

3rd April 2013

Phil Sumner

Partner – Consumer Policy and Demand-Side Insight
Ofgem
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Dear Phil

GEMA gaining enforcement powers under The Business Protection from Misleading Marketing Regulations 2008 (SI 2008/1276) ('the Regulations')

Energy Services Partnership is one of the leading energy consultancies in the country, receiving the award for Independent Energy Consultancy of the Year in 2010 and being short-listed for Energy Consultant of the Year in 2011 and 2012.

We support measures that will give businesses confidence in energy consultants and believe that, subject to further detail on the methods of enforcement, the proposals to seek the specified powers under the Regulations are an appropriate way forward.

We estimate that there are over 2000 Third Party Intermediaries (TPIs) operating in Great Britain, almost all of whom themselves fit into the categories of micro- or small business, or in many cases are sole traders. We believe that the concerns expressed about TPIs are generated by the actions of relatively few firms and would appreciate further details on how Ofgem would look to use its information gathering power, as widespread information gathering to gain a context for any particular investigation is likely to place an unequal burden on the known TPIs and risks swamping the capabilities of many smaller TPIs.

Further, we note the proposal to employ Ofgem's existing enforcement guidelines for determining whether to open a case. We note that the guidelines are written primarily in the context of a customer complaining about a licensee. However, competitive pressure may drive a TPI who has lost a client to make claims against the successful TPI to muddy the new relationship and we would appreciate further detail on how Ofgem expect to handle such situations, beyond the usual dismissal of claims considered to be vexatious or frivolous.

Finally, while the focus of the paper addresses perceived shortcomings with TPIs, we note that the Regulations apply equally to licensed suppliers. As the relationship between TPIs and clients can be strongly affected by the information and performance of suppliers, this seems wholly appropriate.

We look forward to continuing to work with Ofgem in this arena. If you have any questions about any of these points, please contact me

Yours sincerely

Arthur Probert
Commercial Director