

Response to Ofgem's Consultation - "Smart Prepayment for a Smarter Market: Our Proposals".

23 October 2015

Ofcom's Discussion Document – “Strategic Review of Digital Communications”

Ombudsman Services' (OS) response

1. Summary - About OS

Established in 2002, The Ombudsman Service Ltd (TOSL) is a not for profit private limited company which runs national, multi sectorial private sector ombudsman schemes for the communications, energy, property (including being the sole provider for the Royal Institution of Chartered Surveyors (RICS) and one of the three redress schemes approved by the Department for Communities and Local Government (DCLG) for letting and managing agents), copyright licensing, the glass and glazing sectors, the Green Deal, the Asset Based Finance Association (ABFA), reallymoving.com, Which? Trusted Traders and, from October 2015, Parking on Private Land Appeals (POPLA).

We are an independent organisation. We help our members to provide independent dispute resolution to their customers and each scheme is entirely funded by its users (participating companies). Our aim is to raise public trust and confidence in the sectors we work with by providing effective independent redress when problems arise.

We have in the region of 10,000 participating companies. During the last year we received 215,968 initial contacts from complainants and resolved 62,806 complaints. The company currently employs more than 550 people in Warrington and has a turnover in excess of £27 million.

In August 2015 we formally launched our new service for consumer complaints – Ombudsman Services: Consumer Ombudsman. We have developed a new portal (www.consumer-ombudsman.org) which will help consumers to raise a complaint about a product or service in any sector where there is no existing redress provision. This

includes retail, travel and home improvement. The site guides consumers through our process, or signposts them appropriately.

Our complaints resolution service operates once a company's own complaints handling system has been exhausted, and we have the authority to determine a final resolution to each complaint. Our enquiries department handles primary contacts and makes decisions on eligibility. If a complaint is not for us, or has been brought to us too early, we signpost the consumer and offer assistance. Eligible complaints are then triaged. The simplest can be resolved quickly, usually by phone in two or three hours. Around 10% are dealt with in this way. For the majority of complaints we collect and consider the evidence from both parties, reach a determination and seek agreement; about 55% are settled like this. The most complex cases require a more intensive investigation; they may require more information and lead to further discussion with the complainant and the company to achieve clarification. The outcome will be a formal and binding decision. Whatever process is followed there is always a right of appeal and escalation. An ombudsman can issue a final decision in any one of the processes where it is clear that there is no evidence that would require changes to the initial determination.

Our service is free to consumers and, with the exception of an annual subscription from Department of Energy and Climate Change (DECC) for the Green Deal, operates at no expense to the public purse. It is paid for by the participating companies under our jurisdiction – usually by a combination of subscription and case fee. Participating companies do not exercise any financial or other control over the company. OS governance ensures that we are independent from the companies that fall under our jurisdiction.

2. Specific response to Ofcom's questions

Q1. Do you agree with our assessment of the “Change of Supplier” solution as developed by industry, including in terms of its potential unintended

consequences and its applicability to all smart meters irrespective of consumer type (domestic and non-domestic)?

OS agrees that the process proposed, and developed with industry, is the most workable solution to the problem identified. As you identify, leaving consumer prepayment meters in “credit mode” during the supplier transfer process is not without risks (e.g. consumers may accrue debt / contractual risks may flow from disputed liability). Regardless, the proposal does look to present the lowest risk of unintended disconnection. OS therefore considers the proposal to be reasonable, especially given the industry discussion and agreement to move forward with it.

Q2. to Q4.

OS has no specific views in relation to these questions, which pertain to suppliers’ monitoring and reporting requirements. OS would simply expect there to be clarity around suppliers’ requirements so that they will be able to adhere to them and so that issues can be identified and resolved promptly.

Q5. Do you agree with our assessment that the existing regulatory arrangements are fit-for-purpose for a smarter market, and that they pose no undue barrier to innovation?

Yes. We note that new “smart” meter technologies will enable the prompt switching from credit to prepayment meters and vice versa in circumstances where a consumer is not in debt. The regulatory arrangements do not look to hamper this freedom. In circumstances where a consumer is to be placed onto a prepayment tariff, we consider the seven day “notification period” to be appropriate. As you identify, however, it is absolutely vital that suppliers provide proper notifications to consumers in circumstances where they intend to remotely shift them from credit to prepayment status.

In respect of payment differentials, the existing licence conditions require suppliers to treat customers fairly. We would therefore not expect to see consumers suffer detriment in pricing because of lack of availability of smart meters. It might be that this

aspect of the prepayment supply market will require relatively robust oversight by Ofgem, in line with its “principles-based approach” to Regulation. The message associated with smart technology should be a positive one, and this should extend to ensuring that consumer who are not able to make the transition to “smart” meters are not indirectly penalised.

Q6. and Q7.

OS considers that the proposed amendments to be reasonable in providing clarity to suppliers and protection to consumers.

Q8. to Q10.

The timing and frequency of data collection is not a consideration for OS. However, we do consider that any data collection should be done only to the extent that it benefits consumers and the suppliers who are serving them. The data collection proposed appears in the Ofgem paper looks to fit that criteria.

Q11. Do you agree with our proposed approach to micro-businesses?

On the face of it, it seems remiss not to extend existing regulatory arrangements to micro-businesses. Although there is a relatively broad variation in size and complexity, within the micro-business sector, it remains true that enterprises of this type are likely the least able to engage in complex markets such as the energy market. In this sense, micro-businesses consumers do share some characteristics with domestic consumers. Indeed, as you note, many micro-businesses operate out of domestic properties.

As it stands, the numbers of micro-businesses using prepayment to purchase energy is low. However, as smart prepayment technology becomes more widely available it could feasibly become an attractive option for smaller micro-businesses, as a relatively hassle-free way of procuring energy. We therefore agree that protection should be afforded to micro-business consumers alongside domestic consumers to further promote the benefits of smart meter technology.

General Comments

We note the discussion in Part 2 of your paper around encouraging consumers to run down their credit before transferring suppliers. The reason for this is that consumers may experience a delay before receiving a refund from their losing supplier and this could place them in difficulties if they then need to make a credit to their new supplier before the refund is received.

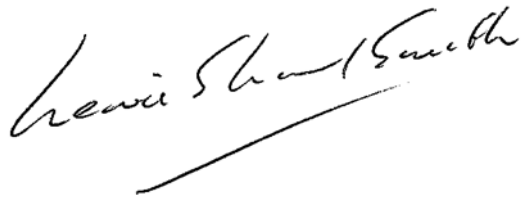
The proposal of switching the meter to “credit mode” will assist with this to some extent because a consumer will hopefully not need to make a large payment to the new supplier until they have received the refund from the losing supplier. However, the process is reliant, to some extent, on the consumer being able to manage their funds on receipt of any refund.

OS questions whether an alternative approach has been considered. We note that, as it stands, a debt can be assigned to a gaining supplier without altering the functionality of the meter, via the debt assignment protocol. Should the industry consider a similar protocol for credit? The losing supplier could assign any credit to the gaining supplier and this would minimise the scope for debt accruing while any refund is processed. It is feasible this approach could also reduce the administration tasks associated with transacting refunds.

Conclusion

Ombudsman Services is more than happy to discuss the points raised in this response with Ofgem further. In the first instance, please contact Daniel Fox, Policy Officer, (email; dfox@ombudsman-services.org, tel; 01925 772 625).

Yours sincerely



Lewis Shand Smith
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