



Federation of Small Businesses
The UK's Leading Business Organisation

Ofgem
9 Millbank
London SW1P 3GE

9 May 2014

Dear Sir/Madam,

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

The Federation of Small Businesses (FSB) welcomes the opportunity to respond to the above named consultation.

The FSB is the UK's leading business organisation. It exists to protect and promote the interests of the self-employed and all those who run their own business. The FSB is non-party political, and with about 200,000 members, we are also the largest organisation representing small and medium sized businesses in the UK.

Small businesses make up 99.3 per cent of all businesses in the UK, and make a huge contribution to the UK economy. They contribute 51 percent of the GDP and employ 58 per cent of the private sector workforce.

We trust that you will find our comments helpful and that they will be taken into consideration.

Yours sincerely,

Allen Creedy
Chairman of the Environment, Energy & Water Policy Unit
Federation of Small Businesses



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FSB response to Proposals for regulating non-domestic Third Party Intermediaries (TPIs)

May 2014



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

We support Ofgem's definition of TPIs. However, we acknowledge that, due to the varied nature of TPI activities, this remains a very broad description.

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

We agree with Ofgem's list of the types of TPIs covered by potential regulation. It is important to bear in mind that some TPIs may operate across a number of these different roles and provide integrated services. Regulation of TPIs must be framed in a way that recognises their evolving role across different sectors, for instance acknowledging the impending liberalisation of the water market.

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

All TPIs should be regulated. However, this should take a risk based approach that acknowledges that the costs of regulation should be proportionate depending on a pre-agreed set of criteria (e.g. turnover, risk, number of clients, scope of services etc).

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

We broadly welcome Ofgem's proposals for a Code of Conduct for TPIs. We strongly feel that whatever solution is taken forward it must be underpinned by statute (e.g. Option 3 or Option 4), rather than relying on a voluntary code. Given the difficulty in defining TPIs due to the varied nature of their activities, Option 3 has the advantage that it would act as a 'catch-all' for all those working with suppliers.

Our members continue to have very mixed experiences with energy brokers so it is critical to have a transparent, regulated TPI industry. However, improvements to the way the TPI industry operates must come in the wider context of other improvements that are urgently required in the energy market. Small businesses will continue to get an unfair deal while the overall market remains uncompetitive. A raft of improvements are needed in addition to TPI regulation, including an end to automatic rollover contracts, the publication of easily comparable business tariffs, and the provision of effective and trusted energy efficiency support allied to the rollout of smart meters.

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

We believe that the oversight of TPI activities should be carried out by an independent body. Although this is proposed in Option B, we would want to see Ofgem take a more prominent lead than simply offering "support and guidance". Ofgem must take a clear lead on oversight, but with strong input and guidance from representatives from the non-domestic business sector. Participation by representatives from the retail energy sector will need to be carefully considered to ensure that they cannot dominate the regulator's agenda or terms of reference, or compromise its financial independence. The success or failure of such an oversight body will depend on the right organisations being represented.



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

We recommend that an independent code board should include the following:

- One representative of Ofgem (Chair)
- One government observer (e.g. a civil servant)
- One representative of the small-scale TPI industry (e.g. an individual or small company)
- One representative of the larger-scale TPI sector (e.g. a larger business)
- One representative from the energy industry (e.g. UK Energy)
- Three representatives of non-domestic consumers (e.g. small and medium sized businesses)
- Two representatives from organisations representing the interests of non-domestic consumers (e.g. FSB, Citizens Advice etc.)

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

The dispute resolution system must be administered, managed and funded separately from the regulation, with separate resourcing arrangements. Careful consideration must be given to the extent to which the complaints will be placed in the public domain.

APPENDIX 1

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

We believe that many small businesses are already paying too much for their energy bills because of the lack of transparency and low level of competition in the energy market. Improvements to the TPI industry must be made in the wider context of a more competitive energy market and other improvements (e.g. an end to rollover contracts, published tariffs and smart meters). It is only by tackling the problems of the energy market as a whole that consumers will get a fair deal on their energy bills.

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

Careful consideration must be given to the training/accreditation content and process. It is vital that the required level of knowledge and experience is appropriate and does not unreasonably exclude existing TPIs or impose unreasonable costs. Further consideration of impact will be required when these aspects are determined.

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

The effectiveness of this proposed regulation must be continually monitored to ensure it has no unintended consequences. Careful consideration should be taken of the known benefits and costs associated with



other similar regulatory frameworks. Phased implementation of regulation should be considered to ensure that high risk TPIs are regulated as a priority over low risk and small/micro businesses.

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.

We believe that any regulation should be phased in, prioritising high risk TPIs. Therefore, a staged impact assessment should also be carried out as the new regulation is rolled out over time.

For further information

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