



**By email only:**

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**18<sup>th</sup> September 2019**

**Re: Flexible and responsive energy retail markets consultation.**

The UIA is a trade association for third party intermediaries (TPIs) in the utility sector. Our aim is to promote and enhance the reputation of TPI's so to give confidence to business consumers who utilise their services. All Members of the UIA must agree and operate to the UIA Code of Practice which in addition to setting the standards to which our Members adhere to, provides redress for consumers should they fall short of standards expected from them.

We have answered those questions which we feel we are best equipped to answer. Our response is not confidential. If you do have any questions, then please let me know.

Yours Sincerely

Rachael Gladwin

Director



## Consultation questions

1. Do you agree with our vision for the future of the energy retail market, the outcomes we are seeking to achieve and our characterisation of the key challenges we need to overcome?

The UIA agree in principle, but do not support the deployment of direct interventions such as price caps to achieve better outcomes for consumers in a competitive market. Such actions have unintended consequences, for instance, dampening competition and innovation within the market.

3. Are there current or emerging harms to energy consumers which are currently out of scope of the regulatory framework? Do these differ for domestic and non-domestic consumers?

Any entity which falls outside of the regulator's remit has the capacity to cause consumers harm because there is no protection or redress for consumers. Long established business models such as third-party intermediaries (TPIs) are an obvious example, with the scope of harm being well documented and so too the calls for their regulation. But as the recent number of supplier failures have highlighted, other entities such as administrators who, because they fall outside of the regulator's rules and protections, have the capacity to cause harm to consumers, as the following article from BBC demonstrates <https://www.bbc.co.uk/news/business-your-money-49599007>. This review therefore is of paramount importance for closing existing gaps in the regulatory space as well as protecting consumers from potential future harms.

With the huge volume of data likely to be generated, and a move towards a presumption that data is open as espoused by the Energy Data Taskforce, robust protection of consumer data, both personal and commercial is paramount to ensure that consumer data is not compromised in any way. From our experience within the TPI market, much of the consumer harm is as a direct result of abuse of consumer data, where access to industry data such as ECOES and DES has been compromised. Haranguing and harassment of business consumers is a widely known practice and the cumulative effect has done considerable reputational damage to both the TPI sector and the energy industry as whole.

We hope that current industry initiatives such as Centralised Switching Service and Retail Energy Code will ensure that access to data is not the gift of anyone other than the person that owns it, thus removing the supplier as gatekeeper (always a conflict of interest) and levelling the playing field. However, the UIA is concerned that without oversight, the costs for third parties accessing industry data on behalf of their consumers and/or the systems required to do so, could discriminate against small to medium sized TPI's. Any charges for accessing data and compliance, should be at cost and proportionate to ensure a diverse and active TPI market thus promoting competition which should lead to better outcomes for consumers.

The CMA in their Energy Market Investigation issued remedies to improve competition and engagement for consumers. Two of those remedies; the Microbusiness Order and ECOES/DES order, specifically targeted online activity and access. While we recognise that this is, for many, is a common way of doing business and the role of the Price Comparison Websites (PCWs) in the energy landscape, it is important that neither Ofgem or Government either wittingly or unwittingly, steer consumers towards interacting with TPI's in a particular way. Certainly within the business sector, research has shown the consumers preferred modus operandi is the telephone, where they value contact with a person – particularly where discussing complex tariffs. Despite the growing presence of the internet as a means of conducting business, consumers are still more likely to conduct business by telephone and it is important that this fact is not excluded from any future considerations regarding how the market may evolve. The third CMA remedy; the Database order,

which seeks to reach out to disengaged consumers to prompt them to enter into supply contracts , has seen Ofgem assume the default position that a disengaged consumer has given consent to be contacted unless they have actively opted out. The UIA believe that it should be a personal choice and the unintended consequence of attempting to chivvy the consumer along could alienate them still further.

