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Dear Ms Brennan

Third Party Intermediaries: exploration of market issues and options

We refer to the above consultation and provide the following response to the questions raised.

Our submission may be placed in the public domain.

Question (1) Do you agree with the scope and range of TPIs operating in the energy market, from the information provided?

Broadly speaking we agree with the stated scope and range.

Do you have any further views on this?

There are in some cases TPIs with a mixed scope i.e. they act as a Broker, Sales Agent, Consultants, and Aggregator. Where their payment comes from depends on their pointed role.

Question (2) Do you consider our understanding of consumers' experience of TPIs in the retail energy market is accurate?

Consumers' experience is subjective and so it is difficult to confirm or otherwise the experiences stated.

Question (3) Do you have further evidence to share regarding consumers' experience of TPIs in the retail energy markets?

As a customers ourselves in the retail market we have experienced TPIs stating facts relating to cost savings that have been proven to be woefully wrong. This is more due to the fact that some TPIs operating in the market do not have the experience or the systems to properly assess and then present supplier offers on a level manner.

Nearly every TPI and supplier will have their own spread-sheet or calculator to use for presenting pricing information and all will be different.

So some of the bad experiences have not been as a result of a wilful act but more due to the complexity of the market.

Question (4) What are your views on the existing regulatory measures applying to TPIs?

If asked we believe that very few TPIs would be able to tell you what regulations apply to their business. We propose that the existing regulations are therefore not specific enough to this industry to be of any real deterrent to poor TPI behaviour.

Question (5) Do you consider the current formulation of SLC25 may be acting as a barrier to the development of more face-to-face multi-party TPI activity?

Many suppliers simply pass through regulatory risk within their contracts to the TPIs. In this case many TPIs will not know about SLC25 and so will not know about the risks of face to face sales in respect to the supplier's regulatory requirements. So in our opinion this will not act as a barrier but equally it is ineffective way of controlling TPI activities and behaviour.

Question (6) What are your views concerning our near term work to mitigate consumer harm and promote trust in the TPI market?

The idea of a Code of Practice is a good one, however, without a way of policing and enforcing the Code of Practice the Code of Practice itself becomes a thing of no substance. Introducing a cost to pay for a code administrator does nothing more than stops smaller TPIs from operating in the market. It should be noted that it is not necessarily the smaller TPIs that are causing the concerns in the market.

Question (7) Are there any further areas we should consider in the near term?

Consideration should be given to the obligations of the Supplier to police TPIs in this market. If Ofgem is to regulate TPIs through changes to regulations (to be imposed on the supplier) then Ofgem should ensure that Suppliers cannot simply pass these risks through to the TPIs in their contractual relationships.

If a Suppliers "representative" misbehaves then the Supplier and not that representative should be ultimately responsible for their actions (vicariously liable). This would then ensure that Suppliers put into place the right training and policing to ensure that "representatives" do not misbehave and do indeed adhere to any Code of Practice.

Question (8) What are your views on the potential wider scope of third party opportunities as a result of Energy market developments?

The energy market is constantly changing and so there is massive opportunities, many of which have been outlined in the document. The greatest opportunity as far as we are considered is with the increase in awareness of how energy is consumed and traded. This will lead to a

greater desire for more flexible trading arrangements and smart networks (and all that this will entail). We can see that there will be a time when customers will not have a fixed tariff or price plan but will simply buy and sell (from micro-generation) openly in the market using smart metering and smart networks. Thus there will be significant opportunities for third parties to provide both knowledge and hardware in such a market as it evolves.

Question (9) Have we captured the full range of 'regulatory' options available?

The only option missing is to have an independent association similar to the FSA, when it was in existence, which would impose Standards of Membership on TPIs. TPIs would still be able to work in the market without membership and this would therefore not restrict market competition. To have membership would give customers confidence that TPIs who were members were working to a recognised Standard.

The options proposed in the document are an "All or Nothing" approach, what we think is required is an option approach whereby there is an opt in or an opt out. Suppliers can then decide that TPIs must have accreditation to this association, or not (as the case may be), before they can sell that suppliers products.

Question (10) Do you agree with the implications of regulatory change into the TPI market?

If you implement regulation that is heavy handed then smaller TPIs who currently provide a good service to their customers may disappear out of the market. If you do not impose a strong approach then the action Ofgem take to control TPI activity may be ineffective.

As in our reply to (9) above we propose Ofgem introduce an opt in and an out opt regulatory arrangement, and that they change regulations to ensure that Suppliers cannot simply pass on the risk of regulatory penalties to TPIs i.e. the Supplier remains ultimately responsible for any actions of its representatives including the payment of any fines.

We trust the above is self explanatory, however should you require any additional information please do not hesitate to get in touch.

Yours sincerely



Ken Geddes
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