

**From:** Ashton Berkhauer [Ashton.Berkhauer@uswitchforbusiness.com]  
**Sent:** 04 April 2013 10:59  
**To:** Phil Sumner  
**Subject:** BPMMR - Consultation Response

Good morning Phil,

I hope this email finds you well.

Please find below a brief response to the Consultation for GEMA gaining enforcement powers under The Business Protection from Misleading Marketing Regulations 2008 (SI 2008/1276).

I have taken the liberty of not answering your questions as stated in the consultation document but have encapsulated in a summary, however I would also like to raise some areas of questioning where I do not believe enough information has been shared at this time.

The general principle of Ofgem obtaining the powers is a logical step to continuing to improve the competitive environment for business energy customers and overall a raising of the bar for quality for those that operate within it. Unfortunately only too frequently do we receive feedback from customers asking us to assist them in escaping from contractual terms which they unwittingly have signed up to with a variety of energy suppliers both large and small, directly and via third parties. We have not kept a running tally of these instances nor have we the customer details ring fenced to share. But as identified in the document you clearly have enough evidence to progress your case for requesting these powers.

I once again find it disappointing that the focus of a consultation is the Third Party Intermediaries alone. These issues have nothing to do with whether or not the supplying of energy is involved or the description of a businesses activity, it should apply to anyone that participates in the energy market. You rightly point out that a license condition to supply energy means that a supplier must comply with the CPRs but as you also state this ONLY applies to domestic customers which leaves a significant hole once again where suppliers interact with non-domestic customers. It is also worth remembering at this point that the poor contracts that non-domestic customers are being signed up to aren't being enforced by the TPIs, they are being enforced by the suppliers. So there needs to be a recognition of the responsibility and the lack of desire by energy suppliers to genuinely aid and support customers when they feel they have been mistreated or misled. Arguably Ofgem could do without these powers if suppliers were willing to take more action with the TPIs with which they work and by acting more responsibly themselves.

May I say that there is a distinct lack of clarity in the consultation document around how Ofgem plans to resource and implement these new powers with which it is trying to obtain. Great consideration has gone into the impact on TPIs and the Courts but what will the impact be on Ofgem. Feedback would suggest that resources are already stretched with both RMRs, the TPI code of practise and the EMR among other key projects being completed, so even if

granted the powers can Ofgem realistically expect to implement and enforce them and within what time frames.

Largely we are supportive of the aims of Ofgem including objectives and outcomes which are being sought. But surely with closer and deeper relationships with energy suppliers the need to obtain such potentially resource draining enforcement powers can be avoided.

We look forward with much anticipation to further communication on this topic.

Regards,

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