

Ms Emma Kelso  
The Office of Gas and Electricity Markets  
9 Millbank  
London  
SW1P 3GE



24<sup>th</sup> November 2008

energysupplymarketsp@ofgem.gov.

Dear Emma

**UIA response to The Competition Probe initial document**

The Utilities Intermediaries Association (UIA) is a "not for profit" Trade Association for Third Party Intermediaries (Tpis) which promotes and enhances the reputation of Tpis in the Energy Industry. It is the only organisation representing Tpis and by its actions, aims to also give confidence to consumers who use their members' services.

The UIA Council has met and discussed the proposals in the OFGEM consultation and would like to suggest several major actions that could have an effect on the issues raised in your report and maybe make it unnecessary to do a number of the detailed proposals in the Probe. A paramount issue in all markets appears to be the lack of engagement by the consumer and the UIA would suggest that this is because the market construction is complex and confusing. The more the market is forced to attempt to explain its machinations to the consumer the more confusing it will get. The following actions we believe will help this situation and address some of the specifics mentioned in the report.

Proposal 1: The UIA recommend that "roll over" contracts are banned and that the industry reverts back to the practice of fixed term contracts that expire on a date and from that date "out of contract" rates are charged. At least one of the major six already operates in this way. Every bill that is delivered containing these enhanced rates should have a message drawing attention to their inflated value. It is then up to the customer to engage with the market and make a decision. This will also have the affect of reducing the number of objections, as customers in this situation could move supplier at any time, provided there was no overdue debt. The criticism by the consumer of confusion would also be alleviated because the end of contract processes would be very straightforward. It would eliminate any need for termination periods or "retention windows".

1a: Should this not be acceptable then roll over contracts should only be allowed for up to 6 months and each bill received during this period should contain a prompt for the customer to take action. After this 6 months the contract would revert to "Out of Contract Conditions"

Proposal 2: Verbal Contracts appear to be the origin of the majority of complaints regarding the mis-selling by suppliers and brokers in the SME sector. UIA would propose that there should be a 7 day cooling off period for verbal contracts. Ofcom already operate a similar cooling off period for small businesses and verbal contracts in the telephony market. Uia believe there are legal problems with a written contract being provided as confirmation of a verbal contract. It should therefore be mandatory for suppliers to publish their standard terms and conditions clearly on their web sites and customers have the ability to consult these Ts and Cs during the 7 days and do any other checks on market prices they may wish to do. Suppliers should insist (via telephone Scripts) that Tpis identify their organisation, give telephone contacts, addresses and

P.O. Box 355  
Tunbridge Wells  
Kent TN2 9ED  
t. 01622 738968  
f. 01580 879839  
e. [UIA@tapiola.demon.co.uk](mailto:UIA@tapiola.demon.co.uk)  
[www.uia.org.uk](http://www.uia.org.uk)





which supplier or suppliers they are working for. Should the supplier wish to confirm the contract offer in writing, he can do so during this 7 days and it actually then becomes the new contract. At anytime during this 7 day period the customer can cancel the contract by an agreed means. An important side-effect would be that it would encourage customers to engage with the market and check prices, something that is not encouraged with the current verbal contract processes. This proposal would also give customers the opportunity to check the probity of a Tpi.

2a: Should the above not be accepted then there should be an industry wide process for dealing with verbal contracts which involves:

- recordings of all contacts with a customer appertaining to a sale
- these recordings sent to a supplier before a supplier accepts the contract
- an agreed level of checks to be made on these recordings (the financial sector has a similar scheme)
- easy access to recordings for the customer
- suppliers taking complete responsibility for sales of its products by a third party on the suppliers behalf.

Proposal 3: All contracts supplied to customers that have been made through a broker should carry on them the fact that a commission has been paid on the contract (Not MAY have been paid). The UIA would support a licence condition to this effect for those suppliers who provide written contracts. This must be industry wide and not optional. We would NOT support an optional scheme or the declaration of the amount of fee, which is a commercial matter between customer and broker.

