

# **DESNZ – Consultation on Regulating Third-Party Intermediaries in the Retail Energy Market – Energy UK Response**

**15 November 2024**

## **Introduction**

Energy UK is the trade association for the energy industry with over 100 members - from established FTSE 100 companies right through to new, growing suppliers, generators and service providers across energy, transport, heat and technology.

Our members deliver nearly 80% of the UK's power generation and over 95% of the energy supply for 28 million UK homes as well as businesses.

The sector invests £13bn annually and delivers nearly £30bn in gross value - on top of the nearly £100bn in economic activity through its supply chain and interaction with other sectors and supports over 700,000 jobs in every corner of the country. The energy industry is key to delivering growth and plans to invest £100bn over the course of this decade in new energy sources.

This is a high-level industry view, and this response is not intended to be confidential. Energy UK's members may hold different views on particular aspects of the consultation. We would be happy to discuss any of the points made in further detail with the Department for Energy Security and Net Zero (DESNZ) or any other interested party if this is considered to be beneficial.

## **Executive Summary**

Energy UK welcomes DESNZ's exploration of the options for regulating third-party intermediaries (TPIs) in the retail energy market. TPIs play an increasingly important role in boosting competition and customer engagement; helping to simplify these customers' participation in what can sometimes be a complex market. While we appreciate the significant role TPIs play in the market, we are very aware of challenges customers and suppliers can sometimes face in dealing with this unregulated sector.

Energy UK has long called for Government intervention through the direct regulation of TPIs. We reiterated this position in our response to Ofgem's review of the non-

domestic retail energy market. We consider that the energy supply market requires a position where there is parity and consistency in the rules by which suppliers and TPI's operate, such that customers can have the necessary confidence and protections to engage with the market to meet their needs.

We support an authorisation regime as is supported by other key stakeholders such as Citizens Advice<sup>1</sup> as this would be a significant improvement on the status quo. This is a key opportunity to consider the creation of a new regulatory regime that could transform the customer experience of the sector. The majority of Energy UK's members support a specific authorisation regime. However, where there is support within our membership for a general authorisation regime a range of reasons have been set out, including noting improvement in some non-domestic TPI behaviours based on wider reforms, and a wider desire to enable continued innovation in the non-domestic market. Some support for general authorisation is based on a desire to see implementation at pace, with this approach a possible initial format within a regime equipped at the outset to evolve smoothly toward greater robustness. Even where views lean toward general authorisation, Energy UK's members support the inclusion of more robust elements than proposed in DESNZ's view of a general authorisation regime. While Energy UK appreciates the arguments for general authorisation, it remains the position of Energy UK that specific authorisation should be the goal in TPI regulation, and the regulator must be empowered by legislation at the outset to achieve a specific authorisation regime.

Energy UK believes that any type of new regime introduced for the regulation of TPIs will naturally evolve in the hands of its regulator, especially as the regulator gains more information about customer harm. An authorisations regime would be introduced under legislation and would only be able to evolve within the scope allowed under that legislation. So, this is an appropriate point at which to consider a more robust regime that accommodates the capacity for more powers than the bare minimum needed such as to prescribe for price transparency or assess fit and proper persons.

Key elements of the authorisation regime which are likely to be needed for its effectiveness in protecting customers are:

- Scope for the regulator to introduce prescriptive requirements, as needed. This should be relevant to the type of customer the TPI serves as well as the type of activity the TPI carries out
- An up-front fit and proper test as a minimum requirement, including an obligation to inform the regulator of any changes consistent with the suppliers' notification requirements under SLC 19AA
- A strong position on enforcement. This should include the objective to protect consumers from harms – rather than holding TPIs accountable after the harm is done

Further, customers must be afforded strong protections no matter their route to market. So, we strongly urge that the new regulatory regime should be such that the

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<sup>1</sup> Citizens Advice (2020) [Stuck in the Middle](#)

regulator can align customer protections in the regulated TPI landscape with those that exist for suppliers and soon, for load controllers.

## **I. THE OVERARCHING POLICY**

### **POLICY OBJECTIVES**

#### **14. Do you agree with the list of policy objectives?**

Energy UK broadly agrees with the features DESNZ sets out for a regulatory framework governing TPIs. Attaining strong consumer protection is essential to secure fairness and empower customers – particularly people who are in vulnerable circumstances within households. This is also critical to enabling customers to make informed choices about their energy supply.

