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Dear MSR Team,

Good Energy's response to the Microbusiness Strategic Review Policy Consultation

Thank you for the invitation to respond to Ofgem's Microbusiness Strategic Review. Good Energy supplies 100% renewable electricity and carbon-neutral gas to homes and businesses across the UK. Good Energy is working towards a renewable future, helping to support technologies including wind, solar, biofuel and tidal. Our purpose is to power the choice of a cleaner, greener future together.

Summary

- **We support Ofgem in aiming to provide more transparency and protection for microbusinesses.**
- **Using suppliers to regulate brokers by proxy is an inefficient way of doing so and will lead to added complexity and cost for consumers, with little value added.**
- **A more appropriate solution would involve direct regulation of brokers along with other TPIs.**
- **We would welcome clarification on the new requirement to provide principle terms in writing.**
- **Transparency is important but broker fees should be disclosed to customers at the stage in their journey at which it is most appropriate – not on bills.**
- **The suggested changes to termination notices will create a market for mid contract switching, leading to high exit fees, adding costs to suppliers – and therefore consumers.**
- **We agree that an Alternative Dispute Resolution service for brokers could bring consumer benefits, but careful thought needs to go into its design.**

Proxy vs Direct Regulation

Good Energy are wholly supportive of Ofgem taking action to ensure that microbusinesses are protected from sharp practices from brokers and suppliers alike. Ofgem can intercede in the supply market to ensure that suppliers who contravene their licence are met with appropriate action. Brokers fall outside of this, and we understand why this is a problem. However, we do not believe the solution is to enforce broker behaviour through suppliers. There are several adverse consequences that this change could bring about, with no guarantee of any improvement in broker behaviour.

Efforts to move towards principle-based regulation in the energy sector has brought about many positive changes in recent years. This practise, which relies on precedent and consistency of application, works well with a one-to-



many relationship – where Ofgem is the sole arbiter of the regulations. The changes proposed in the microbusiness strategic review, however, create a many-to-many relationship between suppliers and brokers. This is not compatible with principle-based regulation as an approach. Different suppliers will have different views of what ‘honest, transparent appropriate and professional’ broker behaviour entails. This may be down to a simple difference in interpretation from one supplier to the next, or it may even be driven by commercial incentive - whereby unacceptable broker behaviour is tolerated to secure customers. This could be leveraged by brokers, playing suppliers off against each other, with the result being a race to the bottom in standards across the industry. Further complications could arise where sub-broker networks exist – suppliers will be unable to scrutinise the behaviour of smaller brokers for whom they are responsible, despite having no contractual relationship.

TPI Regulation

We would be supportive of the approach suggested by Citizens Advice, among others, that Ofgem work with BEIS to obtain a mandate to regulate TPIs directly. Done this way, Ofgem would not have to worry about inconsistency in standards. Suppliers would not have to worry about being played off against one another. Brokers would know exactly where they stood. It would be better for everyone. The introduction of supplier account managers at Ofgem has been hugely productive in supporting a collaborative approach between suppliers and the regulator. If this is replicated in the TPI sector then Ofgem could ensure that all industry parties are working in the same direction. We recognise that this would involve more work than the proposed solution, but a robust regulatory regime for industry third parties would be worth the investment.

Until then, interim measures could involve voluntary standards of conduct, whereby brokers sign up to observe a certain standard of behaviour. A ‘kite mark’ or similar would allow suppliers and customers to identify brokers who have committed to certain standards. This would also make the process of moving to formal regulation easier, as the prior exploration of expected behaviours would inform the process – similar to equivalents in the domestic market, such as Energy UK’s Billing Code being a forerunner to back billing regulations which now sit in the Supply License. This would provide some level of accountability in the marketplace, while rewarding brokers with high standards with a visible point of differentiation with the rest of the marketplace.

Principle Terms

We would welcome clarity on the proposal around principal terms, and their provision to customers. Specifically, whether Ofgem intend for these to be provided in writing prior to the point of sale. This would significantly alter the operational models of many brokers and suppliers who agree terms verbally, which is widespread in the market. A layer of administrative complexity would be added when combined with the proposed introduction of cooling off periods, where suppliers may not know the precise point at which brokers provided terms to the customer, and therefore when the cooling off period begins.

Transparency of fees and key information points

We appreciate that broker commission is not always well understood by customers, and that steps could be taken to improve this. However, the proposed solution presents several difficulties. Firstly, the nature of supplier-broker and supplier-customer relationships can often be very different. This would make it difficult to reflect the precise nature of a broker’s commission on a bill and would be especially burdensome and expensive where suppliers operate different commission models for different brokers.

Secondly, we would question that the bill is the correct place to convey this information to a customer. Once a customer is being billed, the level of broker commission is no longer a useful piece of information upon which they could decide. If anything, they need to be provided this information by brokers, when signing up. In the domestic market, Ofgem’s recent review of consumer communications removed a lot of prescriptive requirements to provide information at specified junctures, and suppliers are now required to identify key information points where, based on a customer’s preferences and characteristics, it would be most useful to communicate with a customer. It would be better if that approach were taken regarding broker commission as well, as then customers will receive that information at the time it is of most use to them.



Cooling off period

As alluded to above, a cooling-off period for microbusinesses will be difficult to implement precisely due to the involvement of brokers. Ofgem might consider the possibility that brokers may use the implementation of a cooling off period as a new market – attempting to ‘poach’ customers who have just switched and would be able to do so again within 14 days at no extra cost. This would add to supplier (and therefore customer) costs as more industry time is spent switching customers around, and suppliers increase bills to cater for the risk that their new customers may move on quickly. Ofgem should also seek to ensure that any policy introduced has been designed with the incoming Faster Switching reforms in mind.

Termination Notices

Permitting microbusinesses to switch away without issuing termination notices will mean increased costs to all. Suppliers often purchase power once signing up a customer to secure the best possible price. If they must price in the increased risk of customers switching away mid contract, this will add to costs which have to be passed on. One way of dealing with this might be to introduce termination fees for new customers. These fees would have to carry some of the risk of existing customers, with no provision for exit fees in their contracts, switching away with no recourse available to the supplier. If Ofgem proceed with this approach, we would encourage a mechanism by which microbusinesses who have entered into a contract prior to the regulation coming into force are still required to issue termination notices. This would prevent new customers paying the costs of existing businesses switching away.

Alternative Dispute Resolution

We agree in principle that an ADR for brokers could be a positive step. However, serious thought needs to go into the design of this service, and the added complexity brought about by the broker’s status as a TPI. For example, how would decisions made by the ADR provider impact the relationship between the customer and the supplier? It would be problematic if market distortions were to emerge as a result of suppliers losing out because of poor conduct or performance of a broker.

In summary, Good Energy acknowledge that transparency and accountability in the broker market can be enhanced. However, the suite of proposals as they stand in this consultation would not, in our opinion, deliver great improvements in this regard. We would encourage Ofgem to work with Industry, BEIS, and relevant consumer groups to develop a direct relationship between the regulator and TPIs. This will deliver the best results for consumers and the market at large.

I hope you have found our submission helpful. If you have any questions, please do not hesitate to let me know.

Kind regards,

Kit Dixon
Regulatory Affairs Officer