

Impact Assessment

Microbusiness Strategic Review: Draft Impact Assessment

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| Division: | Future Retail Markets | Type of measure: | Retail Competition measures (licence conditions) |
| Team: | Vulnerability and Consumer Policy | Type of IA: | Not qualified under Section 5A UA 2000 |
| Associated documents: | Microbusiness Strategic Review: Policy Consultation | Contact for enquiries: | cdconsultations@ofgem.gov.uk or 020 7901 7000 |
| Coverage: | Microbusiness supply market | | |

Summary

In our Forward Work Programme 2019-2021, we noted that microbusinesses face many of the same issues as domestic consumers. We said we would take steps to understand better the issues faced by microbusinesses and take action where necessary so that they are able to access a competitive retail market and secure appropriate levels of protection.

Last year we launched a review of the microbusiness retail market, the Microbusiness Strategic Review to meet our Forward Work Programme commitment.

Based on the views and evidence collected through the review process, we have identified and prioritised several key areas of consumer harm, and developed a package of proposed policy measures to address these harms. **Through this document, we are seeking additional information on the impacts of the proposed policy measures. This information will help us complete a full impact assessment later this year.**

This draft impact assessment document sets out initial, high level thinking on the impact of the proposed policy measures on the microbusiness supply market. The views are based on the evidence collected through the Microbusiness Strategic Review to date. Chapter 4 of this document contains a number of questions on each policy proposal. Stakeholders can respond to these questions with evidence and views to help us understand the complete impact of each proposal. We will use evidence and views submitted to us to complete a final impact assessment.

We have also published a policy consultation document alongside this document that includes a separate set of consultation questions. We welcome views from stakeholders on our proposals.

1. Problem under consideration

Introduction

- 1.1. In our Forward Work Programme 2019-211, we noted that microbusinesses face many of the same issues as domestic customers when engaging in the retail energy supply market. Last year, we launched our Microbusiness Strategic Review (MBSR) to understand better what these issues are and what actions can be taken so that all microbusinesses can access a competitive retail market with appropriate levels of consumer protection.
- 1.2. The policy consultation document that accompanies this draft impact assessment (IA) explains the evidence we collected as part of the MBSR and the package of policy measures we propose implementing to improve microbusinesses customer journey.
- 1.3. This draft IA sets out the package of policy measures we propose to implement. It sets out initial, high level thinking on the impact of these measures on the microbusiness supply market. The views are based on the evidence collected through the MBSR to date.
- 1.4. To help us fully measure the impact of the proposed measures, the draft IA includes a number of questions in chapter four for each proposal. These questions aim to collect additional data and information on the impact the package of proposals will have on microbusinesses, suppliers, brokers and other Third Party Intermediaries (TPIs).

Responses and contact details

- 1.5. It will be helpful if stakeholders can respond to the questions with data and evidence that will allow us to measure the full impact of each proposed intervention. While we consider each of the policy measures will be beneficial to microbusinesses, we want to understand both positive and negative impacts the measures could have on
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¹ Ofgem (2019) [Ofgem strategic narrative: 2019-23](#)

stakeholders and competition in the microbusiness energy market before making a decision to implement them. The additional information we request will allow us to understand more fully the impact of the proposals and inform our decision-making.

- 1.6. We intend on using any evidence submitted to complete a final IA later in the year. The final IA will give a complete view of the impact of the policy proposals.
- 1.7. Please respond to the questions below by close of business 23 October 2020. Responses can be sent to CDconsultations@ofgem.gov.uk . Please mark your response as confidential if you do not wish us to publish it on our website.

2. Evidence gathering, prioritisation and consumer harms

Evidence sources

2.1. We have used a range of evidence sources to help assess the nature and impact of the challenges faced by microbusinesses. Data from the evidence sources are the basis for this draft IA. Responses received in response to the draft IA will be added to this evidence to allow us to understand more fully the impact of each policy measure.