Further, we consider that the enforceability objective is crucial for maintaining compliance and safeguarding against potential harm to customers. Critical success factors must be taken into consideration prior to the establishment of a regulatory framework for TPIs. As regards enforcement, while we expect that this should, by its use, serve as a deterrent of bad behaviours, we would urge for some weight to be placed on the achievability of detection. We acknowledge that the consequences of enforcement for TPIs will need to be tailored according to the harm arising out of non-compliance.

We are also supportive of strategic alignment with other government initiatives as this will help bolster a cohesive regulatory environment. This includes the Smart and Secure Electricity System (SSES) work to regulate load controllers, but also through existing certification standards like BSI Kitemark, the Microgeneration Certification Scheme (MCS) and others. The certifications aren't as helpful as they could be, if a customer can't distinguish between which Alternative Dispute Resolution (ADR) scheme they can look to for support from if they have an issue. As the customer protections framework increases and matures, this illustrates the need for a broader alignment of customer protections place.

Also, Energy UK calls for a supportive approach to innovation and competition within the context of this proposed regulatory framework for TPIs as we believe this will help to drive up standards, driving progress toward net-zero goals without stifling market diversity.

Key to any energy supply contract is the ongoing supplier responsibility to service the customer (or customer via consultant). We believe that the policy objectives for this new regulatory regime should also seek to ensure that suppliers are protected from the reputational effects of non-compliant TPI activity which can tarnish the wider energy supply sector. We urge DESNZ to consider how, within this new regulatory regime for TPIs, other stakeholders in sector, including suppliers, can take comfort in a level of protection from the effect of bad TPI behaviours undermining customer confidence and sometimes hindering the service of supplying customers. This is not

reflective of the entire TPI market, where some very desirable behaviours are often observed.

## REGULATORY PROPOSAL

15. Do you support the government's proposition to directly regulate TPIs via a general authorisation regime? If not, what regulatory approach do you prefer, and what are the reasons behind your choice?

Having reflected somewhat upon the risk for customer detriment and undermining the integrity of the energy supply sector, the majority of our members would urge the introduction of a specific authorisation regime. A general authorisation regime in the form proposed by DESNZ would mean that the regulator steps in once customer harm has occurred, with audit and monitoring being minimal. As described in the consultation, a general authorisation regime would be purely principles based, and the burden would mostly fall to customers, their advocates and industry participants to flag harm that is being done possibly after it is too late for much preventative action. While strong principles are crucial, the potential for up-front gaps in structure can cause poor TPI behaviours – whether intentional or not – to persist until a witness to the behaviour makes a case to the regulator which then begins to act on this.

Further, where there is no engagement by the regulator prior to a TPI's authorisation, a general authorisation regime is unlikely to help mitigate the problem for customers of phoenixing among TPIs. This is where a TPI could operate for a period of time before folding that business, possibly after causing customer detriment, and reconstituting it under a new business name but involving substantively the same directors/personnel. The specific authorisation regime can help as the regulator can make checks as part of its fitness assessment before allowing the TPI to operate as a regulated entity. At the very least, we consider that TPIs must engage with the regulator at authorisation, starting with notifying the regulator that it, the TPI, is operating in the market.

As much as we appreciate that this new regulatory regime would need to be built up and evolve, we would like to see a strong focus on key robust elements at inception and we note that the consultation does not explore in much detail the need for these in the envisaged general authorisation regime. We consider that these key elements should include:

- A way of registering and monitoring the regulated TPIs operating in the market.
- The capacity of the regulator to introduce deterrents for bad TPI behaviour before this behaviour occurs and starts causing customer detriment.
- A strong regulatory capacity to identify instances of TPI non-compliance.
- A proportionate yet clear and robust enforcement system such as may be exercised by Ofgem.

A specific authorisation regime could require more funding and regulatory resource and if not carefully considered and implemented, could take longer to establish than a

general authorisation regime. This is not a reason in and of itself not to consider a specific authorisation regime. Generally, we consider that the benefits overall and in particular, the positive impacts for customers, including improved customer confidence and engagement in dealing with their energy supply are likely to justify any additional funding. We see a specific authorisation regime as being one in which the regulator is empowered to carry out checks prior to the TPI's operation as a regulated entity. While Energy UK's members endeavour to work only with reputable TPIs – if they work with TPIs at all – perhaps the fairest way forward would be for TPIs to be centrally assessed and monitored by a regulatory entity up front. This approach can deliver clarity for customers and their advocates and the consistency of regulatory outcomes where customer harm has to be identified and dealt with.

