

For the Attention of Katie Brennan

Good Morning Katie,

In response to the consultation document (reference 103/13, published 28th June 2013), Energy and Carbon Management Limited would like to thank OFGEM for the opportunity to respond to your consultation paper.

Energy and Carbon Management (E&CM) Limited is an independent energy consultancy formed in 1988. We have built our credentials on open and transparent long term relationships both with our Small Medium Enterprise (SME) and Industrial & Commercial (I&C) clients.

We would like some clarity on some aspects of your publication as well as the opportunity of responding to the questions raised in the documentation as follows:

On Page 4 of the Executive Summary it is stated (paragraph 6) 'These have come to light from our own research as well as input from consumers, suppliers and TPI's themselves'; where possible will Ofgem be publishing the evidence gathered showing negative responses on TPI's? I believe this will assist as part of the learning's going forward.

In general response to the published questions:

Q1 : Generally we agree with the scope set out in the document, with some further views below:

Q1 2.2 : The paper states that the bulk of the activity centres particularly around the domestic market – should this then mean that these TPI's be regulated more strongly and those dealing in the non-domestic markets be left to agree commercial B2B contracts and contractual transparencies?

Q1 2.8 : The paper states that non domestic issues have a lack of clear terms and conditions of supply contract, objections to supply transfer and interaction with TPI's that are not always fair and transparent; the first two points are supplier issues and therefore should not be looked upon as TPI problems. Ofgem need to enforce suppliers to be clearer; on the TPI statement again this should be clarified on clear and open contracts between two commercial parties when entering into an agreement between the consumer and the TPI.

Q1 2.14 : There seems very little difference (if any) detailed in the Ofgem description of a broker and consultant; E&CM feel that honest and transparent consultants offer a much more wide ranging service to clients, whereas brokers are more transactional.

Q1 2.19 : The footnote numbers relating to CERT and CESP at the bottom of page 12 are correct but the wording of CERT and CESP has been transposed incorrectly.

Q2 : In our experience we do not feel Ofgem's understanding of consumer experience to be correct; we have had minimal issues with any of our clients relating to matters detailed in the document.

Q2 3.2 : The document states 'that a significant proportion of consumers interacting with TPI's are subject to instances of miss-selling, pressurised conversations, nuisance calls and a lack of transparency'. E&CM believes that this then contradicts the statement within 3.8 for non-domestic consumers, which states that the relationship with 'TPI's is generally good'. This highlights to E&CM that the issue regarding TPI's does not really affect non domestic consumers but predominantly domestic ones. We would therefore ask that Ofgem look to apply stronger regulation in the TPI domestic market.

- Q2 3.9** : It is stated that Insight Exchange have evidence that a ‘small number of operators were damaging the reputation of TPI’s’ – are Ofgem looking to publicise this information and if so when and if not why?
- Q2 3.10** : E&CM believe that if a TPI feels they cannot trust their TPI, they should be making a commercial decision to change their consultant. The document has already referred to the good work by TPI’s in the non-domestic market so a SME consumer has ample choice. E&CM also feel that where suppliers have an exclusive arrangement with a TPI this should be made transparent so that the end user is fully aware that they are receiving a price, which is not accurately “benchmarked” against other suppliers’ pricing.
- Q2 3.11 / 3.12** : Again E&CM would like to understand the number of complaints levelled against commercial consultants with Consumer Direct so we can gain clarity on how big an issue misrepresentation is.
- Q3** : **We can assist in showing references from our client base if this helps to show that our level of service has exceeded in most cases customer expectations.**
- Q4** : **As an organisation such as E&CM is, we believe the current status quo is fine as we have strong credentials in the market place, however, we support any regulation, which could lead to the demise of less reputable practices in the industry.**
- Q5** : **E&CM believe that SLC 25 does not act as a barrier to developing more TPI activity. In fact E&CM believe that by signing up to an enforced or voluntary code of practice placed upon TPI’s and suppliers, this can only be ‘represented’ by those who have signed up to this code; it is in fact an opportunity for suppliers to use only ‘reputable’ TPI’s.**
- Q6** : **E&CM fully support and commend Ofgem on the work to date carried out; we support a single code of practice whilst also stating that commercial fee / commission agreements should be one that two commercial organisations operate between themselves thus understanding the possible revenue streams before entering into a relationship with a TPI.**
- Q7** : **For all parties to fully understand the scale of complaints and issues it would be productive if Ofgem could publish the results of surveys undertaken thus ensuring clarity on issues that are non-domestic or domestic TPI query related.**
- Q8** : **The wider scope as the market developments will be key to delivering a better service for TPI’s to provide a more comprehensive service to their clients. It is essential the new DCC allows all TPI’s the correct authority to collate their client’s information on consumption to assist in both behavioural and physical demand changes on their consumption profile(s); at present not all suppliers allow client access to data from “flows” provided given by supplier installed smart meters.**
- Q9** : **We feel the full range of options is shown in the document.**
- Q10** : **Regulatory change dependant on the level of enforcement and actions taken by Ofgem could lead to the TPI market dramatically reducing as smaller TPI’s could be forced out by regulatory conditions. E&CM fully endorse any change that leads to a streamlined TPI marketplace with all participants working within a single code of practice where suppliers only work with those ‘regulated’ bodies – this would lead to a much more**

efficient and knowledgeable TPI market place. E&CM do feel strongly that, in the non-domestic market, commercial arrangements between clients and TPI's should remain a private commercial agreement. The risk of highlighting commission levels on invoices allows competitor's access to those levels when other TPI's are tendering for business, as the incumbent TPI's commission levels would be displayed. This would be giving commercial advantages against other TPI's, which would be detrimental to business enterprise and E&CM would thus strongly discourage publication levels; could this be interpreted as anti-competitive?

In conclusion E&CM fully endorse a mandatory regulated TPI market but E&CM absolutely believe that there should be separate and more rigorously enforced regulation for the B2C market, which appears to have more wide-ranging issues than the B2B market.

E&CM would also applaud any position Ofgem takes in setting up a continual working party made up of suppliers, TPI and other industry stakeholders to ensure any future action is being implemented in a functional and regulated way.

I would of course be more than willing, if the opportunity arose, to discuss any aspect of our position with you if required.

Thank you for your consideration.

Best Regards,

Leigh Hitchens
Managing Director