- *Stakeholder engagement:* We have engaged with a range of external stakeholders through attendance at relevant events and held bilateral meetings with stakeholders showing an interest in the review.
- *Research synthesis:* We produced a synthesis of existing published research to map previously identified issues against each stage of our customer journey model. More information on the customer journey model can be found in the accompanying policy consultation document.
- *Call for Inputs (CFI):* We published a Call for Inputs alongside our Opening Statement last year², seeking views and evidence on our theories of harm and areas of consumer detriment at each stage of the customer journey.
- *Supplier contract/pricing data analysis:* We receive data on revenue and volume by contract type, through a recurring request for information (RFI) from suppliers and have used it to identify contract and pricing trends.³
- *Complaints data analysis:* We have used complaints data we currently receive from suppliers, Citizens Advice, Citizens Advice Scotland and the Energy Ombudsman to identify complaints trends and key areas of concern for microbusinesses.
- *Price transparency remedy evaluation:* We published a report summarising our evaluation of the impact of the CMA's price transparency remedy⁴ alongside our Opening Statement last year, and used these findings to further inform our thinking.

² Ofgem (2019) [Opening Statement - Strategic Review of the microbusiness retail market](#)

³ The analysis included information from an ongoing request for information to suppliers that represent approximately 90% of the small business market segment. These suppliers are British Gas, Corona, EDF, Eon, Gazprom, Npower, Opus, Scottish Power, SSE, and Total Power for electricity, and British Gas, CNG, Corona, EDF, Eon, Gazprom, Npower, Opus, Scottish Power, SSE, TEGS, and Total Power for gas.

⁴ Ofgem (2019) [Evaluation of CMA Price Transparency Remedy – final report](#)

- *Cross-sector research*: We have consulted with regulatory organisations in other sectors to identify transferable learning concerning the approaches to regulation and customer experiences in these sectors.

Prioritisation

2.2. These evidence gathering and stakeholder engagement activities helped us identify the challenges faced by microbusinesses engaging in the retail energy market. To prioritise those challenges, we applied a combination of theory, evidence and views to assess the impact in terms of their scale and severity:

- **Scale**: We assessed the scale of a harm by considering the number of microbusinesses likely to be affected by the issue.
- **Severity**: To assess the severity of a harm, we considered the likely harm for individual microbusinesses accounting for financial impacts, but also impacts on trust, future engagement in the market and inconvenience.

2.3. This enabled us to draw up a list of harms that our proposed policy interventions should focus on. The policy consultation document that accompanies this draft impact assessment contains a description of each issue.

3. Intervention options

3.1. We identified that the majority of the consumer harm faced by microbusinesses arise from poor practice by a minority of brokers. Some of these poor practices include:

- Poor telesales practices in the form of excessive cold calling and aggressive sales tactics
- Charging overly high commissions and recommending contracts based on commission yields, rather than value for money for the microbusiness
- Engaging in potentially fraudulent activities, misrepresentation, and other poor practices, for example forging signatures and falsifying documentation.

3.2. The policy measures we are proposing aim to create a more transparent market for microbusinesses with stronger dispute resolution rights. This should improve all microbusinesses ability to search for and agree contracts that offer them the best value for money.

3.3. Other consumer harms can arise from practices that can delay the switching process. This includes termination notice requirements and inconsistent approaches by suppliers and TPIs delaying contract switches. This can result in microbusiness customers being placed on more expensive out of contract rates while these issues are resolved. The policy consultation document contains more detail on these issues.

3.4. To address these issues we considered what appropriate intervention options are available and can be delivered expediently. This resulted in two options:

- Option 1: Do nothing
- Option 2: Short and medium term policy measures.

3.5. These options cover the range of options available and are described in more detail below. We have provided a preliminary view of the impact of each option on microbusinesses, suppliers, TPIs and other stakeholders engaged in the microbusiness retail market. These views do not form our final view of the impact of each option. Instead, they are indicative of the high-level impact each policy measure could have based on the evidence we have collected to date, as described in Chapter 2.

3.6. We have also included a short description of policy options we considered but decided not to take forward to address the issues discussed in Chapter 2. Our

reasons for setting these policy options aside are explained below. While we do not intend taking these options forward, setting out our rationale should provide stakeholders with information on the range of interventions that we have considered.

- 3.7. In Chapter 4, we set out a number of questions that aim to gather further data and evidence to help us assess the final impact of each option. This will allow us to complete a detailed impact assessment later in the year.