The growing trend in subscription style services and auto switching sites, while convenient can encourage consumers over time to become complacent and therefore inactive. Consumers could lose sight of who is supplying them, how much it costs and who is accountable should things go wrong. Without appropriate checks and measures in place, this kind of service could be ripe for abuse. Again, the UIA welcome this review as an opportunity to address these issues.

Research has shown that Micro-business (MBC) and SME consumers are just as likely to suffer harm as domestic consumers. We have long argued that current protections do not go far enough and feel that Ofgem's attempts to segment the market, particularly around protections for MBC and SME has caused a lot of confusion. We feel that it would be simpler and fairer to adopt the principle that consumer protection is for everyone and all those who deal with consumers in whatever capacity should be adhering to the same overarching standards. Too often in trying to determine a threshold (as is certainly the case for MBC) to determine who requires help and who doesn't, means that some businesses fall through the gaps. If you must draw a line in the sand in terms of sectoral support then don't set it at the MBC threshold but apply at top end of SME. I & C business generally have the resources, expertise and influence to address any issues for themselves.

4. Would it be beneficial to allow suppliers to specialise and provide products and services to targeted groups of consumers? If so, how can this be delivered while balancing the need for universal service?

Yes.

Possible options could be:

- The creation of a not for profit, government owned supply company to provide a universal service.
- Develop a competitive auction for suppliers to bid to become the default universal service supplier. Any supplier that tenders for this must have an incentive to do so, whether it be the right to hold that status over a set timeframe, or for any consumer debts to be underwritten by the State.

5. Are incremental changes to regulation sufficient to support the energy transition and protect consumers? Or does this require a more fundamental reform, such as moving to modular regulation?

In the short to medium term, incremental changes will best serve a rapidly changing energy landscape as the end picture is uncertain. This would allow industry to test whether such changes support both Ofgem's principle objective and meet the Government's ambition to harness innovation to improve consumer outcomes.

In respect of consumer protection under incremental reforms, the UIA believe an authorisation regime would ensure that both existing and new forms of TPI's are captured. The administrative challenge could be overcome by appointing alternative bodies to be responsible for the

administration of the scheme. There are already a handful of codes in existence which seek to ensure best practice amongst TPI's . Ofgem and BEIS should explore the possibility of allowing those with codes they approve, to operate under the authorisation regime and signpost consumers to those regimes so they are aware of their existence and can learn about what protections are in place.

In the long- term fundamental reform will be necessary.

6. Are there any other potential market distortions we should be considering as part of our review?
7. Would removing the thresholds for the Energy Company Obligation and Warm Home Discount help remove imbalances in the retail market, and could this be done without significantly increasing barriers to supplier entry or expansion in the retail market?
8. How could the delivery burden on suppliers from the Energy Company Obligation be reduced, for example through the introduction of a buyout mechanism?
9. What effect does the range of Energy and Climate Change Policy Levies have on the retail market?
10. What actions could government take to reduce any negative impact of Energy and Climate Change Policy Levies?

In response to questions 6 to 10, it is our belief that the government should stop treating suppliers as tax collectors or bestow on them duties that are the responsibility of the state. With the supplier hub model being called into question, now would be the time to consider a radical overhaul of how the government meets its societal and environmental obligations and deliver infrastructure projects that are of national importance. All energy and climate change policy levies and obligations should be removed from consumers bills and placed under general taxation, that money ringfenced and allocated accordingly. Such action would remove market distortion and barriers to entry and improve transparency around energy pricing.

Monies collected under WHD and ECO schemes should be administered by a centralised source such as ESERVE, and redistributed to Local Authorities for example, who are better placed than a non-regional energy supplier to identify, administer and realise WHD and ECO obligations and maximise the efficacy of such schemes. LA's are also more likely to be trusted by consumers than suppliers and are not compromised by conflicting commercial interests. Furthermore, under proposals mooted by the Energy Data Taskforce, LA's through data-matching could identify the most vulnerable and provide a more tailored approach.

11. Do you agree that now is not the time to make further changes on system and network cost recovery, metering and access to data as part of this retail market review?

Yes