

Response to Ofgem's Retail Market Review – Updated domestic proposals

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Retail Market Review – Updated domestic proposals

Ombudsman Services’ consultation response

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1 Summary

1.1 About Ombudsman Services

The Ombudsman Service Ltd is a company limited by guarantee (not for profit) that provides ombudsman services for the energy including the Green Deal, telecommunications, property and copyright licensing sectors, by appointment or approval from the relevant regulators. We provide dispute resolution and redress to domestic consumers and micro-businesses. Established in 2002, Ombudsman Services now has over 8,900 participating companies and last year we resolved over 18,000 complaints. The company employs around 170 people and has a turnover of just under £8 million.

Ombudsman Services complaints resolution service is free to consumers and is at no cost to the public purse. It is paid for by the participating companies under our jurisdiction by a combination of subscription and case fee. Ombudsman Services’ governance ensures that we are independent from the companies that fall under our jurisdiction. The more complaints there are about a company, the more the company pays, ensuring an incentive for the company to improve their customer service.

To help ‘level the playing field’ between consumers and companies, we have a contact centre which provides information and helps those who have difficulty in making a complaint. We achieve proportionality by providing alternative dispute resolution through different processes, from early resolution to in-depth formal investigation.

2 General response to the consultation

2.1 Introduction

Ombudsman Services welcomes the opportunity to comment on the “Retail Market Review – Updated domestic proposals” which was published in October 2012.

Ombudsman Services supports the overall aim of the Retail Market Review (RMR) which as we understand is to encourage and equip consumers to get the best deal from the energy market. We share Ofgem’s desire to develop confidence in the market so that more people are inclined to engage, and to put in place measures so that consumers are better able to choose the deal that suits them. We agree that a large number of tariffs and their complexity discourage many from exploring alternative deals and even the more active consumers can find it difficult to make the right choice.

Although the proposed reduction of the number of tariffs to four is not a matter Ombudsman Services has a view on, we do support the reviews key proposals to require suppliers to provide consumers with: simpler choices; clearer information about products, prices and available savings; and fairer treatment in all their interactions with them.

The specific comments Ombudsman Services will make relate for the most part to the role of Ombudsman Services: Energy which is referred to in section 8.15 of the consultation document.

2.2 Fairness

Ombudsman Services welcomes the reaffirmation that Ofgem has limited functions when dealing with individual disputes between consumers and licensed suppliers. It is essential that the function of regulation and complaint handling are kept separate and that consumer complaints are a matter for Ombudsman Services. We suggest that Ofgem discusses with Ombudsman Services the implementation of this to reduce potential consumer confusion.

Ombudsman Services already applies the standards of conduct as part of its investigation and assessment of a complaint. If the proposed changes are adopted by Ofgem, we will ensure that the standards of conduct requiring suppliers to treat their

customers fairly will be a material consideration when consider a complaint. In treating consumers fairly, Ombudsman Services applies the rule of natural justice, ie, the test of the man on the Clapham omnibus or the Wendsbury rules of unreasonableness. In establishing what is unreasonable, Ombudsman Services takes into account the;

- Factors considered which ought not to have been taken into account, or
- Factors omitted that ought to have been taken into account, or
- Unreasonableness of the decision, so that no reasonable authority would ever consider imposing it.

2.3 Contract terms

Ofgem is proposing changes to the fixed term tariffs to prevent price increases and other unilateral changes to their contracts and prevent consumers rolling over onto further fixed term contracts that may impose termination fees. Ombudsman Services will also take into account the changes when considering complaints.

2.4 Third party intermediaries

We welcome Ofgem's proposal to undertake a consultation on third party intermediaries, the intention of which is to develop a confidence code. Ombudsman Services has experience of third party intermediaries. While, we have no evidence that the third party intermediaries are acting illegally they are charging for their services, which is contrary to the spirit of alternative dispute resolution which is supposed to be free to the consumer.

Even third party intermediaries that act within the law can often have an adverse impact on the energy market; they can undermine consumers' willingness to switch and have a detrimental impact on their confidence in the energy market. By providing advance notice of Ofgem's intention to undertake a consultation on third party intermediaries with the intention of developing a conduct code, consumer confidence in the energy market may in part be restored.

Lewis Shand Smith
Chief Ombudsman
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