

Note of roundtable on TPI provision of face-to-face services

Held at Ofgem on 30 April 2015

Ofgem convened a roundtable of industry stakeholders in order to better understand potential challenges to third party intermediaries (TPIs) offering face-to-face services.¹ These challenges emerged through Ofgem's earlier work on TPIs in 2013 and 2014.² This note provides a summary of the discussions, grouped thematically. Three themes to emerge from the session were:

- Consumer outcomes and risks: what "good" looks like in face-to-face intermediation and risks that it might present.
- Relevant regulation and challenges to delivering compliance.
- Potential solutions to the challenges identified.

Consumer outcomes and risks

There was broad agreement that the provision of good quality face-to-face services can deliver positive consumer outcomes, chiefly by improving the engagement of certain segments of the market, such as those without access to the internet. The group agreed with Ofgem's suggestion that from the consumer's perspective "good" would include: consumers making informed switching choices; consumers understanding who they are dealing with; consumers being able to complain and seek redress; and services that are designed to be sensitive to consumer vulnerability. The group also proposed as potential additions: consumers feeling in control of their energy supply; and consumers having greater trust in the market, at a time where this was generally lacking.

The discussion focussed on the potential consumer risks that may hinder the achievement of the desired consumer outcomes.

Attendees agreed that the potential for face-to-face services to engage a wider range of consumers could bring its own challenges. For example, a delegate raised a point around risks associated with consumer vulnerability. For consumers in vulnerable situations, the top-ranked supplier according to a comparison service may not be the most suited to their specific needs, for example in relation to service quality. The point was raised that not all users of face-to-face services would be vulnerable.

Several attendees noted the current lack of incentives for TPIs to offer 'retention switches', whereby the customer remains with their current supplier on a different tariff. The experience of some TPIs was that this had been a popular option for consumers. However current commission structures encourage TPIs to persuade customers to switch away from their current supplier. They said that this was a known issue – and broader than face-to-face services – that suppliers needed to work with TPIs to resolve.

Delegates suggested that another potential issue was the coverage of the market that TPIs might offer. There was some agreement that it was desirable for TPIs to offer whole-of-market comparisons, in order to avoid potential biases and customer confusion. The point was made that regardless of any requirements to offer whole-of-market comparisons, a

¹ Face-to-face services covers a wide range of potential activities, which can vary according to the form and the nature of the service offered and according to the location of the activity. The workshop was particularly focussed on potential face-to-face switching or tariff advice services, while recognising that there is no single model.

² For more information, please see our website: <https://www.ofgem.gov.uk/electricity/retail-market/market-review-and-reform/third-party-intermediaries-tpi-programme>

successful comparison service would need to be able to switch consumers to a “critical mass” of suppliers.

There was a discussion focussed on the risks associated with doorstep selling in general (not specific to the energy sector). Several delegates argued that there were inherent risks in this method of delivery. Contrasted with sales conducted in public places such as shopping centres, in a domestic situation the consumer cannot simply walk away. The potentially intrusive nature of unsolicited sales was also highlighted.

In addition to the discussions about potential cross-market risks, several points were made about how individual TPIs’ business models could generate risks. In this context, the incentives placed on sales staff were discussed. There were mixed views on the best way to approach this. One attendee suggested that staff should not be paid sales-based commission. Another added that there is growing evidence in favour of the use of metrics which measure consumer satisfaction, such as “net promoter scores”, to incentivise staff. However, others said that it was difficult to avoid sales-based incentivisation.

There was broad agreement that the set of skills required of an agent for providing a good cross-market comparison were different from those required for the direct face-to-face sales that were conducted in the past. The advice might need to be nuanced, for example indicating that consumers should enter the market in several months at the end of their fixed contracts.

The risk of errors in manual data entry by agents was raised, although it was suggested that the introduction of QR codes on bills could significantly mitigate this risk.

Relevant regulation and challenges to delivering compliance

Overall, there was broad agreement that there was no single absolute impediment to face-to-face services. Nonetheless, a combination of circumstances meant that many suppliers would not currently agree to it.

Standard Licence Condition 25

Ofgem led a discussion on the current regulatory framework, focussing on Standard Licence Condition (SLC) 25. This places obligations on and regulates the conduct of suppliers and their Representatives (which may include TPIs) during face-to-face sales and telesales.

Several delegates reported the definition of Representative as challenging to interpret in the context of TPIs. It was not always clear at what point in the sales process a TPI becomes a Representative and hence the when requirements of the SLC apply. However, the point was made that this challenge was also applicable to telesales and, to a lesser extent, online, yet had not prevented the development of these channels.

There was a significant amount of discussion about the issue of TPIs having to act as the Representative of multiple suppliers. There was broad agreement that this arrangement added complexity and inefficiency into the process. Specifically, TPIs said that this is partly the result of each supplier requiring use of their individual sales script. A delegate pointed out that suppliers forced scripts onto TPIs to mitigate their exposure to compliance risk.

