

By e-mail to: futureretailregulation@ofgem.gov.uk

18 October 2018

Dear Sir/Madam,

I write in response to your invitation to comment on the Statutory Consultation: Domestic supplier-customer communications rulebook reforms.

About Ombudsman Services:

Ombudsman Services (OS) is a not-for-profit private limited company established in 2002 which runs a range of discrete national ombudsman schemes across different sectors including energy and communications. Each scheme is funded by the companies under our jurisdiction and our service is free to consumers. Last year we received 172,865 initial contacts from complainants and resolved 92,110 complaints. The company currently employs more than 600 people in Warrington and has a turnover in excess of £35 million.

For consumers, we offer a free and accessible way of resolving complaints, with a focus on swift, impartial resolutions based on principles of fairness. We also use the insights and data we gather through our casework and other sources to help bring about wider improvements which deliver benefits to all consumers, not just those who have turned to us for help.

For businesses, we help resolve disputes with customers in a fast and non-adversarial way, helping with customer retention and brand loyalty. We go beyond individual complaints to identify broader trends which can be a source of innovation. We also use our expertise to help companies identify opportunities for improvement, which can sharpen competitiveness and help build reputation.

General comments:

As we highlighted in our response to the policy consultation on customer communications rulebook reforms in June 2018, we support and welcome the approach that Ofgem is taking to operate principles based regulation across the retail energy market.

We look forward to working with the energy sector to help to make a success of the continuing move to principles based regulation. We also support the on-going tripartite working between Ofgem, Citizens Advice (CA) and Ombudsman Services: Energy (OS:E) and the on-going work that each organisation undertakes with energy providers to reduce consumer detriment and improve the consumer journey for all energy consumers.

Questions asked in the consultation:

We support the approach Ofgem is suggesting to all the areas outlined in the consultation paper. As such we do not propose to answer each question set out in the consultation but will comment on points raised in the consultation around whether direction is required. We also clarify a point on question 5.

Question 1: Do you consider that a direction is required to enable suppliers to make changes to existing fixed-term contracts, so that those customers can benefit from our rule changes sooner? If yes, please:

(b) provide suggestions for how the scope of the direction should be drafted to achieve our policy intent (set out in paragraphs 2.73-2.41 of this document).

We note that only one energy supplier raised the issue of the need for a direction around fixed-term contracts in the policy consultation. You have asked suppliers to provide more insight into whether this is an issue. We agree that more insight is required before a decision is made on whether a direction is required here or not. It will be helpful if suppliers can highlight how many of their consumers this affects and the time left on their fixed term contracts.

If a direction is required then we think the reasoning set out in 2.73-2.41 of the document is a reasonable way to approach putting in place a direction – namely consumers are provided with information to allow them to make an informed decision on whether they want to remain with the current terms and conditions or switch without being charged an exit fee.

Question 4: What are your views on our proposals (set out in paragraph 3.35-3.36) to move the rules around engagement prompts into a direction separate from the supply licences?

We agree with the thinking that by taking the Cheapest Tariff Message rules out of the supply licences and moving them into a direction in the future could provide more flexibility to future proof the rules. As the consultation makes clear, a number of trials are currently being run looking at more effective ways of promoting consumer engagement. The ability to respond promptly to those trials and indeed future trials will require flexibility and a direction, as opposed to rules in supply licences, may provide the flexibility required. We also note that if Ofgem is to pursue this option, then a separate consultation exercise will be done on this specific issue.

Question 5: Do you agree that our proposals reflect our policy intent relating to assistance and advice information?

We do agree with the proposals set out in the consultation paper. In our response to the policy consultation on this area, we suggested that after the term 'Relevant Ombudsman' it might be helpful to specifically name the Energy Ombudsman (OS:E). However, we appreciate that the definition of Relevant Ombudsman does include the Energy Ombudsman and it is appropriate to maintain the term Relevant Ombudsman, without the need to add Energy Ombudsman, in the drafting of the high level principle.

We are happy to discuss our comments in more detail. We support Ofgem's approach to moving to a principles based approach to regulating domestic suppliers customer communications.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'M. Vickers', with a long horizontal flourish extending to the right.

Matthew Vickers
Chief Executive and Chief Ombudsman Designate

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