

Katie Brennan,
Retail Markets and Research
Ofgem
9 Millbank
London
SW1P 3GE

22nd August 2013

Dear Katie,

Consultation on Third Party Intermediaries

Thank you for the opportunity to provide comment on the above consultation. As you are aware Good Energy is a licensed electricity and gas supplier supplying over 34,000 electricity customers with electricity sourced primarily from decentralised renewable generators, and 10,000 customers with gas supporting renewable heat.

Executive Summary

Good Energy welcomes the work Ofgem is doing on TPIs. Whilst we know a majority of TPIs work in a honest and transparent manner, and have checks and balances to correct instances of mis-selling, we are concerned about the activities of a minority of TPIs who seem willing to lie and cheat to gain the customers business. We therefore believe that the outcome of this work will be a market where TPIs are seen to offer honest transparent advice to consumers, and encourage switching.

It is important however, that any tightening of the rules apply equally to both domestic & non-domestic markets, as we do not want to see bad practitioners driven from the SME market, only to re-appear in the domestic market.

Finally, we believe that it is important that TPIs are carefully defined, so that collective switching, and affiliate recommendations by partners are not captured within the TPI regulations thus creating an unsustainable administrative regime that undermines these important channels to encourage switching.

Q1. 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?

Yes we do agree with the scope and range of TPIs operating in the market. However, we believe any definition has to be carefully worded to avoid capturing collective switching or affiliate partnerships, where an organisation may recommend a particular supplier because of a partnership deal. In our view the focus should be on TPIs who are operating a dedicated service rather than a passive recommendation.

Good Energy recognises that a majority of TPIs act in a responsible manner, but are aware of several organisations that do not, bringing the whole energy switching market into disrepute. We are also noticing that this is occurring on a greater frequency in the domestic market as the SME market becomes saturated.

Q2. Do you consider our understanding of consumers' experience of TPIs in the retail market accurate?

Yes, but would add that we have received some reports of TPIs calling business customers at a rate of 20 calls an hour, trying to convince customers that Good Energy was in imminent danger of going into administration, or that we were not a licenced supplier, creating fear of new market entrants in favour of larger suppliers. Whilst most of

our customers are wise enough to give such calls short-shift we are concerned that if such practices start to occur in the domestic market, the impact on competition by new market entrants could be significant.

Q3. Do you have further evidence to share regarding consumers experience of TPIs in the energy market?

We have no factual evidence other than calls from consumers informing us of rogue TPI contact. However, these prove difficult to investigate as the customers rarely collect sufficient information to allow us to follow through. Nor, as the customer declines to switch can we progress with any gaining supplier, as to their sales channel.

We do have some issues with TPIs misrepresenting Green Tariffs to our customers in an effort to encourage them that green tariffs are not worthwhile, and thus they should switch to a cheaper tariff. Luckily, in this respect our customer's knowledge on the subject is usually superior to the sales agent.

Q4. What are your views on existing regulatory measures applying to TPIs?

Our current concern is that whilst there are remedies for customers who are mis-sold energy contracts, customers rarely pursue them, and suppliers willingly transfer customers back to their original supplier without finding the root cause of the mis-selling. Under current regulations, anyone can set themselves up to act as a TPI, and act in a way that causes customers to distrust the switching process as a result. This is bad for customers, suppliers and honest TPI businesses.

Whilst we are supportive of voluntary measures some TPIs have agreed to adhere to, it does nothing to prevent rogue TPIs from operating.

Q5. 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 activity?

We do not believe that SLC 25 is effective as its origins are in ensuring suppliers exert control on paid agents in the same way as they would their own sales force. It does not cover TPI activity well. In itself it should not prevent single supplier representatives developing more face to face contact, but does create difficulties for administrative difficulties for face to face representatives who offer independent advice as they must comply with the requirements of every supplier they may recommend.

Q6. What are your views concerning our near term work to mitigate consumer harm and promote trust in the TPI market?

Our concern is that Ofgem's near term work is focused on improving the standards of engagement by good TPIs, but does nothing to address rogue TPIs who act in a disreputable manner. For example, the work on the confidence code is welcomed, but nothing prevents rogue agents operating a switching site without the confidence code mark. Equally, reputable TPIs will sign up to the code of practice, but these are not our concern. It is the operators who will never adhere to any code of practice that is our concern.

We are also concerned that if the actions of rogue TPIS is curtailed in the non-domestic market, then these businesses will refocus on the domestic market, with far greater consequences.

Q7. Are there any further areas we should consider in the near term?

We believe suppliers could do more to discourage rogue TPIs, by agreeing only to deal with signatories to any voluntary TPI agreement. However, this must apply across the domestic and non-domestic market simultaneously, so that rogue parties do not just transfer from the SME market to domestic market.

One area of concern for Good Energy is that we have links to several reputable switching sites which only list green tariffs. These are currently excluded from the confidence code, because of the requirement to list all tariffs. We would welcome a development within the code which would allow switching sites focussing on niche offering to be part of the code.

Q8. What are your views on the potential wider scope of third party opportunities as a result of energy market developments?

We believe that, despite the curtailing nature of Ofgem's RMR decisions, the scope for more bespoke services for customers will grow as smart metering becomes the norm. This will open up opportunities for 3rd parties to provide additional services, beyond finding the best price deal. We therefore think that Ofgem needs to future proof any proposals for consumer protection, especially where the TPIs will access granular data pertinent to the customer's consumption.

Q9. Have we captured the full range of 'regulatory' options available?

Yes. Although we emphasise the importance of any regulatory change being applied across both domestic & non-domestic market simultaneously.

Q10. Do you agree with the implications of regulatory change into the TPI market?

Yes. We believe that if a voluntary approach is to be taken then suppliers need to agree to only work with TPIs who comply with the code, and that compliance should be independently monitored. It may be that the code will have different rules depending on whether the TPI is giving independent advice or is linked to a single, or curtailed number of suppliers.

Any solution that does not prevent rogue TPIs from operating will not resolve the problem.

I hope you find this response useful. If you wish to discuss any of the above further, please do not hesitate to contact me.

Kind regards,

A handwritten signature in black ink that reads "Chris Welby". The signature is written in a cursive, slightly slanted style.

Chris Welby
Policy & Regulatory Affairs Director.