Online and in telesales the process of enforced scripting may be cumbersome but was considered manageable. However in face-to-face activities it was considered more of a problem. This is because the conversation is inherently less structured than a phone call and the greater overall cost of face-to-face activities means that longer conversations come at a higher cost. The point was raised that with over 20 suppliers in the market this was already challenging; further new entrants would only exacerbate this issue.

There was general agreement that supplier liability under the current structure was a disincentive for them to agree to face-to-face activities by TPIs. In particular the risk of

negative PR, regardless of which party was accountable in regulatory terms, was cited multiple times. This was especially true in the context of the risks discussed earlier. However, others argued that the TPIs themselves would be equally negatively affected by poor consumer outcomes.

One attendee suggested that SLC25.14, which covers licencees' obligations relating to the verification of sales, was inappropriate for TPI-led sales. They said that TPIs were capable of conducting their own auditing and that additional verification by suppliers would be redundant.

Auditing of face-to-face services

Ofgem initiated a discussion on the practicalities of how TPIs and suppliers might demonstrate compliance with their obligations by auditing the provision of face-to-face services. A TPI gave a presentation on their recent experience of trialling face-to-face activities. There was general agreement that auditing face-to-face services was more challenging than for telesales and might be a potential impediment to offer of these services. The main reason given was the difficulty of knowing what is being said by the agent.

There were various suggestions as to how this could be overcome. Several delegates suggested recording the interaction, for example via the device that was used to provide the comparison. However, others disagreed that recording of all interactions would be proportionate or desirable. An alternative suggestion was that TPIs conduct a follow-up call to ensure the customer's satisfaction with the process.

Commercial issues

On commercial incentives, one delegate suggested that some suppliers may lack the incentive to facilitate TPIs' engagement of "sticky" customers, who are among those most likely to benefit from face-to-face services, as these were often on high-margin tariffs. Another disagreed and suggested that the high costs of the delivery channel were a more significant commercial issue.

Potential solutions to the challenges identified

Ofgem initiated a discussion on how the current arrangements could be modified to help facilitate face-to-face services in a way that retains appropriate consumer protections. Overall, there was enthusiasm for making progress in this area and the view was expressed that, although there were challenges, potential solutions existed that could unlock the potential benefits of face-to-face services.

There was broad agreement that an approach in which suppliers and TPIs shared accountability would be desirable. Several attendees suggested that this could take the form of an expanded Confidence Code³ to incorporate face-to-face services. For example suppliers could be accountable for ensuring that the TPIs they worked with were accredited.

There were mixed views on whether a self-regulation approach, such as a replacement for the EnergySure Code⁴, would help mitigate some of the risks already discussed around the conduct of sales agents. A central register of individuals might prevent "rogues" from moving between different companies, which it was suggested had happened in the past when suppliers undertook face-to-face sales themselves.

An attendee suggested that a staged approach could be a sensible and cautious way to explore face-to-face services in practice. For example, flexibility from Ofgem could be a

³ The Confidence Code is a voluntary code of practice run by Ofgem that governs independent energy price comparison sites. For more details see: <https://www.ofgem.gov.uk/information-consumers/domestic-consumers/switching-your-energy-supplier/confidence-code>

⁴ A code of practice managed by energy suppliers for face-to-face marketing of energy supply.

useful approach for enabling TPIs to prove their ability to deliver face-to-face services responsibly. This could take the form of Ofgem-sanctioned trials or alternatively of Ofgem signalling a period of greater flexibility in their enforcement of licence conditions. Both could have the effect of giving suppliers the confidence to engage. There were mixed views as to whether this would lead to a subsequent change in the regulatory regime.

The point was made by several attendees that exogenous technological changes, such as the development of tablet computing, may help to solve various identified issues.

Next steps

Ofgem indicated that a decision on further work would be taken in the context of other ongoing work by Ofgem on TPIs and the CMA's Market Investigation. Ofgem said that delegates would be kept informed of future developments.

Annex – Attendees

External attendees

Dave Newton	DECC
Gillian Cooper	Citizens Advice
Owen Jarvis	Citizens Advice
Tabish Khan	British Gas
Michael Lain	E.on
Steven Eyre	EDF
Kate Farrell	Good Energy
Nathan Harris	Green Star Energy
Gerald Jago	Npower
Rhona Peat	Scottish Power
Natasha Paine	Scottish Power
Louise Murphy	SSE
Julie Lawton	Energyhelpline
Kenny Griffith	Energylinx
Stephen Murray	MoneySuperMarket
Scott Byrom	UK Power
Eileen Rutschmann	Unravelit
Tom Lyon	uSwitch
Mike Rowe	SimplySwitch
Guy Thompson	MyUtilityGenius
George Frost	iChoosr

Ofgem attendees:

Neil Barnes (Chair)
Angelita Bradney
Jonathan Amos
Francis Jackson
Stew Horne
Jenny Boothe