



Making a positive difference
for energy consumers

To all retail energy market participants, consumer groups and other interested parties

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Dear Colleague,

Third Party Intermediaries Programme: Initiatives for non-domestic consumers

Following our recent consultation document 'Third Party Intermediaries: exploration of issues and options'¹, this letter sets out the progress and next steps for Ofgem's Third Party Intermediaries (TPI) programme. This letter focuses on the work we are taking forward to improve the regulatory environment for TPIs operating in the non-domestic retail energy market².

TPI Programme: Issues and Options consultation and next steps

Generally, TPIs are parties who are not an energy supplier, but engage with a domestic or non-domestic consumer to assist them with their energy supply needs. TPIs can offer advice and products to assist with a range of functions including energy procurement, efficiency and management. TPI services are used extensively in the retail energy markets.

Our research during the Retail Market Review (RMR) shows that whilst customers find TPI services valuable, there are concerns about the clarity of charges TPIs levy on customers, their selling practices and the extent to which they make consumers aware of their redress options. These behaviours negatively impact upon consumer engagement.

Given the ongoing evolution of the retail energy markets arising from the implementation of the RMR proposals and technological developments such as the roll out of smart meters, the activities of TPIs and their varied business models are likely to play an increasingly important role for consumers.

As part of the RMR, we committed to examine the role of TPIs and to give consideration to the regulatory arrangements that support their operation. Consequently, in June this year we consulted³ on our understanding of key issues and potential regulatory options for TPIs in the domestic⁴ and non-domestic retail energy markets. This consultation closed on 23 August 2013.

¹ [Third Party Intermediaries: exploration of Issues and Options](#) published 28 June 2013.

² Non-domestic energy retail market refers to that segment of the GB energy retail market which services business consumers.

³ [Third Party Intermediaries: exploration of Issues and Options](#) published 28 June 2013.

⁴ 'Domestic retail energy market' refers to that segment of the GB energy retail market that services domestic households.

A number of stakeholders agreed with our characterisation of the key issues in the market relevant to the operation of TPIs and offered valuable feedback. Today Ofgem will be hosting a conference inviting stakeholders to discuss and debate some of the key issues arising from the responses to the consultation and to receive further information on the TPI programme and its associated projects.

In the next few months we will consider the outputs from our research, consultation and stakeholder engagement to help inform our development of a strategy for the enduring regulatory framework for TPIs. We are also aware of the more immediate issues in this sector and are developing regulatory measures, including, but not limited to, Collective Switching, a review of the Confidence Code⁵ and a Code Of Practice for TPIs in the non-domestic retail energy market. We aim to consult on these separately in late 2013 and early 2014.

Initiatives for non-domestic consumers: Use of Business Protections from Misleading Marketing Regulations

A significant number of energy suppliers operating in the non-domestic retail energy market regularly use TPIs as a route to market for consumers. However, TPIs operating in the energy sector are not subject to sector-specific regulation to govern their behaviour.

TPIs are subject to general consumer protection regulations, including those applicable to business consumers, such as the Business Protections from Misleading Marketing Regulations (BPMMRs)⁶.

We have applied to the Government to gain certain powers under the BPMMRs, which will allow us to take action against entities that market energy contracts and services to businesses in a misleading manner. We consulted on this earlier in the year and are liaising closely with government with an aim of gaining these powers in autumn 2013.

Initiatives for non-domestic consumers: draft Code of Practice for TPIs

There are currently some voluntary industry codes for TPIs in the non-domestic segment of the retail energy market. These have been put in place by different stakeholders in the energy market, including TPI associations. The feedback from non-domestic RMR and stakeholder engagement sessions shows that the effectiveness of these industry codes in improving consumer confidence and services of TPIs has been limited. We also received unanimous support for a single independent Code Of Practice⁷ by RMR respondents and most respondents supported Ofgem taking the lead in developing this Code.

This year we have held six workshops with the industry to help inform our development of a non-domestic Code Of Practice for TPIs. The minutes of these workshops⁸ and the current version of the draft Code Of Practice⁹ are available on our website. We value the input we have received from stakeholders in developing this code. In December this year we plan to consult on the content and governance arrangements for this code as well as other regulatory options for TPIs servicing the non-domestic retail energy market.

Whilst the content of this code is at a draft stage we consider that this content reflects the high level principles that we expect TPIs to follow in offering a high standard of service to their current and prospective customers. These 'standards of service' include:

⁵ A voluntary code of practice for domestic price comparison sites which Ofgem took over from Consumer Futures (previously known as Consumer Focus) in March 2013.

⁶ Business Protections for Misleading Marketing 2008(BPMMR's); <http://www.legislation.gov.uk/uksi/2008/1276/contents/made>

⁷ Page 10, The Retail Market Review – Final non domestic proposals for businesses, March 2013.

⁸ All non domestic TPI working group documents are located here; <https://www.ofgem.gov.uk/retail-market-review/stakeholder-engagement>

⁹ Draft non-domestic TPI Code of Practice; <https://www.ofgem.gov.uk/ofgem-publications/82938/codeofpracticefornon-domesticthirdpartyintermediaries.pdf>

- (i) **Complete and clear information** – TPIs must offer complete and clear information on every aspect of their service to customers (and in particular on the fees involved).
- (ii) **Honest marketing tactics** – TPIs must always ensure that they treat prospective customers with the highest degree of professionalism.
- (iii) **Effective monitoring** – TPIs must have effective monitoring arrangements in place to provide effective service to their customers.

Prior to consultation on more enduring arrangements, we would encourage TPIs to conduct their operation with these guiding principles in mind to help improve the overall standard of service to non-domestic customers. A failure to follow these principles may in some cases be incompatible with the BPMMRs.

Initiatives for non-domestic consumers: factsheet for business consumers

Today (10 October) we have published a factsheet providing key information to non-domestic consumers to help them engage more effectively with TPIs. We encourage industry colleagues to publicise our factsheet on their platforms to generate wider consumer awareness. The factsheet is available at the following link on our website <https://www.ofgem.gov.uk/publications-and-updates/third-party-intermediaries-what-your-business-needs-know>.

If you have any queries on the contents of this letter or the initiatives mentioned in it please contact Meghna Tewari, Senior Economist, Retail Markets on 0207 901 7000 or ThirdPartyIntermediaries@ofgem.gov.uk.

Yours faithfully

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