Option 1: Do nothing

- 3.8. Under this option, we would not intervene in the microbusiness supply market. This would leave the market to operate as it currently does. No changes would be made to electricity or gas supply licences. Microbusiness suppliers would still be subject to the microbusiness provisions set out in the supply licences.
- 3.9. We consider that this approach is not appropriate, given the challenges our evidence gathering indicates that microbusinesses face. Chapter 2 and the accompanying policy consultation paper explain the conclusions of our evidence gathering activities in more detail. We believe these issues require regulatory intervention to create a more transparent and efficient market and improved consumer experience. As such, we consider a *Do nothing* approach is not appropriate.
- 3.10. We acknowledge that the issues we have identified are not endemic across all suppliers or TPIs. Many suppliers and TPIs operate in a manner to deliver good outcomes for microbusiness customers. However, the strength of evidence we have found suggests that changes are required to ensure good practice across the microbusiness energy supply market and that all consumers have trust in suppliers and TPIs they engage with.
- 3.11. This option would have no impact on monetary benefits, environmental benefits, compliance costs or regulation costs.

Option 2: implement package of short to medium term policy measures

- 3.12. Our preferred option is to implement each of the policy proposals in the package of measures described below. These are set out in more detail in the accompanying policy consultation. These measures aim to address the harms identified in our

evidence gathering activities in the short and medium term. The policy consultation also explains alternative approaches we considered for some policy measures that we believe would be suboptimal.

- 3.13. The policy measures should create a more transparent market for microbusinesses to secure competitive, fixed term, negotiated energy supply contracts. The package of proposals is designed to allow microbusiness to more easily engage in the energy supply market and help address issues with a minority of TPI's and broker's that can prevent placing microbusinesses on the most appropriate negotiated contract. This is in addition to addressing the specific consumer issues discussed below.
- 3.14. Disengagement can result in significant financial costs for microbusinesses; we know that microbusinesses who remain on Deemed or default contracts⁵ can pay substantially more for gas and electricity than those on negotiated deals. Analysis of the contractual and pricing data we receive from microbusiness suppliers suggests that Deemed and default contract unit revenues⁶ can be around 65% and 40% higher than negotiated contract rates respectively.

Broker conduct principle

Introduction

- 3.15. We propose to introduce a supply licence condition requiring suppliers to ensure that the brokers they work with meet an appropriate standard of conduct when interacting with microbusinesses. We propose extending relevant parts of the existing 'Standards of Conduct' (SLC 0A) to achieve this.
- 3.16. We anticipate suppliers using and extending existing assurance frameworks we know many already have in place when dealing with brokers when implementing this measure. This will allow suppliers to ensure those they do work with continually meet appropriate standards of conduct.

⁵ A default contract is an Out of Contract, Evergreen or Rollover contract

⁶ Unit revenues is calculated using data collected through the microbusiness RFI. It is total revenue divided by consumption.

3.17. We consider the new supply licence condition will help address a number of the issues identified through our evidence gathering. This includes; misselling microbusiness energy contracts, poor or high-pressure sales practices, and other instances of poor practice by a minority of brokers set out in our policy consultation. This will create a more transparent microbusiness supply market and allow microbusinesses to more easily engage in the contracting process.

Indicative impacts

3.18. We expect this measure to lead to monetised and non-monetised benefits for microbusinesses. More consistent and improved performance by brokers should reduce instances of misselling and other forms of poor practice that can cause microbusinesses to be put on poor value contracts and have a poor customer experience.

3.19. Data we have collected through the MBSR suggests that broker misrepresentation is an issue in the microbusiness supply market. Surveys and research carried out by external stakeholders and Ofgem identified consistent complaints about individual brokers misrepresenting themselves or contracts sold to microbusinesses. We have individual examples of the costs of misrepresentation to microbusiness customers – this data suggests that microbusinesses can pay thousands of pounds more for gas and electricity by brokers misrepresenting the value of energy contracts.

3.20. Analysis of the contractual and pricing data we receive from suppliers also suggests that there is a wide spread in prices for negotiated contracts. For example, unit revenues associated with negotiated electricity contracts for microbusinesses who consume less than 5 MWh can vary by over 300%. While a number of factors can affect the prices paid by microbusinesses for energy contracts, these examples show that there is a potential financial penalty from being put on an inappropriate contract. Implementing a broker conduct principle will reduce the risks and consumer detriment impacts of this behaviour.

3.21. Greater transparency should also reduce the search costs that microbusinesses incur when looking for an energy contract. It is difficult to quantify the financial impact of this benefit. Research shows that microbusinesses, especially lower consumption microbusinesses, find it difficult to understand offerings or make like for like

comparisons.⁷ Better monitoring of broker behaviour should create a more consistent and clear interactions with microbusinesses. This will increase contract transparency and help make sure that microbusinesses can understand and identify the most appropriately priced contracts.

