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Economy, Energy and Fair Work Committee
Scottish Parliament
Edinburgh
EH99 1SP

11 September 2019

Dear Madam/Sir,

Consumer Scotland Call for Views

Citizens Advice represents consumers across essential regulated markets. We are the statutory consumer advocate for energy and postal services in Great Britain. We use compelling evidence and expert analysis to put consumer interests at the heart of policy-making and market behaviour.

We have a number of responsibilities, including unique powers to require private and public bodies to disclose information. We tackle issues that matter to consumers, working with people and a range of different organisations to champion creative solutions that make a difference to consumers' lives.

Citizens Advice is pleased to respond to the Scottish Parliament's call for views on the important topic of a new Scottish consumer advocacy and advice body. We welcome the Scottish Government's recognition that the consumer interest in Scotland should be prioritised. This response is completely non-confidential and may be published on your website. If you would like to raise any matter in more detail, please do not hesitate to get in contact.

Our views on the establishment of Consumer Scotland and collaboration with existing bodies

Consumer Scotland represents an opportunity to provide an overarching consumer organisation with the ability to coordinate activities and assist in identifying and prioritising the issues facing Scottish consumers. Citizens Advice will seek to work closely with Consumer Scotland.

It is essential that there are close working relationships between our two organisations during the transition period and beyond. Citizens Advice already has a close working relationship with Citizens Advice Scotland (CAS), which has statutory consumer advocacy roles in the water, post and energy sectors in Scotland. There will also be a need for Consumer Scotland to work collaboratively with CAS, a trusted and well-recognised organisation with an effective advocacy function developed over a long-standing period. CAS has well established links to companies, organisations, and communities as a result of its advice and advocacy roles.

The Consumer Scotland body will have a general function of providing consumer advocacy and advice with a view to reduce harm to consumers in Scotland, increase confidence among consumers in Scotland in dealing with businesses that supply goods and services, and increase the extent to which consumer matters are taken into account by public authorities in Scotland. In sectors where consumer regulations are fully devolved, this approach should deliver clear benefits for consumers. There are other areas, where the Scottish only remit of Consumer Scotland may present some new challenges. Many essential services are regulated on a GB or UK wide basis. Similarly, some functions are reserved to the UK Parliament such as the regulation and sale and supply of goods and services, guarantees, hire-purchase and trades descriptions.

Many businesses operate on a cross-border basis across 3 or 4 nations. Use of GB-wide or UK wide data may provide a more comprehensive picture of consumer detriment across different sectors. In order to achieve the best possible outcomes for Scottish consumers, Consumer Scotland will need to consider how to make best possible use of the available data, particularly where regulation or legal protections are reserved. In such cases, the organisation may need to collaborate with other consumer advice and advocacy bodies.

Potential gaps in support

There is some potential for the introduction of a Scottish consumer advocate to have the unintended consequence of reducing the support that other consumer bodies may provide for Scottish consumers, or to alter their policy positions in relation to them to their potential detriment, if its establishment requires those other bodies to move from having a GB-wide focus to having an England and Wales only focus. An example would be the continuing Hydro Benefit Replacement Scheme, which provides a financial subsidy to electricity consumers in the north of Scotland, paid for by consumers across GB, so that their electricity distribution costs are not as high as they otherwise would be. As a GB-wide advocate, representing both those who receive the subsidy and those who pay for it, we are able to strongly support this scheme, but if we were required to only

represent consumers in England and Wales it would be much harder for us to justify advocating for a cross-subsidy that solely benefited consumers outside that area.

In its current form, the remit of Consumer Scotland only extends to domestic consumers¹. This contrasts with other consumer bodies, such as Citizens Advice, that also advocate on behalf of microbusinesses in the energy and postal sectors. Both the Citizens Advice consumer service and Extra Help Unit provide first tier energy and post advice and case handling services for microbusinesses. Our recent joint research with the energy regulator Ofgem² identified a number of areas where small and microbusinesses have difficulty engaging and obtaining the best value deals. The regulator is currently carrying out a strategic review of the microbusiness sector due to concerns about whether consumers are able to effectively engage in the market and that businesses are paying more than they should for their energy. If Consumer Scotland does not take on an equivalent advice and advocacy role, it would leave a protection gap for microbusinesses in Scotland.