Proposal 4: As the only self-regulatory organisation working in the SME and I & C markets and understanding Consumer Focus's initial concentration on domestic and disadvantaged consumers, the UIA believes itself to be best placed to introduce an Accreditation Scheme for Business Switching Sites and is consulting on a Draft Document at this time.

Proposal 5: Glossary. Ofgem should define the various names in use i.e. Agent, Tpi, Broker, Consultant, as a first step to the customer understanding their various activities. The Tpi name was introduced about 4 years ago and encompasses many types of operations. These terms were not defined in the OFGEM Probe Glossary.

#### *A Code of Practice to Govern the Objections and Switching Process.*

The process of objections has already been reviewed and this should have been sufficient. However, if it is felt there should be a Code of Practice then we would support this action. A multitude of advisory documents can be introduced but if they are not policed or enforced then they have no effect except to frustrate the customer. The UIA would recommend a substantial penalty charge levied for all wrongful objections, together with the re-imbursement of charges incurred because of any such objection.

A similar guidance document for Change of Tenancies should be provided for gas as is in place in the electricity industry.

#### *Dealing with SME Complaints*

The UIA receives many complaints about the actions of Tpis and suppliers. There is a process for dealing with supplier complaints, either through direct contact with the supplier or through the Ombudsman Scheme and in some instances as a breach of licence condition to OFGEM.

As far as Tpis are concerned, if they are not a member of the UIA, there is nowhere that a customer can go to complain, other than the supplier, if, indeed, a customer knows who to contact. OFGEM should clarify, assuming it is correct, that as the Estate Agents and Redress Act refers to "licenced products" suppliers are responsible for the actions of those Tpis who sell product on their behalf. Where appropriate consumers can complain to the Ombudsman scheme regarding behaviour of such Tpis. It should be made clear



that there are a large number of Tpis who work for the client and not the suppliers and so would not be covered by this interpretation.

#### *Evolving Market*

There are some fundamental problems to customers who wish to compare the market, that need to be acknowledged and addressed, if OFGEM consider it necessary.

- The practice for Tpis of working for only one or two suppliers is increasing because suppliers cannot justify quoting for ALL business to ALL Tpis and are choosing those that fit their business best. Clearly this inhibits the customer being able to compare prices across the market.
- Some suppliers are insisting on a volume of business per month before they will deal with a Tpi. This could incentivise the Tpi not to offer the best deal to the consumer. There is also the advent of "super brokers" who "collate" business for a supplier and administer a larger commission to two brokers.
- Customers are unlikely to get quotes in the SME sector direct from a large number of suppliers.
- Current switching sites do not obtain quotes from the whole market.

This means that maybe customer "cheapest price expectations" should be reduced, different ways of assessing offers should be considered and other factors as well as price be taken into consideration. The idea of Value for Money should be given more prominence.

#### *Data*

Data that is collected for data verification is being used in the industry for marketing. MRASCO should ensure that this activity is ceased forthwith and explore ways of making ECOES available to Tpis for the bona fide use of data verification thus improving data quality throughout the industry.

Although the UIA can seek to persuade those outside their membership to abide by these rules, it can only be enforced by the Redress Scheme if a Tpi is a UIA member. With this Code goes an Accreditation Scheme and we would encourage OFGEM to direct Tpis to join the UIA and suppliers to recommend that Tpis are a member of an Independent Redress Scheme. The Council of the UIA as Custodian of the Code of practice would consider any further changes, to its code suggested by OFGEM, provided it did not put its members at a commercial disadvantage to those Tpis outside the organisation.

The UIA does take its role seriously and does have the means of dealing with complaints against members and therefore we do need suppliers to give more credence to the accreditation of UIA membership and an acknowledgement that, although at times we will not agree, we can work together for the benefit of all parties in the market place. Equally we do need OFGEM and others to promote membership and customer recognition of the UIA Accreditation. The UIA has addressed virtually everything that has been raised by various bodies and taken any action that was necessary.

We hope these comments prove to be helpful.

Yours sincerely

For and on behalf of the Utilities Intermediaries Association

  
R Sinden  
Operations Director.