

## Proposals for regulating non-domestic Third Party Intermediaries (TPIs)

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

**Response:**

We believe that the definition needs simplified i.e.

**“A non-domestic TPIs is anyone that is involved in the sale of business electricity or gas from any Licenced Supplier”.**

This definition would then exclude sale of energy directly from private generators but not regulated generators, and would also exclude consultants who do not specifically give advice on energy procurement but do provide energy efficiency and renewable energy advice. We do not believe that these parties are TPIs.

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

**Response:**

No – Not all price comparison websites should be included. If the comparison website operator receives commission payments directly from suppliers then they should be included. If they **do not** receive payments from suppliers then they should not be included as they are merely acting as marketing portals and not as TPIs.

For example we provide a whitelabel solution to Confused.com, in this arrangement we should be considered the TPI as we receive the commission from the supplier, confused.com should not as they are merely marketing a whitelabel website and receive a payment to do this. **Thus there should only ever be one TPI responsible for the switching process and for any failure to comply with the proposed Code.**

Energy Consultants who do not specifically provide energy procurement advice should be excluded. A consultant should be able to advise a customer on how to reduce their energy bill without having to be regulated. This advice would be covered by the consultants own professional indemnity cover.

As we are trying to implement measure to ensure that business energy consumers get good treatment we should ONLY include “Bundled Service Providers” that offer energy products. If a Bundled Service Provider only offers mobile media solutions then they should not be considered a party to this voluntary code. The danger with this is that the code then becomes universal for all TPIs and none knows who ultimately has responsibility i.e. Ofcom, Ofwat or Ofgem? This can make things very confusing.

We propose that the participants should only be parties involved in the sale of electricity or gas and that there should only be ONE TPI within the supply chain. Thus if an Energy Broker is a TPI then their affiliates or sub-brokers operate under their code of practice. If there is then an issue then the Broker has ultimate responsibility for any failures in performance and thus is responsible for resolving the issue.

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

**Response:**

Any business that does not get directly paid by licenced suppliers for selling their supply products to non-domestic consumers should be exempt..

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

**Response:**

No – we support full regulation (Option 4) as this gives everyone in the market equal opportunity as well as providing the highest form of protection to the consumer. Option 3 is a very dangerous option as it could be a restrictive trade practice i.e. an instrument supplier's use to simply justify not working with smaller TPIs.

Larger TPIs will be delighted to support this option as they know that suppliers will support them because they do high volume business, whereas smaller players may be forced out of the market simply because they do not meet the business needs of the supplier. A voluntary arrangement like the one proposed is open to interpretation and manipulation.

Implementing regulation on the TPI is the only way to provide proper protection to the consumer. Ask yourself this question if Option 3 which involves a voluntary code of practice is the right solution then why bother regulating the energy industry at all? Why not just make the activities of all parties selling energy voluntary i.e. that includes the suppliers.

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

**Response:**

Given that we support full regulation then we propose that the only option for governing the implementation of the code is by placing "all responsibility for all aspects of governance with Ofgem".

Again if the government does not choose to govern this code then we need to ask why we do not have an Independent Board govern the whole energy industry if this is such a good idea?

One thing that is definitely not a good idea is to have "representatives from across industry" on the Board. No one represents our business other than members of our own Director team and many businesses feel the same way. Thus if one of our competitors were to sit on this Independent Board then we would feel badly done by as you would be giving unfair advantage to that person and their business i.e. they get more credence by being a member of the Independent Board. We readily experience this by some committee members who have attended your consultants saying that they are on the consultation committee (implying that they are more credible than we are because of this fact).

If an Independent Board is to be created then we propose that it has to consist of members **NOT** employed directly by any company operating within the energy industry i.e. the Board can take counsel from "representatives from across industry" but should not have members who are employed "representatives from across industry". This is a very important point as this could seriously impact on the credibility of the entire code if progressed on a voluntary basis.

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

**Response:**

As stated above we strongly believe that no-one on the Independent Board should be directly employed within the industry. Representatives should be invited to give their views on related matters but should definitely not have voting rights as proposed.

The representatives requested to give their views and opinions should be alternated on an agreed frequency to ensure that no one TPI dominates with their views and opinions i.e. we do not want one main player like USwitch being the industry spokesman as their views may not be representative of many of the other players. Thus a rotational arrangement for gathering views and opinions would be very important to the credibility of the Independent Board (if established).

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

**Response:**

Yes definitely there is scope for complaints monitoring and information sharing. To be honest we have had our fair share of complaints from small businesses over the past 2 years; many of these are down to the businesses themselves not understanding the switching process. Thus having an independent body to monitor complaints would be great for us as it would help confirm to the consumer that many of the issues they experience is not the result of inaction by the TPI but merely the result of supplier procedures.

No having an independent adjudicator is a real issue as it frustrates the consumer that they have no-one to ask if they are being treated fairly or not. We have our own complaints procedure and we follow that procedure to give the fullest and fairest response to a customer as possible, but if the customer does not like our response then who do they go to?

We would strongly support having an independent organisation such as Consumer Futures and the Citizens Advice Consumer Service appointed as the party to go to if a non-domestic consumer had an issue with a TPI.