**16. Are there particular considerations and/or exemptions for some types of SME TPIs which should be considered? [Members please free to insert thoughts including examples or evidence]**

We consider that for clarity, fairness and consistency all TPIs should be required to adhere to the minimum standards governed by the regulator under the new regulatory regime. We appreciate that this could create some level of barrier to entry into the TPI market, particularly under a specific authorisation regime where there could be some up-front assessment of fitness of the TPI. Under a reasonable and proportionate regulatory regime, this would be an acceptable outcome in the interest of consumer protection as a barrier could serve to keep unacceptable practices unfit operators out. Therefore, we suggest that the new regulatory standards should apply to all energy procurement broker activity, regardless of size and scope, and cover aspects of Price Comparison Website (PCW) activity as appropriate. Further, TPIs should be required to meet standards which are consistent, albeit under a different type of regime, with those that apply to suppliers under the energy supply licensing regime.

As regards being fair and proportionate, consideration should also be given to the energy market segmentation of customers that TPIs serve, and the minimum levels of protection deemed essential. This is especially relevant when stipulating limitations and timeframes within any regulatory framework. The regulator will need to examine the appropriate level of regulatory measures to serve customers such as households and microbusinesses providing targeted protection and prevention of harm.

TPIs servicing larger non-domestic customers often have technically complex and bespoke servicing arrangements in place and are commercially incentivised to fulfil commitments. TPIs within the Industrial & Commercial (I&C) part of the non-domestic supply market often provide more than just procurement. Examples of additional services include auditing, bill validation, trading, usage analytics, energy solutions, demand side reduction (DSR) services and more. The broader service offerings help large businesses make informed decisions and optimise energy usage, which is especially valuable in a sector where energy usage and costs can be significant. The introduction of regulation should uphold the levels of transparency, fairness and accountability seen in positive TPI interactions while allowing TPIs to innovate and add value to a complex market. Avoiding a “one-size fits all” obligation.

17. How might these proposals impact the size of the market or influence market consolidation? [Members please free to insert thoughts including examples or evidence]

Under an authorisation regime, there may initially be a reduction in the number of TPIs operating within the market. A credible reason for this would be the TPIs market adjusting to the introduction of a meaningfully robust regulatory regime and getting used to the driving up of standards. A benefit that may be noticed relatively quickly would be an improvement in customer confidence in the energy supply market and increased customer engagement. While some TPIs may exit the market some market consolidation through acquisitions and mergers by TPI businesses is also a realistic prospect that can be seen with actual numbers of TPIs going down. TPIs provide very important services in the market so a material reduction in demand for TPI services seems unlikely. Under either authorisation regime a degree of market consolidation can be expected for both approaches, but this may be to customers' benefit.

## **FUTURE PROOFING**

20. How should the regulatory framework for TPIs be future-proofed and conducive to fostering innovation?

The new regulatory framework for TPIs must have a clearly defined scope to help ensure it is fit for purpose and provides for potential new types of TPIs that might emerge. We would also urge an approach which supports flexibility, allowing for adaptation to the evolving market conditions and technologies. We would encourage cross working with innovation teams in Ofgem and DESNZ.

We consider that a robust and regular monitoring regime for TPIs could help ensure that the regulator remains up to speed and would help allow for changes to be implemented when necessary to meet emerging trends.

Moreover, Energy UK notes Ofgem's live work to develop a Consumer Consent platform. While our members noted concerns around the technicalities of its delivery and access to the platform for TPIs, the principles of the platform itself will help to empower consumers to engage safely in an increasingly digital energy system. TPIs may seek consumer consent as part of their services. In order to build consumer trust in a smarter energy system, and given the commercial value of customer data, customers should have control over what data they're sharing. The TPI regulatory framework should therefore be developed with the Consumer Consent workstream in mind.

The new regulatory regime for TPIs should be coordinated to align with the future model used with energy suppliers. We support Ofgem's objective to move to principle-based regulation, focused on outcomes for customers rather than prescriptive operating rules, and this objective should also apply to any new regulatory framework proposed to cover TPIs. Any new prudential style regulation



that is brought in to improve the quality and operation of energy suppliers in the market should also apply proportionately to TPIs where appropriate.