3.22. Some suppliers may incur costs to establish appropriate mechanisms to monitor broker and TPI performance. We know that a number of suppliers already have monitoring systems in place to measure and ensure good broker performance. This should limit any additional costs resulting from the licence condition. In Chapter 4, we seek more information on the existing costs of broker monitoring activities.

3.23. We also consider that suppliers will save money in the medium and long term by minimising poor practice by brokers. We understand suppliers incur costs dealing with broker misrepresentation. We are seeking information on the specific costs of these activities in Chapter 4. However, we know that some suppliers have teams dedicated to auditing broker practices. The costs to suppliers of following up on instances of poor practice should be reduced through better monitoring of broker and TPI behaviours.

3.24. The proposed licence condition will have neutral or limited environmental benefits. There will be ongoing compliance and regulatory costs. We anticipate these will not be substantial and should fall broadly in line with existing monitoring activities.

Alternative Dispute Resolution (ADR) redress scheme

Introduction

3.25. We propose introducing a supply licence condition requiring suppliers to only work with brokers signed up to an ADR scheme. This would allow microbusinesses to raise a complaint to the ADR provider if they cannot resolve a dispute directly with their broker. We propose outlining high-level requirements for the scheme in the supply licence. Scheme provider(s) would then set out detailed scheme arrangements and requirements in their terms of reference.

⁷ This includes "How microbusinesses engage with the energy market" Collaborate Research report.

3.26. An ADR scheme should reduce the incidence of poor broker practice and improve the contracting and switching process. This should minimise the costs of fraudulent switches or other forms of misrepresentation. Minimising incidences of poor practice should also improve the levels of customer service microbusinesses receive from brokers across the sector. Microbusinesses will also have reassurance that an independent external party can examine disputes.

Indicative impacts

3.27. Brokers may face monetary costs to set up and engage with an ADR scheme. We welcome suppliers and TPIs responding to the questions set out in Chapter 4 to help us better understand these costs. However, in the long term we expect that reducing instances of poor broker practice and improving standards in this area will result in a better functioning market for both microbusinesses and suppliers.

3.28. The ADR scheme will have neutral or limited environmental benefits. There will be ongoing compliance and regulatory costs.

Changes to the contracting process

Introduction

3.29. Currently suppliers must take all reasonable steps to provide consumers with the Principal Terms of a contract, in plain and intelligible language, before entering into that contract. This obligation does not currently apply to brokers. We propose strengthening this obligation so that suppliers would be required to ensure that any broker negotiating a contract between themselves and a consumer must also present a written version of the Principal Terms to the consumer.

3.30. We also propose introducing a cooling-off period for microbusiness consumer contracts. This would provide microbusinesses with the right to cancel the contract for 14 days after the date from which they have entered into the contract and have been provided with the Principal Terms, in writing.

Indicative impacts

3.31. These policy measures will improve the contracting process and help reduce the risk that microbusinesses will be sold, or enter into, inappropriate deals. Ensuring that microbusinesses have the correct written information that is accessible, will allow

them to consider the terms of any deal before being bound by a contract and incurring significant costs. A cooling-off period will provide a period for microbusinesses to opt out of a contract without incurring significant costs.

- 3.32. A wide range of evidence submitted to us set out examples of where microbusinesses had unknowingly agreed to contracts verbally or discovered terms and conditions in contracts that were not clear in the verbal agreement process. This led to financial and other harms for those microbusinesses.
- 3.33. In Chapter 4, we ask stakeholders questions to help us understand what proportion of microbusiness contracts may be cancelled within a cooling-off period. This will help us estimate the financial impact of this policy measure across the microbusiness supply market.
- 3.34. The policy measures should have a limited direct monetary impact on suppliers and brokers in the medium to long term. We believe a more transparent and consistent contracting approach, where microbusinesses are offered the most competitive deals, should mean cancelling a contract during a cooling-off period is only required for a minority of deals.

