

Dear Jonathan,

I am managing director of Eyebright LTD, happy for you to contact me at any point in the future.

While the proposals are in good faith and there is an appreciation that there is a requirement to create controls and safeguards; we believe that there will be collateral damage and unintended consequences by the speed, breadth and scope of change.

Ultimately the health of the TPI market is crucial to maintaining a competitive retail market for micro businesses, and the proposals as outlined will be the detriment to many ethical TPIs. While there is a need to curb the activity of rogue TPI's, the proposals as stand represent a real risk to competition. Overall, this represents more of a risk than the current status quo.

Timeline

What is suggested represents a huge upheaval to the market. The energy market almost invariably fails to implement systems at the speed expected in the context of regulatory change.

The speed of timeline is too ambitious and there is too many major changes being implemented concurrently, and imposing this will cause collateral damage. As well as the speed of change the timing is problematic too. Smaller less capitalised TPI's and suppliers, particularly those exposed to hospitality and retail are in a distressed position because of the impact of covid. When the proposals are formalised there has to be sufficient time for the supplier to react and implement all the operational & IT changes required, as well as communicate it to TPI's. TPI's then have to have time to adjust operations, IT systems, communication and compliance practices as well.

On this basis we would suggest the lack of termination requirement to occur April 2022, then 6 months later for the cooling off measures and a further 6 months for commission disclosure. This would give adequate time to react. It would also allow a test and measure approach.

Doing everything concurrently is an unnecessarily reckless approach and will make it difficult to establish impact of individual measures.

Commission disclosure

We believe this should be communicated by the actual mechanism of payment. If it is a fixed payment it should be expressed as such, but fundamentally it would be inaccurate to express an uplift methodology in p/kWh into a fixed value as this is inaccurate, and will typically on average will be less than forecast as although some meters will consume more than forecast the impact of meters failing to complete contracts through business failure and change of tenancy has a net suppression on consumption. Not displaying it by methodology would be prejudicial to all parties. If it is not a fixed fee, it is inappropriate to represent it as such and seems to be taking an erroneous application of FCA practices, but these products are typically fixed not variable commissions. If commissions are contingent on the contract continuing to be in place year on year, then they should be expressed annually. Again only fixed commissions which represent a value not impacted by fulfilment of term and are not impacted by consumption fluctuations are the only commissions that should be reflected by a fixed monetary value.

With regards to the unethical behaviour in the market, an area which I feel is not focussed on is that TPI's operating with obscene uplifts require a supplier to facilitate these contracts.

TPIs, even with regulation have much lower barrier to entry than suppliers. I believe as an alternative that a more effective measure would be instead of looking at individual TPIs commissions on individual contracts that the disclosure should relate to what the maximum commission a supplier would facilitate. This would put more onus on suppliers to not lean on unethical routes to market. There already is much evidence of brokers and sub-brokers setting up to transact in an exploitative way for short term game. Commission disclosure relating to the suppliers policies on a maximum “up to” basis would provide more accountability to micro-businesses as suppliers couldn’t be ambivalent and blame TPIs.

Kind regards

Jamie Newall

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