

Response to the Competition and Markets Authority Energy Market Investigation ‘Issues Statement’

14 August 2014

Response to Competition and Markets Authority Energy Market Investigation 'Issues Statement'

Ombudsman Services' consultation response

1 Introduction and Summary

Ombudsman Services, the Energy Ombudsman, welcomes the opportunity to comment on the Competition & Markets Authority (CMA) energy market investigation 'Issues Statement' issued on 24 July 2014.

Ombudsman Services provides Alternative Dispute Resolution (ADR) to the energy sector, providing timely, binding and independent complaint resolution between energy companies and consumers, and between energy companies and microbusinesses. The presence of an ADR scheme provides certainty and reassurance to customers, and business process feedback to energy companies to help them understand where the customer relationship could be strengthened.

As the Energy Ombudsman, we have insights into the interactions between consumers and businesses that may assist CMA's investigation of the energy market. We would be pleased to work with the CMA in its investigation should our data be of use.

More information about Ombudsman Services can be found in the appendix.

2 Ombudsman Services response to the CMA Issues Statement

Energy complaint figures: overview

Ombudsman Services notes the use of its figures in the CMA's Issues Statement. As we play a key role in helping consumers and businesses in the energy market, we have

taken the opportunity to provide more data to the CMA and to explain that role more fully.

As part of our role as energy ombudsman, we collect detailed data on numbers and types of complaints. We provide an overview of energy complaint numbers below. We use these data to feed back to member companies to help them understand where things are going wrong and how improvements can be made. An ombudsman's decision will sometimes, in addition to the redress requirement, contain a recommendation for the company to review customer-facing policies in order to avoid the specific or generic problems recurring.

More generally, Ombudsman Services provides feedback in the form of regular (usually quarterly) meetings where we present statistics of the company's performance and talk through the specific issues encountered during the preceding period.

Energy complaint numbers have risen considerably over the past two years. We provide below indicative complaint numbers at the initial point of contact, comparing our latest data available (July 2014) to July 2013 and July 2012. We also have annualised statistics for 2012 and 2013, and a more detailed breakdown of the data below should this be useful. It should be noted that, according to a recent Ofgem survey, that only 5% of those eligible to take their complaint to us do so.

	Types of complaint						
Month	Billing	FIT*	Heating	Sales	Transfer	Other	Total
Jul-12	747	18	0	59	95	0	919
Jul-13	1528	11	0	76	229	0	1844
Jul-14	4528	37	4	89	518	17	5193

*FIT = Feed In Tariffs

We have no firm evidence as to why complaint numbers have risen in this way, but we believe that media and political scrutiny, rising prices and better awareness of ADR and willingness to complain when things do go wrong may all be contributing factors.

Our view is that that well-functioning markets work well for consumers and for businesses. Furthermore, we believe that these data demonstrate the need for an effective ADR scheme within the energy market in order to help businesses and consumers when things go wrong.

Theories of Harm

We comment below on specific areas of the Issues Statement. The comments relate mainly to 'Theories of Harm' hypotheses 4a and 4c, although some of the points may also be relevant to 1a or 1b.

Hypothesis 4a posits '*Inactive customers reduce the incentives of energy suppliers to compete*'. It is our belief that:

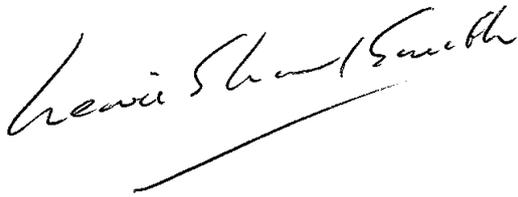
- (i) The historical variety of tariffs has led to customer confusion about which particular tariff is most appropriate to an individual's circumstances.
- (ii) This problem has been substantially alleviated by Ofgem's requirement for the suppliers to reduce tariff variety and explain the simplified range more effectively. Consequently, it seems likely that consumers should now be better able to understand when they could switch, why they should do so and, most importantly for them, whether there would be longer-term, as well as short-term benefits to them.
- (iii) Switching is not the only way to put pressure on a supplier; there are other ones, notably regulatory actions and customer complaints.

Hypothesis 4c posits that '*Regulatory interventions reduce the incentives for energy suppliers to compete*'. We suggest that:-

- (i) It depends on what the regulatory actions are. Ofgem was instrumental in curtailing certain sales activities within the market but that action was necessary to protect certain consumers. However, provided that the sales

techniques are fair for business and consumers, then there would be no impairment of companies' ability to compete.

Ombudsman Services has considerable experience in the field of dispute resolution and further data which we would be pleased to share to help both consumers and businesses within this market. We would be happy to provide clarification on any point in this evidence, or if there is any other way we can help, please contact me.

A handwritten signature in black ink, reading "Lewis Shand Smith", with a long horizontal line underneath it.

Lewis Shand Smith
Chief Executive and Chief Ombudsman
13 August 2014

Appendix 1

About Ombudsman Services

The Ombudsman Service Ltd is an independent company limited by guarantee (not-for-profit) that provides ombudsman services for the energy (including the Green Deal and feed-in tariffs), telecommunications, property and several other 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 9,400 participating companies and last year received over 46,200 complaints, of which 26,760 concerned energy. Ombudsman Services is appointed by Ofgem to be the redress scheme for the energy sector. We have responsibility for complaints about East London Energy, feed-in tariffs and the Green Deal, in addition to our existing role providing the ADR scheme for both energy suppliers and networks. We have a contact centre which provides information and helps those who have difficulty in making a complaint. We provide ADR through different processes, from informal resolution to in-depth investigation. Our decisions (when accepted by the complainant) are binding on member firms.

Our service is free to consumers and paid for by the participating companies under our jurisdiction by a combination of subscription and case fee. While we consult with the sector participants on our annual budget and business plan, the participating companies do not exercise financial or other control over the company. Our governance ensures that we are entirely independent from the companies that fall under our jurisdiction.

Impartiality is not just about independence from the bodies under jurisdiction. An ombudsman does not take sides and must also be able to demonstrate impartiality and independence from complainants. Ombudsman Services achieves this through rigorous processes, evidence-based and clearly reasoned conclusions and consistency of recommendations.

Ofgem requires our participating energy supply and network companies to inform customers with unresolved complaints when eight weeks have elapsed since their initial complaint and give Ombudsman Services' details to them, letting them know that they are eligible to go to the Ombudsman.

In the first instance, every attempt is made to resolve the complaint informally to the satisfaction of both parties. Where this cannot be achieved or the case is complex, it is referred on for further investigation and a recommended settlement issued to both sides.

If the resolution is accepted by the complainant, this is binding and must be implemented within 28 days.

Any award should be proportionate and, as far as possible, put the complainant back into a position as if nothing had gone wrong. Redress cannot include any element of a penalty on the supplier and is only an appropriate recompense for a complainant's inconvenience, time, trouble or expense in dealing with the problem and the company.

The large majority (more than 90%) of all complaints are resolved within six weeks of the complainant coming to the ombudsman.