Broker commission transparency

Introduction

- 3.35. We propose introducing an additional requirement for suppliers to disclose the charges paid to brokers as part of the supply contract on bills, account statements and at the request of the microbusiness customer. We consider it important to disclose costs both when entering into a contract and throughout its duration to ensure consumers are able to make comparisons between different contract offers and act accordingly. Providing this information is especially necessary in the non-domestic market, as some consumers choose to negotiate new contracts well in advance of their current contract end date.
- 3.36. We acknowledge that consumers' behavioural biases may have an impact on their decision-making. While we believe microbusinesses will welcome having greater visibility of commission costs, we acknowledge that some may be overly influenced by the commission element of an offering and lose sight of the overall value of a deal. We will consider this further as our proposals evolve.

Indicative impacts

- 3.37. A wide range of evidence submitted to us suggests that a minority of brokers recommend contracts that earn them favourable commission but are not best value for microbusinesses. Microbusinesses are also sometimes unclear about how much they are paying to brokers or TPIs when entering into an electricity or gas contract. We have received a number of examples of individual microbusinesses who have overpaid because of these activities.
- 3.38. Contractual and pricing data analysis we have undertaken suggests that commission rates can vary significantly.⁸ As an example, the TPI data we collected suggests that the average proportion of a microbusiness electricity bill made up of broker's costs is between 3% and 4%. However, there is a wide variation around the average; the proportion rises to over 10% in some instances. We also found that contract length also affects TPI costs. Average commission rises from around 4% for a two-year contract to over 6% for a four-year contract.
- 3.39. A number of factors can influence commission payments including additional services provided by TPIs. In isolation, commission payments are not a clear signal of overall value and can be justified in certain cases. However, giving microbusinesses clearer information on TPI commission costs will allow them to make a more informed choice about energy supply contracts and avoid paying unjustifiable amounts in commission payments. This will allow microbusinesses to form a better view on the value their broker is delivering, relative to the contract prices they are paying.
- 3.40. We acknowledge that including additional commission payment data may increase the complexity of contract information sent to microbusinesses. This could be an issue for some microbusinesses. However, we consider these impacts will likely be offset by our requirements around providing clear and intelligible contract information to microbusiness customers.
- 3.41. The proposal should also allow microbusinesses to more effectively compare costs across different brokers and TPIs. It is difficult to estimate the total value of these

⁸ TPI data request submitted to suppliers on December 2019.

monetary benefits, but the proposals should ensure brokers and TPIs are more efficient at matching microbusinesses to the most suitable contract.

3.42. Suppliers may incur implementation costs in preparing document templates that display broker costs for microbusinesses. These costs should reduce as new contracting processes are established.

3.43. The proposals will have neutral or limited environmental benefits or costs.

30-day contract extension following blocked switches

Introduction

3.44. We propose that suppliers charge consumers based on the rates in place prior to a blocked switch until the customer has:

1. Agreed a new contract with their existing supplier;
2. Agreed a new contract with another supplier (and supply has started)
3. 30 days have passed. This will ensure that engaged customers are not disadvantaged by facing increased charges, which are typically incurred when they are moved onto Out-of-Contract (OOC) rates at the end of a fixed term period while an issue with their switch is resolved.

Indicative impacts

3.45. The policy consultation explains in more detail the impact of delayed switching, in particular instances of microbusinesses being put on more expensive OOC rates for a period.

3.46. There can be a sizeable difference between rates paid on negotiated contracts and OOC rates. Our analysis of the contractual and pricing data suggests that unit revenues associated with electricity and gas OOC contracts are on average 40% higher than negotiated contract rates. This difference is greater for smaller consumption microbusinesses, for whom OOC unit revenues are around 45% higher than negotiated contract rates.

3.47. In our view, being placed on more expensive OOC contract rates, even for a short period, can have financial consequences for microbusinesses. The changes we

propose to make should lower the risk that microbusinesses are moved temporarily onto more expensive OOC rates.

3.48. This proposal should be less impactful on suppliers who have more efficient switching processes and better relationships with other stakeholders involved in the switching process. Suppliers with especially poor switching processes may incur additional costs until the issues preventing a contract switch are resolved. Chapter 4 contains questions to help us identify what these impacts may include.

3.49. We consider this measure will help make the switching process more efficient. In this regard costs incurred by suppliers or brokers should reduce in the medium and long term.

3.50. The proposals will have neutral or limited environmental benefits or costs.

Switching notification window

Introduction

3.51. We propose amending the supply licence to prohibit suppliers from requiring a notice period before terminating a contract. This would help speed up the switching process and help to prevent microbusinesses who wish to negotiate a new contract from spending periods on costly Out-of-Contract rates. Suppliers would still be able to charge termination fees if a customer wishes to terminate a contract before any fixed term ends.

