

7th May 2014

Meghna Tewari
Retail Markets Policy
9 Millbank
London
SW1P 3GE

Eddie Proffitt
Gas Group Chairman
PO Box 30
London
W5 3ZT
Phone 07879 255251
eddie.proffitt@meuc.co.uk

Dear Meghna

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

I am writing on behalf of the Major Energy Users' Council (MEUC) which is an independent consumer led body representing the interests of a large number of industrial, commercial, retail and public sector organisations and for which the use of electricity and gas is a significant factor in their operations' costs.

The Major Energy Users Council welcomes the consultation being carried out by Ofgem and this opportunity of providing customers' views on the proposals.

Having been involved through the workshop process leading up to these proposals I think my views are fairly well known however I will repeat them for the record.

I must begin by welcoming the proposal to apply regulation to what has become a major and important sector of the energy market. The information gleaned from your quantitative survey reflects the experience that MEUC members describe. Some have very positive experiences with their TPI, while at the same time expressing frustration at the frequency of uninvited cold calls from other TPIs offering to buy their energy free of charge.

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

I cannot agree with either definition in the consultation as both contain the phrase "*between a non-domestic consumer and an energy supplier*", while some of the TPIs included in table 2.1 are not "between" the two, therefore the wording needs to be modified to reflect this.

I would not limit the Code of Practice to only face to face/telephone based services as the influence of TPIs is far broader than that. It is undeniable that price comparison sites offer a different service to that of brokers however their influence is just as important to consumers. Any price comparison site or others providing market intelligence ought to be monitored and regulated for accuracy and independence. A group that is vital to consumers understanding of the market are organisations providing information on price movements. One that stands out as a cornerstone of our system is Heren whose Index is most frequently used as the price reference in supply contracts. Through years of hard work and diligence they have built a deserved reputation for honesty and trustworthiness yet it did not prevent an allegation into price rigging of the index by market participants that led to a lengthy investigation, which was later dismissed. As Ofgem was one of those that investigated this allegation it would suggest that organisations providing this type of service should be part of this Code, however you may feel that the Financial Regulator covers this type of operation.

At this stage it is impossible to predict future developments and for that reason I would recommend maintaining as wide a "catch all" definition as possible. Finally I question the

need for exceptions; I would expect that both charitable and not-for-profit organisations would welcome the Code of Practice.

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

I am happy with the bodies listed in table 2.1 however there are two specific ones missing that are frequently part of a bundled service but are sometimes provided as separate services. The first is bill validation and the second is CRC registration and monitoring. There is a third service that may fall within the remit and that is companies offering to examine your old energy bills and claim back errors in either energy costs or transportation costs, frequently claiming rewards that bear no resemblance to the effort required.

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

I cannot think of any that are included on your list that should be exempt.

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

Yes I accept that the third option is the quickest way forward and should be pursued, however as a number of categories of TPI listed do not interface with suppliers I am unsure of how a “Licence Condition on suppliers to work only with TPIs accredited to this Code” will provide any teeth to the agreement. Therefore I believe that in the long run it will be necessary for Ofgem to adopt option 4 – Licencing of non-domestic TPIs.

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

I would be happy to see Option A adopted with Ofgem responsible for all aspects of governance of the CoP but can understand and accept the argument you make for adopting option B with an independent board responsible for code of practice governance with Ofgem acting as an approval body. In some ways this mirrors the UNC set up.

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

Yes, I would agree with the range of organisations listed and welcome that there is a role for consumers to be included in the governance of the code. I do however have a serious concern; I have looked at a recent set of minutes for the Meter Asset Manager Code of Practice Board and see that there were 31 attendees with 20 apologies, while at the TPICoP workgroups there were a total of 33 attendees with only 3 places allocated to consumer representatives. A problem experienced at the workgroups was the need to split into smaller units in order to discuss the issues; therefore I would recommend that for the proposed independent code board places are more evenly allocated and restricted to a manageable number. I would hate the TPICoP board to mirror the MAMCoP board with 51 potential members.

My recommendation for a workable board would be ten strong;

- Independent CoP Chair
- Suppliers – 3
 - 1 – big six, 1 – independent, 1 representative body (Energy UK?)
- TPIs – 3
 - 1 – large, 1 – small, 1 representative body
- Consumers – 3

- 1 – statutory body (Consumer Futures), 1 – small, 1 –large

I agree with your statement that “*the Chair would be permitted to invite relevant observers to code board meetings*” I assume that Ofgem would have this right without an invitation. In addition I would assume that board members would have the right to nominate substitutes to attend meetings in their place.

I realise that whittling down suppliers and 1,000 TPIs to such numbers will mean quite a challenge for Ofgem. It is frequently the case that consumers are significantly outnumbered at industry groups (in the case of the TPICoP workgroups the ratio being ten to one) however this is an opportunity to put this right from the start as the code is designed to protect consumers and having voting rights will be of little value if the 10/1 ratio were maintained. Unless of course Consumer Futures was given the trade union style right of block voting the 2 million electrical and 400 thousand gas non-domestic consumers!

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

My answer to the first part of the question is yes I do believe there is scope for improving complaints monitoring and information sharing and support Ofgem’s initiative to develop these services.

To the second part of the question I have a concern that I would like to share. In the consultation you refer to “one man band” TPIs that I believe provide a valuable personal service to their clients and because of their size have to work harder to survive. It is clear from appendix 3 that costs are not available at this time. My concern is that the cost of registration, audit and compliance could adversely affect this group of TPIs thereby pricing them out of the market. Therefore I believe strenuous efforts must be made to ensure this does not occur.

An issue we missed when developing the CoP is that of TPIs obtaining quotations from suppliers without the authorisation of the consumer, leading to the supplier providing this information to multiple TPIs. I believe we need a clause in the CoP that says that a TPI will obtain a letter of authorisation from the consumer before carrying out any activity related to their energy supply and a licence condition on suppliers that they will only provide information to a TPI who has an active letter of authorisation from the consumer.

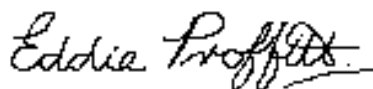
Questions IA1 – IA6.

I have nothing to add other than to say that you have carried out a thorough analysis of the potential impacts. As I have mentioned above the lack of cost information at this stage is understandable but does leave some concern with impact on smaller TPIs.

Finally MEUC would welcome the opportunity to continue our involvement in the development of the code, its implementation and governance.

This submission is not confidential.

Yours truly,



Eddie Proffitt