

Emailed to: EECCenduserrights@ofcom.org.uk

Ofcom
Riverside House
2A Southwark Bridge Road
London
SE1 9HA

11 September 2020

Dear Sir/Madam

Implementing the new European Electronic Communications Code. Revised proposals for annual best tariff information and business customer definitions.

I write in response to the consultation - Implementing the new European Electronic Communications Code. Revised proposals for annual best tariff information and business customer definitions. At Appendix A we provide some background to Ombudsman Services.

Key Points:

Annual Best Tariff Notifications

We agree with the proposal to only send annual best tariff notifications to consumers who have been initially tied into a minimum contract period which has since expired and think it makes sense that this excludes pre-pay mobile consumers.

Revised small business definition

In reference to revising the proposed definitions of microenterprise, small enterprise and not-for-profit organisations from your December 2019 consultation, we understand the rationale for removing the financial thresholds, and simplifying the definitions to make this easier for providers to identify their customers and to provide appropriate services.

However, we also receive complaints from small businesses with more than 10 employees that have experienced many of the same issues as residential and microbusiness consumers. While we understand that larger businesses are more likely to be engaged in the purchasing process, and may use higher capacity or specialised services, nonetheless, we see issues about mis-selling, misunderstandings at point of sale, contract terms and cancellations, so it would seem to make sense to make sure that they benefit from inclusion to the same end user rights.

The pandemic has been a worrying time for microbusinesses (fewer than ten employees) and SMEs (fewer than 250 employees), with many of them not being able to operate their businesses or having to change their business models to comply with legislation. SMEs form the backbone of the British economy and will play a vital role in facilitating the UK's economic recovery. Although our current remit allows us to process complaints from domestic consumers as well as microbusinesses, we cannot accept complaints from SMEs (more than 10, but fewer than 250 employees). At Ombudsman Services, we understand that SMEs share many similarities with domestic and microbusiness consumers



in UK markets and, whilst they are often vulnerable to the same risks, they are not afforded the same protections. SMEs are likely to be particularly affected by the consequences of Covid-19. Throughout the Covid-19 pandemic, we have seen complaints from SMEs which fall outside of our jurisdiction, highlighting a gap in protection. In May 2020, Ombudsman Services commissioned the polling firm Deltapoll to get the views of domestic consumers and microbusinesses on the experiences they had with their energy and communications providers during the pandemic, which demonstrated that the propensity to make a complaint does not decrease with company size. A disputed phone or energy bill could be the difference between an SME failing and surviving. So, it's vital that they have somewhere to go when things go wrong with their essential services.

In 2019, the Financial Ombudsman Service (FOS) had its remit extended so that it could investigate complaints brought to it from businesses with up to 49 employees. This remit meant that around 210,000 more businesses had access to redress. Considering the challenges that many small businesses have faced in recent months because of the Covid-19 pandemic, with a reduced ability to operate, if at all, we think it is an important time to consider how protections can be strengthened and businesses be better supported. We think it is appropriate to retain option 1 as you outlined in your December consultation and retain the headcount threshold of up to 49 staff members for small enterprises. We would be happy to share with you our data and information around this issue.

Please do not hesitate to contact us if you would like further information regarding our response. Our response is not confidential.

Your sincerely,


Director of Regulatory Affairs

For more information regarding this consultation please contact:


Head of Policy and Public Affairs
Ombudsman Services
3300 Daresbury Park
Daresbury
Warrington
WA4 4HS

Appendix A

About Ombudsman Services:

Ombudsman Services 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, communications and an appeals service in private parking. Each scheme is funded by the companies under our jurisdiction and our service is free to consumers. In 2019 we received 157,808 initial contacts from complainants and resolved 88,840 complaints. In the energy sector we received 116,700 initial contacts and resolved 58,034 cases, and in the communications sector, we received 40,184 initial contacts and resolved 17,426 cases. We also received over 84,000 appeals in our private parking appeals service.

We are:

- to our consumers, the people they can turn to for impartial advice and solution that's fair;
- to our partners, the people they look to for knowledgeable and insightful ways to help them reduce complaints by enabling them to make the changes they need to deliver better customer services;
- to our regulators, champions in protecting rights as well as partners in information sharing, we share our analysis so that regulators and business partners can make improvements; and
- to our people, here to enable them to deliver clarity to consumers and partners through meaningful work.