Indicative impacts

3.52. This proposal will make sure microbusinesses avoid costs associated with not providing notice to terminate their contract. The section describing the block switches proposals above, sets out the price differential between OOC and negotiated contracts. Removing switching notification window requirements should also mitigate the impact of microbusinesses being moved onto more expensive OOC rates, even for a short period.

3.53. We are seeking further data from suppliers on the monetary impact of this change. We consider the impact will be low, as most switches are completed successfully. In this regard, the proposal should have little monetary impact on suppliers.

3.54. This measure should encourage the switching process to become more efficient, which is likely to bring benefits to all market participants. However, we would welcome the views of suppliers on any monetary costs associated with removing the termination window.

3.55. The proposals will have neutral or limited environmental benefits or costs.

Awareness raising and information provision

Introduction

3.56. We propose to address the lack of awareness of the current protections available to microbusinesses. This will include a two-pronged approach. The first element will build upon and develop new awareness raising materials for microbusinesses, for example making information available on consumer websites. The second element involves utilising the most effective channels to disseminate information to microbusinesses. We aim to work collaboratively with leading consumer groups to achieve this.

Indicative impacts

3.57. We consider the cost of awareness raising activities will be negligible. This work will build upon existing activities that inform microbusinesses of the regulatory protections available to them. We consider that costs for the additional activities should not be substantial.

Sales and marketing rules

Introduction

3.58. We propose targeting poor sales and marketing practices by introducing specific requirements on suppliers and the brokers they work with. Our proposals aim to ensure that the structure and conditions of contracts are clear and easily comprehensible, and that suppliers or TPIs do not mislead when selling or marketing. We also propose that suppliers and TPIs only recommend contracts which are appropriate to a customer's characteristics and that they record information provided to microbusiness customers during Face-to-Face Marketing Activities or Telesales Activities for a period of 2 years.

Indicative impacts

3.59. The costs associated with sales and marketing requirements should be limited. These proposals aim to make sure that microbusinesses receive good quality interactions with all suppliers and TPIs they deal with. We do not consider these requirements should be expensive or burdensome to implement.

Policy measures we are not taking forward

Licensing Scheme

3.60. In addition to the changes outlined in our proposals in the previous section, there may be merit in introducing a licensing scheme for TPIs and brokers. This would introduce direct regulation of the broker market. In this scenario, to provide brokerage services to microbusinesses, brokers and TPIs would be required to sign up to and meet certain obligations.

3.61. Further enhancing regulation of broker activity in this way could bring benefits to microbusinesses. Microbusinesses may be reassured that the regulator has direct powers to intervene in the broker and TPI market to address poor performance and bad practices. This would create even greater certainty over which brokers were authorised to operate and bound to meet conduct standards.

3.62. However, we have not focused on this option at this time for a number of reasons. Ofgem would require additional powers to regulate directly TPIs and brokers through a licencing scheme. It would take a substantial period of time to fully determine what those powers should be and request appropriate changes to be made to Ofgem's existing vires. The changes that we are proposing could be made in the meantime and so help deliver the changes microbusinesses require to the supply market in the short to medium term.

3.63. In addition, the sheer number of brokers and TPIs who provide brokerage services to microbusinesses would make a licencing scheme potentially complex and costly to establish. We understand there are thousands of brokers and TPIs involved in the non-domestic supply market. This adds further weight against the concept of introducing a licencing scheme at this time because the changes microbusinesses need would not be delivered in the short to medium term. We are proposing steps that would help address the real consumer harm in the interim.

Price cap

3.64. We have also considered the option of introducing a price cap to the microbusiness supply market. We decided not to pursue this option as many of the issues identified through our evidence gathering activities stem mainly from poor practice rather than from the level of prices. A price cap would not target these issues and therefore not resolve the consumer harms identified or bring about greater trust in the market in a way that we believe our proposed policy interventions will.

