

**Response from BuyEnergyOnline 8 May 2014**  
**Not confidential**

**Question 1 :** Do you agree with the definition of TPIs? Please provide any suggestions along with supporting information.

Yes

**Question 2 :** Do you agree with our list of proposed TPIs that could be covered by any regulation we introduce?

Partially. Including Sales/Supplier Agents as TPIs could have unintended consequences unless OFGEM introduce a clear category equivalent to tied agent in financial services

**Question 3 :** What types of organisations should be exempt from our TPI scope definition and why?

Energy advice companies that deal with energy efficiency, Green Deal, EPC, on-site-generation etc. rather than procurement should be exempt or regulated separately.

**Question 4:** Do you agree with our recommended option for regulating non-domestic TPIs?

No – our preferred option is to maintain the status quo. We don't believe that OFGEM have made the case to give business customers the same sort of protection by regulation that might be expected in the domestic market or in a market with widespread problems. The Element Energy December 2013 survey states "Those using brokers' services were highly satisfied with the six aspects of broker service measured in this survey (between 80% and 85% across the aspects measured)."

No customer is obliged to use the services of a TPI at all. A customer will only deal with a TPI that offers or demonstrates lower prices than they can obtain directly from the suppliers. A number of TPIs serving SME argue that they only exist because of price gauging by the suppliers when small customers come to the end of their contracts. TPIs serving large customers would note that their clients are sophisticated companies that are much larger than the TPIs themselves.

We are concerned about the potential cost of this exercise which is as yet unquantified.

We are concerned that this exercise will distract TPIs from their natural priorities of serving their clients and presenting innovative services to their clients.

We suggest that a lower cost solutions might be:

- for OFGEM to identify their main concerns about TPIs and then fund education to help business customers navigate around those concerns, or
- for OFGEM to introduce regulation to protect Micro-Business clients and only extend regulation to larger clients if the protection of smaller clients has been demonstrably beneficial

**Question 5:** Do you agree with our proposed governance recommendations?

No – our preferred option would be option A (government by OFGEM)

We have the following concerns about option B

- Option B includes the suppliers in your proposed Independent Board. We believe that the primary roles of TPIs are to keep the suppliers honest and help clients identify and resolve problems the supplier have created. We believe that involving the suppliers will introduce many conflicts.
- A multi-party industry body is likely to cost more
- An industry body will have to be funded by the TPIs. This may create a perverse outcome namely that large brokers serving large customers could end up paying for regulation the large customers don't need

Option B includes customers in your proposed Independent Board. If you are going to form an Independent Board then we would say that good customer representation is most important. The secret will be to identify organisations that can represent business customers rather than having a primary role in representing domestic customers

**Question 6:** Please provide your views on the appropriate representation for members of the proposed independent code board.

See previous answer

**Question 7:** Do you agree that there is scope for improving complaints monitoring and information sharing? Do you have any further views?

It isn't clear to us exactly what is being proposed here. If this proposal lets us see what the main concerns are about TPIs then that would be beneficial.

**Question IA1:** Do you agree with our assessment of likely impact on consumers? Is there any other issue/s we should be considering?

We have said above that we have two concerns about OFGEM's proposal:

- Lack of differentiation between "Sales/Supplier Agents" and independent TPIs
- Possible negative impact from suppliers being made a part of the TPI regulation framework

Furthermore OFGEM's argument about benefits outweighing costs is unsupported.

**Question IA2:** Do you agree with our assessment of likely impact on industry? Is there any other issue/s we should be considering?

Yes

**Question IA3:** Do you agree with our assessment of likely impact on competition? Is there any other issue/s we should be considering?

There may be some features of the draft Code of Practice that could be so onerous that they hinder competition:

- 1) The TPI is obliged to communicate "Principal Terms". We strongly urge OFGEM to put a matching obligation on the Supplier to provide a "Principal Terms" document to the TPI and OFGEM to regulate these outputs
- 2) We believe that "suitability of the product for the customer" should primarily be responsibility of the customer themselves and this is realistic assuming they have received clear Principal Terms

**Question IA4:** Are there any distributional effects that our policy proposals could cause?

No

**Question IA5:** To better inform our cost-benefit analysis, please provide us with financial/costs data on the following:

**Initial (one-off) costs:** including costs to your business models and costs for familiarisation to the code of practice (this includes, costs to understand your obligations and relevant staff training and any costs to change internal processes as necessary);

**On-going costs:** this includes resourcing implications of the introduction of a code of practice to your organisation and any other expense that you think may be incurred (for example, costs of undertaking any necessary enforcement actions, monitoring compliance).

We have not provided a response to this question. In question 5 we noted our concerns about external charges that might be imposed on us.

**Question IA6:** Do you have any additional comments on the risks and unintended consequences outlined above? Are there any other risks or unintended consequences that have not been considered? Please provide as much information as possible.

Please see our responses to questions 2, 4, 5 and IA3 above and our comments about:

- Potentially confusing customers about Sales/Supplier Agents versus independent TPIs
- Distraction of TPIs from delivering customer service and innovation
- The proposed role of suppliers in regulating TPIs whose raison d'être is to help customers to control those suppliers
- The proposed obligations around Principal Terms and suitability