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Dear Katie

Third Party Intermediaries: exploration of market issues and options

Thank you for providing SSE with the opportunity to provide comment on this consultation. We welcome Ofgem's decision to undertake a review of the current TPI market and investigate potential short and long-term measures for addressing issues in this market.

With Ofgem's priority to protect and make a positive difference for all energy consumers, we think it is important that any entities that engage in direct or indirect activities with a consumer to meet their energy needs are appropriately regulated in order to deter bad practise and help prevent customer detriment.

We look forward to working with Ofgem further to identify the key problems in the TPI market in the aim to develop an appropriate regulatory regime to address these problems.

If you would like to discuss the content of this response in further detail then please contact me.

Yours sincerely

Lois Wares
Regulation

TPIs and the energy market

We think that Ofgem has correctly identified the wide range of TPIs acting in the energy market as well as the scope of the services these TPIs offer. We are happy that Ofgem has identified the broad spectrum of business models that TPIs operate under as we think it is important to understand where requirements may differ depending on the type of TPI to consumer or TPI to business relationship and also the service being provided.

We believe that the development of a TPI regulatory framework should capture all TPIs acting in the energy market, whether their service is to offer energy procurement, energy related products or any other form of energy related service or advice to consumers.

Consumer's experience of TPIs

We agree with Ofgem's view that TPIs have an important role to play in facilitating consumer engagement in the retail energy market, and therefore the consumers' understanding of how TPIs work and their role in the market is an important consideration.

Although many TPIs provide consumers with a useful service, evidence has shown that this level of service is not common practise across all TPIs.

We agree that poor TPI practises, particularly those which lead to mis-selling and consumer complaints can have a negative impact on the energy market as consumers lose trust in both TPIs and suppliers and are deterred from switching.

Consumers must be reassured that the services offered by TPIs are appropriate for their needs. This includes providing the consumer with clear and accurate pre-contractual information which will enable them to make an informed purchase decision. Consumers, particularly domestic, must also feel confident that they will receive any relevant additional support, similar to the support suppliers are required to provide vulnerable customers etc. TPIs participating in the market should also offer a suitable complaint handling service. Consumers should feel confident that if they have a complaint regarding their TPI, it will be dealt with quickly and effectively by the TPI and if it cannot be resolved, that the consumer will be directed to the appropriate independent redress scheme.

With Ofgem's principle objective to protect the interests of present and future consumers, we believe it is within Ofgem's remit to ensure these commitments are made by TPIs participating in the market.

Ofgem's RMR proposals for domestic customers and businesses are working toward promoting consumer confidence and engagement in the energy market. With new enforceable Standards of Conduct for licensed suppliers and additional protections for customers being driven by changes to the licence conditions, suppliers are obligated to treat their customers fairly and transparently and this should be no different for TPIs.

Current regulatory framework

We agree with Ofgem's analysis that there are no sector specific regulatory requirements that apply to the TPI market and that although the Office of Fair Trading and Trading Standards have enforcement powers in respect of rules covering business to consumer and business to business interactions, these organisations have an economy-wide remit and as such their priorities will not necessarily be focussed on TPI issues in the energy market.

For this reason, we have voiced our support for Ofgem's request to gain enforcement powers under the BPMRs to address TPIs acting in the non-domestic market, similar to those it currently holds under the CPRs to address mis-selling by TPIs in the domestic market.

Facilitating better practise among TPIs

Review of the domestic Confidence Code

We support Ofgem's review of the domestic Confidence Code and believe there should be much tighter diligence by Ofgem around accreditation of price comparison sites. As well as site price comparison calculators, site content and presentation are also important factors which should be monitored in accordance with the code. We also believe Ofgem's review should cover offline activity such as telesales and face-to-face TPI activity to ensure the same level of service is provided to consumers choosing to use these channels.

Development of non-domestic TPI code of practise

We have been supportive in Ofgem's development of a Code of Practise for TPIs working in the non-domestic retail market and we continue to believe that suppliers should be obligated to work only with accredited TPIs. We highlighted in our response to Ofgem's October 2011 non-domestic RMR proposals that the TPI CoP should explicitly cover the standards required by the Business Protection from Misleading Marketing Regulations 2008, in order to highlight the areas of conduct that are currently of greatest concern in the market.

Collective switching

We would agree that collective switching is a relatively new activity but something which could prove integral to reaching vulnerable and disengaged consumers. Bodies such as churches and charities are deemed to be well trusted and could therefore play an important role in the TPI market as collective switching bodies.

With these new types of TPIs potentially entering the market and with their role likely to involve engagement with the more vulnerable consumer, it is important that the correct regulatory framework is in place to build customer trust and facilitate positive opportunities in this area.

We welcome Ofgem's upcoming analysis of collective switching and look forward to working with Ofgem on the measures which need to be taken to improve the opportunities for collective switching in the retail energy market.

Spectrum of regulatory options

The importance lies in fully understanding real customer needs in both the domestic and non-domestic sector and recognising that they differ. The regulatory framework must be relevant to real customer needs and must stay relevant within a fast moving TPI energy market.

We believe a comprehensive range of regulatory options have been identified by Ofgem and also welcome the recognition that different approaches may be appropriate for different segments of the energy market.

We think it is also important to take into account the commercial interests of TPIs as we don't want to create barriers to market entry due to an ill-fitting regulatory regime. We need to understand how different TPIs operate so that the regulatory regime is appropriate for different business models and supports TPI development.

We have been supportive in Ofgem's development of a Code of Practise for TPIs working in the non-domestic retail market and we continue to believe that suppliers should be obligated to work only with accredited TPIs. We are therefore supportive of Option 4 which would make this obligation mandatory for all suppliers. We do however believe that developing one common code of practise for all TPIs working across the energy market may not be the most



appropriate solution as customer requirements differ particularly between the domestic and non-domestic retail market.

We are concerned that although under this option, TPIs must be accredited to work with suppliers, they will not be prohibited from entering the market without being accredited and working directly with the consumer for a fee.

We believe that Option 5, direct regulation of TPIs, would increase the likelihood of consistency of accreditation and compliance across all TPIs participating in the market. Rogue TPIs should be subject to formal investigation and financial penalties where their actions are deemed to be inappropriate.

The most robust regulatory regime is one which includes a robust enforcement regime which is able to operate effectively and quickly. Introducing enforceable requirements for TPIs would give confidence to consumers that they are being protected.

We agree with Ofgem's recognition that there needs to be a balance between options to ensure consumer protection is achieved and avoid limiting innovation and competition across the retail energy market.