



Via email

9th May 2014

Dear Meghna,

The Citizens Advice Service's vision for the TPI regulation market is a single code for domestic and non-domestic, with exemptions where relevant, much like the licence conditions¹ and with the precedent set by SMICOP. We think that this would allow for the most appropriate governance arrangements with TPIs only subject to the clauses suitable for the market(s) they are active in. The answers below should be read in that context. Our comprehensive report on TPIs (Watching the Middlemen)² also informs our response.

Outside the answers required below, we would like to see a Code that;

- Clearly sets out the obligations of the TPI;
- Has a clear complaints and redress process, preferably a standard one common to all Code members;
- Sets out obligations around transparency on fees and commission;
- Ensures that there are clear timescales for complaint handling and redress including complaints against suppliers (where they do not respond to a TPI complaint appropriately).

We hope this will arise when the existing Code draft is tightened as a result of this consultation.

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

Yes, it captures the specific qualities of the bodies (especially those that broker supply contracts to SMEs) we have in mind without being overly prescriptive.

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

Yes, though that does not preclude other types of TPI being added at some future date. Key will be ensuring bad behaviour does not seep into unregulated areas, hence the importance of "future-proofing", such as coverage of smart-enabled services and the non-domestic Green Deal.

¹ <http://www.consumerfutures.org.uk/files/2013/05/Consumer-Futures-response-to-Ofgems-TPI-consultation.pdf>

² <http://www.consumerfocus.org.uk/files/2011/03/Watching-the-middlemen.pdf>

What types of organisations should be exempt from our TPI scope definition and why?

At the moment we are agnostic regarding (price-comparison) websites being covered by the Code because the clear priority needs to be improving the “traditional” telephone-based TPIs who deal with SMEs. Since there is no guarantee the sites will be brought under the Code later however (and assuming other respondents’ evidence.) it would be best not to exempt them.

Do you agree with our recommended option for regulating non-domestic TPIs?

Yes, it has always been our preferred option as it forces suppliers to take responsibility for the customers they obtain via TPIs.

Do you agree with our proposed governance recommendations?

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

We agree with the broad approach but are concerned that TPIs on the board will have a direct interest in seeing their competitors punished or removed from the marketplace entirely. Will they participate in sanctioning decisions?

The Citizens Advice Service would expect to receive a seat on the board.

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

We are willing to pay a role in this through our access to CACs data; indeed our original work using these data helped precipitate Ofgem’s work in this area. Consumers will continue to complain about TPIs using CACs so this needs to be properly recorded; what new coding needs to be established? This should be recorded alongside the specific complaints procedure for the Code. The Citizens Advice Service will be commencing a wider review of its consumer codes later this year so there will be an opportunity for Ofgem and others to feed into the process.

To ensure complaints can be properly assessed full call recording is essential; that means the entire conversation when a contract is agreed as a very minimum, with all relevant information included. Complaints generally should be administered as now, initially through the suppliers, using their respective standard procedures. If it is a clear TPI problem then it should be referred back to the TPI with the supplier overseeing.

It has to be made easy for consumers to register a complaint so the Code should specify that complaints should be accepted via a number of different media in order to prevent unacceptable barriers being put in place to prevent consumers from complaining. We also believe that recourse to the Energy Ombudsman would be the most sensible option for complaint dispute as it would make sense to the consumer that all energy supply related complaints could be taken to the same place.

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

Yes, and it bears repeating that the most likely impact on consumers is that they enjoy a clearer and fairer route to market and thus be more confident in their interactions generally.

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

The (much welcomed) full disclosure of commission amounts (where applicable) may undermine those TPIs who receive regular supplier monies and provide an incentive for them to receive funds in some other, less clear way – perhaps by becoming broader “energy service” companies who are paid by consumers.

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

We consider this issue something of a canard. Whilst we clearly see the benefits of competition, it does not trump a market that works for consumers in the round. Ofgem should expect that a successful Code will force some TPIs out of the market because they cannot meet the standards required. Indeed that is a mark of success.

In turn this might negatively impact on some suppliers who have relied on such detrimental practices; we are not concerned about this. The current situation now is less competitive per se as suppliers knowingly use sub-standard TPIs who mis-sell to gain customers from those suppliers who do follow best practice.

Are there any distributional effects that our policy proposals could cause?

None that we can foresee.

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).

These will be very minimal for the Citizens Advice Service. We are more than happy to devote staff time (as previously) towards this Code and its maintenance.

If all suppliers (at least) email or signpost their customers to a copy of the Code when implemented minimal costs will arise alongside high consumer knowledge.

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.

None that we can foresee.

**Andrew Hallett
Policy Manager**
