

14 February 2012

## The Retail Market Review: Non-Domestic Proposals

We are a an energy consultancy company employing 57 staff . There are two principal elements to our business - a procurement section where we place electricity and gas contracts on behalf of customers and an energy services section that deals with legislation and energy management tasks. Income from the procurement arm comprises commission payments made by the energy supplier that wins the business. Energy services' customers are billed directly for the services provided. In both cases customers typically comprise private limited companies or public sector organisations. We do not provide services to private individuals.

Any legislation/code of practice being considered should reflect that as a TPI we operate in two different ways and that an all encompassing set of rules could make it very difficult for us to operate a competitive and meaningful business for our customers.

Our thoughts on the 5 questions raised are as follows:

Question 13/14: We feel a new condition to the supply licence in the form of the proposed new Standards of Conduct would help prevent harmful sales and marketing activities in the non-domestic sector. Although Suppliers currently have the ability to not use a TPI if they believe they will not represent the industry in good light, some Suppliers exercise this option while others will accept contracts from all sources.

The proposed 'Standards of Conduct' summarise how we currently operate.

Our comments on the three elements raised under section 4.7 of your document are as follows:

- a) We are happy to include in our report to the customer all the Suppliers we have asked to tender. We used to do this as a matter of course but removed this element of the report as we were continually being asked why certain Suppliers had not responded with a price. Customers were not so keen to learn that some Suppliers were not interested in bidding for their business.

- b) We operate in accordance with a standard letter of authority that we request our customers to issue on their letterhead. This sets out how we earn our commission as follows:- 'We understand *energyTEAM* receive their remuneration through a uniform brokerage commission paid by the supplier(s) who successfully wins our business'. We feel that this deals with the issue of informing the customer how we are remunerated.
- c) We believe that the recording of telephone conversations is not appropriate in the sector of the market in which we operate. Every time we place a procurement contract we follow the same procedure. Tendering a customer's contract is carried out via email to Suppliers. We request prices to be sent to us on a certain day in order that we can compile all the offers into a standard report for emailing to the customer. This ensures all the Suppliers are given equal opportunity to win the business and we can compare each offer ensuring they are all operating on a level playing field. After the report is sent out, we telephone the customer to discuss the various offers. Following these discussions the customer will email to us the signed paperwork that we will then forward onto the Supplier that has successfully won the business. This is normally the Supplier's own paperwork. We cannot see how the recording of telephone conversations will help protect our customers as we are not asking for any verbal agreements and more often than not, we have to produce many reports before they are happy to sign a contract with a Supplier, thus giving them plenty of time to decide what exactly they wish to do. In addition to unnecessary cost, it would simply not be practical given that we have personnel who work from home as well as while they are on the road via mobile phones.

Question 15: An accreditation scheme may reduce harmful TPI activities. Clearly key issues would be how it is communicated to customers and how it is policed.

Question 16: The key elements of a code of practice in our opinion comprise:

- (i) customers to be made aware that brokers earn a commission via the Supplier who wins the business;
- (ii) disclosure of whether a broker covers the whole market or only deals with selected Suppliers,
- (iii) that there is a body behind the accreditation scheme that has some teeth to take action against unscrupulous brokers; and
- (iv) that Suppliers' prices are compared on a like for like basis.

Question 17: We do not feel it should be a requirement to disclose what the commission rates are, although we do believe a TPI should disclose commission rates to a customer that asks for this information.

Overall, however, we believe that it would be disproportionate to introduce both new Standards of Conduct and a requirement to belong to an accredited Code of Practice. It seems to us that the majority of TPIs will have relationships with Suppliers and would therefore be subject to the Standards of Conduct.

At the very least, if Standards of Conduct are introduced, their effectiveness should be reviewed before compliance with a Code of Practice is made mandatory.

We understand that there may be a meeting to discuss the feedback you have received and we would welcome the opportunity to attend such a meeting.