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Ofgem Consultation - The Retail Market Review: Non-domestic Proposals
Consultation reference 157/11

Power Efficiency, a Balfour Beatty company, is an energy procurement and carbon reduction consultancy. It helps corporate and public sector clients improve their energy efficiency, reduce costs and shrink their carbon footprint.

Introduction

We have six key observations to make with regards to OFGEM's Retail Market Review and the non-domestic proposals contained within it. These are that:

- The review seems to have misunderstood the role Third Party Intermediaries (TPIs) play in actively encouraging choice in the market – thus stimulating competition amongst energy suppliers.
- There appears to have been insufficient consultation with TPIs in the preparation of the review. An implication of the report is that TPI activities might lead to a reduction in customer swapping in supplier choice and, therefore, a reduction in competition. This is despite the significant role TPIs have provided in this marketplace in actively educating clients about choice.
- Whilst it is clear from the review that OFGEM is looking to enable customers to switch supplier more easily, it fails to recognise the role responsible TPIs already provide in facilitating and enabling this choice.
- The review is in danger of missing the opportunity to create a universal Code of Practice for this market which should apply equally to all TPIs and the opportunity that sits with this to create a proper accreditation scheme to cover all TPIs operating in this sector.
- It is important for larger TPIs like ourselves to be clearly independent of the supplier and, therefore, the introduction of a set of rules for TPIs to observe should be applied directly to them and not via suppliers.

- The introduction of a universal Code of Practice should be used to help differentiate fully independent TPIs (those that will facilitate access to a good range of suppliers without financial favour) from those that might operate in a less than fully independent manner.

Our submission

We have largely, but not entirely, limited our response to section 4 of the review, which relates to Third Party Intermediaries (TPIs).

Power Efficiency believes that the consultation process has so far failed to take sufficient views directly from the major TPIs (Energy Consultants) in a consultation where TPIs feature highly and will be impacted significantly.

There are as covered in the consultation paper different types of TPI. Power Efficiency operates within the sector, acting mainly for medium to large energy users, where TPIs contract directly with end customers to provide a defined level of service.

We access the market to obtain the 'best' solution for our client.

Our fees will either be paid by way of a commission from the supplier (often the customer's preferred option) which is then added to the customer's bill or by a fee levied directly to the customer.

Our fee is independent of the choice of supplier and, therefore, we have no conflict of interest when recommending the best supplier for the customer. We are at no stage an agent for any individual supplier.

When considering introducing some sort of control of TPIs' sales and marketing activity to the non-domestic sector, it is difficult to draw clear definitions of 'smaller business users' that might benefit from such TPI control. Therefore, we believe that in this context such a Code of Practice should apply to the business sector in general.

It is important for larger TPIs like ourselves to be clearly independent of the supplier and, therefore, the introduction of a set of rules for TPIs to observe should be applied directly to them and not via suppliers.

Power Efficiency procures a contract for supply for its clients only after following a clear brief from the customer and only after also having accessed the market to do so.

We might also take exception to the implied suggestion in the consultation that TPI activities might lead to a reduction in customer swapping and therefore competition. When markets were deregulated during the 90s, it was largely the activities of a somewhat smaller number of such TPIs which promoted and 'educated' customers as to what might be available in these markets. Some such TPIs went out of their way to run seminars promoting competition throughout the UK for this purpose. Today, whilst we can accept that a small number of TPIs have caused some damage by their method of operation, the majority in this sector do independently promote competition and, therefore, potential customer swapping.

The introduction of a universal Code of Practice should be used to help differentiate fully independent TPIs (those that will facilitate access to a good range of suppliers without financial favour) from those that might operate in a less than fully independent manner.

It should be remembered that business customers continue to seek support and advice as well as carrying out the procurement transaction from TPIs in the medium to larger end of the market. Their role in this market is highly significant and whilst we agree that more control is required, this should not impede TPIs from continuing to be innovative. Their role includes seeking additional ways of benefiting the business community in areas beyond procurement, seeking to minimise energy usage and therefore reducing emissions. More than 60% of this market sector use TPIs to manage procurement.

Controls must be seen to improve the customer experience, rather than inhibit the actions of those professional bodies whose role is to ensure that consumers get the best from the supply market. From this consultation paper it is clear that OFGEM is looking to enable customers to switch supplier more easily, a major facilitator of this is those TPIs that offer an informed, professional and independent service to consumers.

Power Efficiency believes that an accreditation scheme to cover all TPIs operating in this sector should be introduced covering a single well thought through Code of Practice and will do all that it can to work to this end. We will engage with OFGEM, other consultancies and consumer groups as required.

Section 5 of the consultation covers Standards of Conduct with proposed new standards. We believe that these could and should apply equally to all TPIs in any such CoP. In addition Power Efficiency believes in transparency **to its clients**, covering areas such as:

- Written agreement on levels of service to be delivered and cost
- Fixed-term contract
- No restriction at or near end of contract
- Supply contract signed individually with supplier
- A declaration of full (supplier) market access
- No payment to be received from any other source, other than that as declared.

In our one deviation from limiting our response to matters relating to TPIs, we would make the following observation:

We believe from our experience of working for and alongside business users, that OFGEM should indeed review the use and in particular the level of out of contract and deemed rates. From our experience these often bear little correlation to any market rate even allowing for the individual supplier's own additional costs of supply in an overrun and non-specific contract position. These rates are frequently unreasonable and could be viewed as less than ethical and certainly do nothing to improve the overall customer experience. However, it should be noted that these comments do not apply to some suppliers.

When we have raised our concerns with OFGEM, we have been disappointed by its reluctance to investigate and we know some very large direct customers have similar opinions and experience to our own.

Supplier objections, which can be linked with the above, again as clearly mentioned in the consultation, require strong intervention to ensure that these are purely on the grounds that are currently laid down. You highlight that some suppliers quote that specific suppliers regularly object, for what might be dubious reasons. This will have the effect of potentially involving the

incoming supplier in additional cost whilst possibly pushing the customer into a deemed rate situation, and suggests a major problem. TPIs from their experience are in a position to verify this information and view.

Power Efficiency would welcome the opportunity of meeting with OFGEM individually and collectively at any such meeting as mentioned on page 6 of the consultation.

We would individually request an early meeting so that we may expand on our views.

Conclusion

We would ask that OFGEM:

- Urgently reconsiders the contents of its review.
- Meets with Power Efficiency and other TPIs so that we can have the opportunity to expand our views in more detail.
- Considers the proposal that we highlight for a universal Code of Practice and the introduction of a new accreditation scheme for TPIs operating in this sector.
- Delays further publication of the review until such time as this consultation is complete.

Yours faithfully

A W Gibbons
Director