do not understand why we should then have to honour rates after the contract end. We would not block a switch unless there was debt on the account. Agreeing to 30 days from date of termination is not a huge ask. Consider if the market has risen significantly from date of contract sign, suppliers would then have to foot the cost of the customer forgetting to terminate their agreement. We offer 36-month agreements, the price after 3 years is never the same and so we need variable and out of contract rates to protect us against market movement.

Should there be a concern at the charges customers pay when out of contract, maybe we should consider capping the out of contract rates instead of honouring the existing tariff rates for 30 days. This could be very damaging financially.

- ❖ **Question: What challenges do you think suppliers and brokers may face implementing our proposals regarding improving the switching experience?**

The main challenge lies with protecting suppliers and customers alike. We feel that any changes to the current process could lead to the industry collectively increasing its prices due to the increased power of customers.

In addition, we feel that the administration management of contracts would increase as we could see more erroneous transfers due to the customers new freedom to move and lack of tie in with cooling off periods. Customers signing several contracts and leaving with no real opportunity to manage the process will not tackle rogue brokers but give rogue brokers more opportunity to switch customers without consent.

❖ **Question: Do you have any comments on the associated draft supply licence conditions in Appendix 1 of this document?**

7A.11 In relation to a Micro Business Consumer Contract that contain a fixed term period, the licensee must ensure that during the Initial Period a Micro Business Customer is not required to give any form of notice to terminate the Micro Business Consumer Contract or to switch supplier.

We do not accept this clause. This clause could be abused by brokers and customers alike. We have elaborated on the issues this could cause earlier in our reply to the consultation.

7A.13B If the licensee supplies electricity to a Micro Business Consumer's premises under an Out-of-contract Contract, the licensee must ensure that:

(a) a Micro Business Customer is entitled to take steps to facilitate changing to any other Electricity Supplier at any time without having to pay a Termination Fee; and

(b) a Micro Business Customer is not required to give any form of notice to terminate the Micro Business Consumer Contract or to switch supplier.

We do not accept this clause. We have stated reasons why in our earlier reply to the consultation. To note that this puts suppliers at risk from purchasing commodities. We need control at this stage of the contract, not to penalise customers but to allocate volumes of supply with more security.

14.3A Where the licensee has prevented a Proposed Supplier Transfer in relation to a Microbusiness Customer the licensee must continue to supply the Microbusiness Customer on the basis of the rates which applied immediately to the date on which the outgoing supplier received notification of the proposed switch until the earlier of:

(iii) 30 days from the day after the day that the licensee prevented the Supplier Transfer, at which point the licensee may choose to charge the Microbusiness Customer under a Deemed Contract or Out-of-Contract Contract if any fixed term period has come to an end.

We do not accept this clause. We have stated reasons why in our earlier reply to the consultation.

7A.12 In relation to Micro Business Consumer Contracts during the Roll-Over Period, the licensee must ensure that:

(a) a Micro Business Customer is not required to give any form of notice to terminate the Micro Business Consumer Contract or to switch supplier; and

(b) a Micro Business Customer is entitled to take steps to facilitate changing to any other Electricity Supplier at any time without having to pay a Termination Fee.

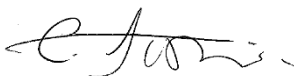
We agree, there should be no termination fees. But we do not agree that there should be no need for termination. This is to control our purchasing risk. Also, to ensure that we are clear that the customer wants to leave our supply. Imagine a scenario where we have several supplier requests for meters to leave our supply but no official termination from a broker or customer. This could cause more problems than solutions and again does not in any way tackle consumer confidence in brokers. Termination in writing is a good control mechanism for suppliers.

❖ **Question: Do you think there are other changes which would better address the consumer harm that has been identified?**

The outcome of any changes should focus on driving out rogue brokers and raising the awareness of the brokers that act responsibly. We do not want an adverse effect where customers are wary of brokers. We also do not want to give the consumer so much control that it creates more administration, customer queries and risk to suppliers. Basic principles to target brokers is the only outcome we support.

We thank you for your attention in this matter.

Yours Sincerely,

A handwritten signature in black ink, appearing to read "E. Jones".

Managing Director – Dyce Energy