4. Questions

- 4.1. Chapter 3 sets out our proposed policy options. Our preference is to implement each of the measures explained in Option 2 and the accompanying policy consultation.
- 4.2. Below are a number of questions that will help us understand the impact of the policy options we have outlined. We also want to understand better the monetised and non-monetised costs and benefits of the proposals. This will help us determine if the individual measures will be effective, require adjustment to avoid unintended consequences, or not proceed as they would have an overwhelmingly negative impact on the market.
- 4.3. We welcome responses to these questions from microbusinesses, suppliers, brokers, TPIs, trade associations and any other stakeholder with an interest in the proposals. Information and data submitted to us will improve our assessment of the precise costs and benefits of the proposals. This will help us reach a decision on which policy options to take forward. We will use this data to complete a full impact assessment later in the year, which we will alongside our statutory consultation.

Option 1: Do nothing

- 4.4. We welcome stakeholders to provide any additional evidence to supplement our existing evidence base that demonstrates the financial and non-financial impact of the status quo.
- 4.5. This includes further data on the monetary and non-monetary impacts to microbusinesses, suppliers and brokers of continuing with the current arrangements.

Option 2: implement package of short to medium term policy solutions

- 4.6. Our preferred option is to implement each of the proposals in the package of short to medium term policy measures explained above and in the policy consultation. To bolster our understanding of the impacts of implementing these measures it would be helpful if stakeholders can respond to the questions below.

4.7. Where possible we welcome stakeholder evidence to support responses to these questions. Where we ask for specific data on contracts or financial impacts, we would welcome stakeholders providing at least one year's worth of data.

Broker conduct principle

4.8. To improve our understanding of the impact of introducing a broker conduct principle it would be helpful if stakeholders can provide views and evidence for the questions below:

- What additional costs may stakeholders incur through the introduction of a broker conduct principle
- Evidence and data on existing broker and TPI monitoring costs and how these may change with the introduction of a licence obligation requiring monitoring broker conduct
- Views on the impacts this proposal will have on microbusinesses; these impacts can be financial and non-financial
- Any other views on how this proposal may impact the microbusiness supply market; these impacts can be financial and non-financial.

ADR scheme

4.9. To better understand the costs of introducing an ADR scheme it would be helpful if stakeholders can provide evidence on:

- What additional costs stakeholders may incur through the implementation of an ADR scheme
- Information and evidence on the benefits of implementing an ADR scheme
- An estimate of existing costs incurred by stakeholders in resolving microbusiness disputes
- Any other views on how this proposal may impact the microbusiness supply market; these impacts can be financial and non-financial.

4.10. ***Changes to the contracting process***

4.11. We welcome views on the proposals to introduce a cooling-off period and the additional requirement for brokers to send a written copy of the Principal Terms to microbusinesses. In particular:

- An estimate of how many contracts may be impacted by a cooling-off period. This could be based on the number of existing contracts that microbusinesses query or wish to amend within the proposed cooling-off period.
- Any other views on how this proposal may impact the microbusiness supply market; these impacts can be financial and non-financial.

Broker commission

4.12. We welcome views on the impacts of providing additional transparency around broker costs to microbusinesses. In particular:

- If stakeholders consider there are significant additional costs associated with these proposals
- Evidence and views on the impact this proposal could have on the energy brokers and TPI market. These impacts can be financial and non-financial
- Evidence on the additional costs to suppliers of providing additional written information to microbusinesses on bills and account statements
- Evidence and views on the impact this proposal will have on microbusinesses. These impacts can be financial and non-financial
- Any other views on how this proposal may impact the microbusiness supply market; these impacts can be financial and non-financial.

30-day contract extension following blocked switches

4.13. We welcome stakeholders providing views on the impacts of extending contract terms for a thirty-day period. In particular:

- The number of microbusinesses who are temporarily placed on or OOC contracts due to problems with the switching process and the length of time they are on those rates
- The difference between contractual rates and out of contract rates microbusinesses are temporarily placed on due to problems with the switching process
- Any other views on how this proposal may impact the microbusiness supply market; these impacts can be financial and non-financial.

Switching notification window

4.14. We propose to amend the licences to ban contractual notice periods to terminate or switch contracts (except for evergreen contracts). It would be helpful if stakeholders can provide evidence on:

- An estimate of costs, if any, of implementing this measure
- The impact removing this measure will have on the switching process
- Any other views on how this proposal may impact the microbusiness supply market; these impacts can be financial and non-financial.

Sales and marketing rules

4.15. We propose changes to make sure there is good quality and consistent sales and marketing activities by suppliers and TPIS. It would be helpful if stakeholders can provide evidence on:

- An estimate of the costs of implementing these measures
- Any other views on how this proposal may impact the microbusiness supply market; these impacts can be financial and non-financial.

