

Question 1:

Do you agree with the scope and range of TPIs operating in the energy market, from the information provided? Do you have any further views on this?

Response:

It is our understanding that the role of the TPI would be looked at in terms of the nature of their business in relation to the setting up and managing of energy procurement contracts. However although the scope appears wide, as many TPI's involved in energy procurement can and do access and approach customers via a number of related services such as energy efficiency, bill validation, meter licensing etc we agree that this has to be taken in to consideration in the consultation. We believe however that the scope of the project should look at Industrial and Commercial (I&C) customers not domestic as there appears to be adequate protection mechanisms in place for the domestic customer in relation to TPI and their selling approaches.

Question 2:

Do you consider our understanding of consumers' experience of TPIs in the retail energy market is accurate?

Response:

In our experience, organisations that have had a bad experience with a TPI, do not in general like to publicise it - especially if they are public sector buyers. However it is interesting to note the figures used in 3.12 of 40 % and 11% of all enquires to Citizens Advice and Consumer Focus show a high level of concern which tends to reflect a more accurate experience of poor performing TPI's.

■■■■'s experience has focused on responding and reacting to misleading claims by TPI's aimed at confusing the customer in order to play on their lack of knowledge and understanding of the total energy process and not making clear and/or hiding the level of charges associated with their service via the suppliers energy invoices. Additionally ■■■■ has seen an increase in the number of TPI's approaching public sector customers in a manner that attempts to circumvent EU procurement rules, thereby exposing the public sector to non compliance and risk of legal challenge.

Question 3:

Do you have further evidence to share regarding consumers' experience of TPIs in the retail energy markets?

Response:

■■■■ holds customer submitted evidence of poor TPI experiences and we would be willing to share with Ofgem on a confidential basis.

Question 4:

What are your views on the existing regulatory measures applying to TPIs?

Response:

For non domestic customers there are no regulatory measures currently in place. In relation to this area none of the current self regulatory/voluntary schemes provide the necessary clarity, transparency, consistency or strength in order to address the issues being experienced in the non domestic market and we believe that there is a clear need in the market for this to be addressed by Ofgem at the present time.

Question 5:

Do you consider the current formulation of SLC 25 may be acting as a barrier to the development of more face-to-face multi-party TPI activity?

Response:

NO. It is our understanding that SLC 25 relates specifically to domestic customers and therefore does not have any effect for non domestic customers.

Self regulation/voluntary codes of practise for the TPI market have been attempted in the past and have been shown to fail or be subject to misuse. At this stage and in order to prevent any further customer confusion in our option only a change in the supplier licence code will address and resolve the problems of poor TPI conduct.

Question 6:

What are you views concerning our near term work to mitigate consumer harm and promote trust in the TPI market?

Response:

Our concerns are that Ofgem focuses only on the current self regulatory/voluntary code of practice which whilst being the cheapest and possibly quickest to establish has been shown to be ineffectual in terms of customer assurance. We believe that a market constant approach, regardless of size of TPI, should pursue in order to provide customer confidence and assurance across the whole sector. This would also support a single approach to management and control and we believe this can only be achieved through changes to the supplier code ensuring full transparency of costs and charges regardless of TPI status or size of organisation.

Question 7:

Are there any further areas we should consider in the near term?

Response:

We would suggest that Ofgem also consider reviewing:

- The selling and promoting of collective switching and the promoted facts around additional savings.
- The methods used by TPI's in relation to guarantees of better prices - in our opinion this may be seen as a form of miss selling if the prices/charges are not transparent and are hidden elsewhere in supplier invoices.

Question 8:

What are your views on the potential wider scope of third party opportunities as a result of Energy market developments?

Response:

The market developments will in our opinion open up the scope of TPI involvement both in direct procurement of energy as well as energy related services. It is viewed that this will be a strong development areas for numerous TPI's and as such it is important that the processes and appropriate controls are in place now covering transparency of charging etc in order to prevent problems moving forward.

The appointment of a TPI by a public sector customer must be fully compliant with EU procurement regulations and UK Government procurement guidelines. Failure to do so places the customer at risk of legal challenge. It is our experience that TPI's generally understand EU procurement regulations and public sector procurement guidelines and as such knowingly put public sector organisations at risk in order to increase their business volumes and profit margins. By introducing a clear a consistent approach to costs and charges both public sector and private customers can be protected.

Question 9:

Have we captured the full range of 'regulatory' options available?

Response:

There could be an additional option by which the supplier licence code could be changed in order to ensure that all suppliers have to show any charges made to the customer from the TPI as part of the energy bill as a separate itemised line entry. They would also have to show on the invoice any payments made by the supplier to the TPI as part of the contract and any TPI charges collected by the supplier on behalf of the TPI. This way the customer has clear site and transparency of costs associated with any TPI contract. Although we are aware that the cost of such a supply licence code change will sit with the suppliers it will do so evenly with all suppliers subject to the same costs. However it is our option that this is the only method to provide an even playing field for all TPI's, suppliers and customers. The compliance to the contract between the TPI and the customer should remain with the customer as we believe that this is the customer's role and not one for Ofgem.

Question 10:

Do you agree with the implications of regulatory change into the TPI market?

Response:

Whilst agreeing with the implications of regulatory change, having seen the issues of poor performing TPI's go unaddressed for so long the requirement of strong action immediately will do more to protect and build customer confidence in the TPI market and help it grow and deliver both in terms of energy services and offerings. Light handed approaches have been abused leaving the customer unprotected and have shown themselves to be difficult to manage and regulate. It is interesting to note that in our experience most, if not all, TPI's tend to be in favour of a light handed approach as outline in Option 2, however in our observations this tends to be because a light handed approach is of greater beneficial to the TPI's than the customers. Although we

understand regulation comes with initial costs and has its own limitations it is the only way which we can see that consumer interests can be protected and confidence in TPI charging practises can be restored.