

Project Manager
Competition and Markets Authority
Victoria House
37 Southampton Row
London, WC1B 4AD

7 April 2016

Dear sir/madam,

RE: FSB response to Energy Market Investigation: Provisional Decision on Remedies

FSB is pleased with the progress and direction of some of the CMA remedies for microbusiness energy customers, particularly around the publication of tariffs and the end to restrictive auto-rollover tariffs. Elsewhere, we were bitterly disappointed to see all references to TPI regulation removed in the CMA's latest report.

Published (comparable) tariffs

FSB urges the CMA to provide greater clarity around their proposals for published tariffs. These will play a critical role in empowering small businesses to understand and compare offers from different companies and make informed, trusted choices in the market. However, the publication of these tariffs will not address the lack of engagement of microbusinesses in the market. Tariffs must be published and promoted in a way that encourages engagement with the market. They must be transparent and allow businesses to compare the offer of one supplier against another in a reasonably informed way.

The CMA has provided a steer that the market requires more tariffs, not fewer. In this context, a variable tariff would at least set a baseline which businesses could compare either against competing variable tariffs or, if they were willing to invest more time, bespoke tariffs negotiated directly with providers (or via TPIs). This transparency would greatly increase their trust that this investment – whilst requiring time away from their business – was worthwhile.

FSB believes all energy companies should be required to publish at least one comparable variable tariff, one comparable out-of-contract tariff and one comparable deemed tariff on their websites. This would provide a benchmark of top-end prices that can be directly compared across the market. More importantly, the onus would then be on the energy industry to persuade small businesses that a more complex, bespoke arrangement was worth the additional time and effort. This could play an important role in segmenting the market and promoting additional services such as energy efficiency support and renewably generated electricity.

It is worth noting that a few energy companies have already started to move towards a quick quote offer of a variable tariff for microbusiness customers. Many microbusinesses will find this type of offer attractive, particularly if their energy consumption is low and the relative benefit of more comprehensive engagement with the market is also low.

It is important to note that comparability of published tariffs must cover the transparency and consistency of the terms & conditions attached to those tariffs. As an example, FSB has become increasingly concerned about the use of security deposits, which some energy providers demand as a condition of service for higher risk customers. We have no issue with providers finding ways to manage the increased risk of default from such customers, and thereby creating additional opportunities for otherwise less attractive customers to access an energy deal. However, we do have concerns about the transparency of these conditions, particularly when they may adversely impact on the most vulnerable businesses in the market.

Whether a business chooses a bespoke or variable tariff, it is clear that additional services (e.g. energy efficiency support, customer service guarantees, smart meter software) will form an important part of the overall package and the value for money that each of these tariffs provides. In this context, it is also important to acknowledge that additional services are not covered by licence conditions and so the quality of these services is not scrutinised by Ofgem. FSB believes this important market factor should be explored in more detail by CMA.

Regulation of Third Party Intermediaries (TPIs)

FSB believes that a proportionately regulated TPI market will benefit both customers and good TPIs alike. A good TPI can provide an excellent service for microbusinesses. However, trust in this industry as a whole has been eroded by a number of rogue TPIs operating in the market. Many businesses have experienced poor service, poor advice, and poor marketing practices from TPIs looking to cut corners and undercut those competitors who operate to a higher standard.

FSB believes that proportionate regulation will cut out the bad and promote the good. We played an active role in Ofgem's cross-industry working group to explore regulation. There was wide (albeit not unanimous) agreement about the problems within the unregulated TPI sector, and the working group made a lot of progress towards a draft regulatory framework. Our understanding was that this was then held back while the CMA explored this issue for themselves. FSB provided CMA with a supplementary submission demonstrating the value of regulation and how it might work. We are disappointed that this has not been acknowledged.

We have already lost a great deal of time on this important area. If the CMA are unable to provide a remedy to address TPI regulation directly, then we would urge them to formally recognise the work that Ofgem has already carried out and provide a strict timetable for Ofgem to investigate this issue and bring forward their own formal proposals. Given the extent of the work carried out to date, and the wide industry consensus towards a solution in principle, we recommend that this process should take no more than a year to complete.

State of the market reporting

FSB welcomes CMA proposals for Ofgem to publish annually a state of the market report. However, we believe this will be a huge missed opportunity if it is limited simply to the areas listed by CMA in section 11.12 (Governance AEC), i.e. energy prices, profits, policy costs and trade-offs, decarbonisation, and trends. We urge CMA to encourage Ofgem to go much further in their state of the market reporting, particularly around key issues such as energy

efficiency, smart meter uptake, energy management, performance of the TPI industry, complaints, and the prevalence of tariff conditions like security deposits.

Furthermore, the state of the market report will only be useful if it provides improved granularity around the impact on different audiences within the market, particularly the segmentation of the microbusiness customers. This segmentation will also be critical for the CMA's proposed requirement for large energy firms to report on their generation and retail supply activities.

Yours sincerely,

Allen Creedy
Chairman of the FSB Environment and Water Policy Unit
Federation of Small Businesses