5. Risk, environmental and distribution impacts

- 5.1. This chapter explains our initial views on the risks associated with implementing each of the measures in our preferred proposals package as well as the environmental and distributional impacts these interventions may have.
- 5.2. If necessary, we will revise the views below to reflect feedback received to the questions in Chapter 4. We are content for stakeholders to comment on the risks, environmental and distributional impacts in any responses submitted to us.

Risks

- 5.3. The key risk of the 'Do nothing' option is we do not implement appropriate remedies that address the issues identified during the evidence gathering stage of the MBSR. This will result in microbusinesses still being subject to the range of issues described in Chapter 2 of this document and the accompanying policy consultation.
- 5.4. We have considered the risks associated with our proposed policy measures package. Our initial view is that the package will not significantly affect competition between suppliers or TPIs.
- 5.5. The policy package could affect the number of brokers and TPIs that are active in the microbusiness market. By enabling a sharper customer focus on the quality and value of brokerage services, some may lose out in a more competitive and transparent market. These measures should only directly affect brokers and TPIs who are not providing a good service to their microbusiness customers and who do not improve this service because of our proposals. While this may reduce the total number of brokers and TPIs in the microbusiness supply market, we consider this mostly impacting poorly performing brokers and TPIs. It should not reduce the number of brokers in the market to an extent that effects competition negatively.
- 5.6. Similarly, we consider the preferred policy proposals package will not significantly raise barriers to entry to either the supply market or energy brokerage services. The package we propose to implement aims to increase obligations that raise the standard of service microbusinesses receive from brokers, TPIs and suppliers. In this scenario brokers, TPIs and suppliers who aim not to provide a good quality service to microbusinesses should mostly feel the impact of these costs. As such, we consider

the competition impact for microbusinesses will result in an increased quality of service offered by brokers and TPIs.

- 5.7. The preferred policy package should not have any detrimental impacts on pricing. The package aims to create a more transparent market for microbusinesses by making energy and TPI costs clearer. Providing this information should improve microbusinesses ability to agree best value energy deals, which could increase competition in the microbusiness supply market and create a downward pressure on prices. Reducing the impact of a minority of brokers employing poor practices should allow efficient suppliers and TPIs to better serve microbusinesses with appropriately priced contracts.

Environmental impacts

- 5.8. Our preferred policy measures package will have limited environmental impacts. It will not substantially change the amount of electricity or gas contracts agreed between microbusinesses and suppliers, or the amount of energy consumed. The impact on energy demand should be limited. There may be a small increase in energy demand as microbusinesses face an overall lower cost of energy. However, we consider this impact will be small.

- 5.9. On that basis, we consider the environmental impacts from the changes will be negligible.

Distributional impacts

- 5.10. Each measure outlined in this IA should improve the transparency of the switching process and reduce instances of poor practice in the broker market. This should make it easier for microbusinesses to identify and switch to good value gas and electricity contracts.

- 5.11. We consider this will be especially beneficial for microbusinesses who consume comparatively small volumes of gas or electricity. These microbusinesses are more likely to be time constrained or lack the expertise to find or negotiate contracts compared to larger microbusinesses. Evidence also suggests that smaller consumption microbusinesses are less likely to be on a fixed term negotiated renewal or acquisition contracts than larger consumption microbusinesses.

5.12. Each policy measure should have no impacts on domestic or larger non-domestic customers. The package is focused on issues we have identified for microbusinesses only. We consider none of the changes we propose to implement should transfer costs from microbusinesses onto other customer groups.

5.13. **Impact of COVID-19**

5.14. We recognise that a well-functioning market will be more important than ever in the coming months and years as many microbusinesses emerge from the challenges posed by the COVID-19 pandemic.

5.15. We believe introducing each of our preferred policy measures will play an important role in contributing to the longer-term recovery by greatly improving microbusiness experience at each stage of their customer journey. At the same time, we believe each measure to be proportionate and can realistically be implemented by suppliers and other industry participants who are also working hard to recover and rebound from the pandemic.

5.16. Alongside this review, we will continue to track the impact of the pandemic on the business energy retail market and consider whether any regulatory action beyond the proposals we have set out here will help ensure the effective functioning of the market.