

OFGEM Retail Market Review – Updated proposals for businesses

Third Party Intermediary Details

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Response Date: 21 December 2012

Please note that Smith Bellerby Ltd is a member of the Association of Cost Management Consultants, which has existed for over ten years. We have 25 member organisations ranging from single person consultancies to multi-million pound, multi-partner practices. Some members focus exclusively on energy procurement, but the majority offer a broader range of services to their clients, which may extend to other areas such as water, telecommunications, rent, rates etc

The ACMC has its own Code of Conduct – attached, which is clear, simple and not too lengthy. Perhaps this could be used as a starting point for the TPI Code currently under discussion.

I wish to comment on Chapter Six of your consultation document as follows:

Chapter Six: Third Party Intermediaries

Question 19: Do stakeholders agree with the proposal for Ofgem to develop options for a single Code of Practice (the Code) for non-domestic TPIs? Yes – the alternative of many, separately generated / regulated COP's would be so confusing as to be of little use or benefit to clients.

Question 20: Do stakeholder consider the Code should apply to all non-domestic TPIs (including those serving small business and large businesses)? Yes, provided it is not too costly to participate and that a form of words can be found which accommodates the differing sizes of TPI, the differing ways in which they operate and the range of services which they offer to various market sectors. It is particularly important that the Code makes a clear distinction between TPI's who operate on behalf of their clients with a clear mandate from them (in the form of a letter of authority) to obtain quotes from suppliers on their behalf and TPI's who work as supplier agents, selling directly to businesses.

Question 21: What do stakeholders consider should be the status of the Code, the framework in which it should sit, and who should be responsible for monitoring and enforcing the Code? I would like to see the Code monitored and enforced by Ofgem and suppliers required to work with any TPI who complies with the Code.

Question 22: Would you like to register your interest in attending the TPI working group? Yes, I am interested in attending the TPI working group.

Question 23: What issues should Ofgem consider in the wider review of the TPI market? What are the benefits and downsides to looking across both the domestic and non-domestic market?

In terms of broader issues, the key concern for me is one of market power and the role which TPI's can and should play in ensuring that smaller client's are able to negotiate with suppliers from a position of knowledge. My experience, is that some suppliers would prefer NOT to have to deal with TPI's and make it harder for TPI's to interact with them on behalf of their clients. One example of this is with accepting termination notices – some suppliers will not accept a termination notice from a TPI unless the letter of authority from the client contains the exact form of words which the supplier requires. Since each supplier has its own form of words, this makes it difficult for a TPI to comply – not impossible, just difficult.

I can see that there may be similarities between the domestic market and the smaller end of the SME market in terms of problems encountered by customers. If it is possible to produce a CoP which suits all TPI's operating across the broad spectrum of the non-domestic market, then it may also be possible to extend to the domestic market as well. It may be possible to generate a CoP which suits both market sectors. However, since Smith Bellerby does not operate in the domestic market , I cannot comment further.



CODE OF CONDUCT

1. ACMC Members are expected to comply with this Code of Conduct.
2. Members will seek to build sustainable business relationships based on honesty, integrity, openness, and fairness in their dealings.
3. A Member/Client Agreement will comprise at least -
 - A scope
 - A period of validity
 - Duties of Client and Member
 - Basis of fees / charges
 - Cancellation and termination clauses
 - Mutual confidentiality clause
4. Members have an obligation to disclose the source of fees to the appropriate Client.
5. In most cases information supplied by a Client will have been disclosed under a Confidentiality Agreement. Regardless of the existence of such an Agreement Members are prohibited from making use of information except for the purpose it was provided. In particular, information provided by a Client must not be used in an inappropriate manner, or to the detriment of the Client.
6. Members recognise the importance of communications in maintaining a good business relationship. To this end Members will maintain appropriate communications with their Clients.
7. Clients should be able to make decisions based on good quality information presented clearly and concisely, in a timely manner, and with neither positive nor negative bias.

In the event of Complaint -

8. The ACMC will endeavour to resolve a complaint made against a Member in relation to the Code of Conduct.
9. Complaints should be directed in the first instance to the Member. The ACMC will consider a complaint only when the Member has had sufficient opportunity to answer it.

10. In the event that the Client remains dissatisfied then a complaint may be sent to the ACMC Disciplinary Council via the 'Contact Us' link on the ACMC website: <http://theacmc.co.uk> or by post to the Treasurer, The ACMC, 7-8 Abbey Court, High Street, Newport, Shropshire, TF10 7BW.
11. No complaint against a Member will be considered if the Client has failed to comply with their duties under the relevant Member/Client Agreement.
12. Should the Client of a Member complain to the ACMC that a complaint has remained unresolved then the ACMC will contact the Member and agree a course of action. The Client will, in turn, be advised of this action by the ACMC.
13. If the ACMC becomes aware that a Member is not meeting its obligation to their Client then disciplinary action will be instituted. Depending on the seriousness of the shortcoming this may take the form of -
 - A formal letter of discipline
 - A Disciplinary Council Meeting with sanctions
 - Suspension from the ACMC
 - Dismissal from the ACMC