Practical arrangements between Consumer Scotland and other advocacy and advice bodies

The Consumer Scotland Bill provides limited detail about how the practical arrangements will operate between Consumer Scotland and the other advocacy and advice organisations with which it will be collaborating. We understand that the exact working practices of Consumer Scotland may not emerge until the body is staffed, however, we would welcome further clarification on issues such as the prioritisation of consumer issues and their investigation. It is important that there is sufficient time for consultation on the more practical arrangements of how Consumer Scotland will operate to ensure it does not duplicate work carried out by other bodies.

We would also recommend that Consumer Scotland agree Memorandum of Understanding (MOU) with other advocacy and advice bodies, such as Citizens Advice and Citizens Advice Scotland, to help clarify respective roles and activities, avoid any duplication of effort and maximise the opportunities for collaboration.

There may be certain scenarios where it may be more efficient for Citizens Advice to continue to provide regular updates to advice and advocacy bodies about emerging GB-wide issues. An example is the current process used when an energy supplier ceases to trade. Whenever there is a Supplier of Last Resort (SoLR) event, Citizens Advice acts as a conduit between all of the bodies, gathering information from Ofgem, the old and new

¹ [Consumer Scotland Bill, as introduced, 2019, 23 \(1\) \(b\)](#)

² [Citizens Advice, 'Micro and small business engagement in the energy market', 2018, https://www.citizensadvice.org.uk/Global/CitizensAdvice/Energy/Micro%20and%20Small%20Business%20Engagement%20in%20the%20Energy%20Market%202nd%20version.pdf](https://www.citizensadvice.org.uk/Global/CitizensAdvice/Energy/Micro%20and%20Small%20Business%20Engagement%20in%20the%20Energy%20Market%202nd%20version.pdf)

suppliers, the administrator, the EHU and the Consumer Service to ensure that all parties receive up to date and consistent information, which includes the provision of up to date, tailored advice for the organisations that directly advise consumers. This initial process normally lasts for 3 to 4 days as a new supplier is appointed, with Citizens Advice liaising between parties as the new supplier takes over responsibility for customers of the failed company. This established collaboration between the regulator, advocate and advice providers serves to rapidly identify and communicate issues, as well as ensuring that affected consumers receive consistent advice during a stressful period. Citizens Advice will also provide ongoing feedback and insight to the regulator in the weeks and months after a SoLR, ensuring that the regulator is able to adapt and improve its processes ahead of any future supplier failures.

Requirement to provide information

In conversation with Scottish Government personnel, we have understood that there is an expectation that information exchange between Consumer Scotland and Citizens Advice could mirror the relationship between the Consumer Council Northern Ireland (CCNI) and Citizens Advice.

At present, Citizens Advice, CCNI, and CAS have monthly 3-way meetings on postal consumer topics, sharing information about current work priorities. Other forms of joint working include co-commissioning of research projects, where CCNI has contributed funding to ensure the views of consumers in Northern Ireland are captured. The information sharing arrangements in place with CCNI are voluntary and do not include the exchange of personal or detailed consumer data. The exception is where CCNI has contributed funding for a research project, and where they are able to utilise the sample data collected from Northern Irish consumers. Citizens Advice does not have any arrangements in place to exchange information with CCNI on energy issues, as the Northern Ireland energy market is separately regulated.

The energy team at Citizens Advice regularly uses its information gathering powers to request data from Ofgem or companies. Examples include information to inform our supplier star rating, tariff information or one off requests linked to particular projects, such as how suppliers have adapted their communications in response to Ofgem's new customer communication principles or what policies were in place to support consumers in vulnerable circumstances during the smart meter installation process. Before issuing a request to an energy company, we check with Ofgem to see whether they already hold the data. If the regulator has the information, we issue a formal information request to Ofgem. This helps avoid placing undue burden upon industry. Where energy companies operate across Great Britain, it may not be practical or appropriate, in most cases, to

request a breakdown of information by nation, from Ofgem or from companies themselves. Further, we understand there may be restrictions on the information we are able to legally disclose to Consumer Scotland.

It would be helpful to understand more about the Scottish Government's expectations in this area.

We have followed the development of Consumer Scotland with great interest in the past years and look forward to working with the new body.