## II. THE REGIME

24. Are there further design principles that should be explored as part of a general authorisation regime?

In the scenario where a TPI has been found to continually work against or not meet the design principles, the general authorisation regime proposal includes enforcement options such as issuing directions and making orders. However, the consultation does not make clear that the regulator will have a specific power to ban individuals from operating in the TPI market. Absent a specific authorisation regime or design principles which include regulatory powers to look at the individuals operating a regulated TPI before they start business, customers may be exposed to phoenixing by rogue operators.

One approach to an authorisation regime is that there could be a distinction amongst TPIs from which further customer protection design principles and flow. This could be between companies that exist to make money by comparing energy products and services, and those passively introducing an energy product as an enabler for a different core proposition e.g. electric heating system introduces a time of use tariff to optimise the running costs.

22. Specifically, do you agree with the design principle titled “clear route for dispute resolution” which would require TPIs to maintain clear and accessible complaints processes and signpost customers to out-of-court dispute resolution providers?

We strongly agree with the requirement to have a clear route for dispute resolution. This gives more power to the customer in the event that a dispute arises giving them other options for resolution.

23. Do you agree that TPIs, along with energy suppliers, should play a bigger role in raising awareness and educating consumers in GHG emissions reduction and energy efficiency practices?

Energy suppliers already offer products and services which contribute to the net zero target. Ideally, the new regulator would seek to ensure that TPI rules are aligned with supplier obligations in an effort to educate and promote options to customers including the benefits of smart meters. There are significant differences between the needs of a household and the needs of a business customer which must be considered before exploring this in more detail and aligning obligations. Energy customers must be directed toward the best quality information to inform their choices and we would urge that any regulatory measures mandating educational efforts seek to point customers toward the best quality advice rather than focus on everyone providing advice.

## PRINCIPLES

We support the adoption of the set of principles to which DESNZ proposes to have TPIs adhere. The principles put forward share common ground with those of the Retail Energy Code Third-Party Intermediaries Code of Practice (REC TPIs CoP). While Energy UK strongly urges the overlay of formal direct regulation rather than enduring reliance on the current voluntary scheme, including the proposal to mandate energy suppliers to use it, we continue to support the underlying principles of the REC TPIs CoP in the interest of delivering good customer outcomes. We do not believe that mandating this CoP is the right way forward. We expect that this new regulatory regime to be introduced will replace the existing supply licence conditions and codes like the REC TPIs CoP, rather than run in parallel.

**Transparency:** We agree that transparency and accuracy is essential for empowering customers in their energy purchasing decisions. Also, we consider that mandating the clear identification of TPIs, truthful disclosure of remuneration, and maintaining accurate customer data is crucial for customers' experience and customers' confidence in the energy supply sector. Under its Non-Domestic Market Review<sup>2</sup>, Ofgem has introduced a requirement for all non-domestic customers to be provided with a cost per unit presentation of TPI service fees in their Principal Terms and upon request. However, the enforcement of this operates via suppliers and we suggest a direct regulatory approach would be more appropriate.

The objective of improving customer awareness of how their energy supply contracts work will only serve to further protect and empower customers as well as boost competition and customer trust in the energy supply sector as a whole.

**Treating customers fairly:** We consider that bringing in, under formal regulatory oversight, a requirement for TPIs to provide suitable contract recommendations, clear and transparent explanations of terms as well as conduct ethical sales practices is critical to ensure that consumers are treated fairly and that consumers experience the same level of protection regardless of how they interact with the energy market. The proposed principles-based approach to this regulatory regime can also help ensure diverse consumer needs are met without hindering growth.

We also consider that TPIs should be expected to take into account affordability and any debt-related concerns for domestic customers, as these are important elements in their being able to put forward suitable contract recommendations.

**Clear route for dispute resolution:** We are supportive of having a robust complaints and redress mechanism for TPIs which places emphasis on accessibility and accountability. As widely observed in the regulation of intermediaries in other sectors such as in finance, such an arrangement can boost customer empowerment, foster transparent resolution processes, and increase trust in the energy supply sector. In its Non-Domestic Market Review, Ofgem expanded upon the requirement for suppliers to only work with TPIs (those serving microbusiness) which are signed up to a

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<sup>2</sup> Ofgem (2024) [Non-Domestic Market Review Decision](#)



redress scheme to align with changes to the Energy Ombudsman threshold which increases non-domestic customer access to redress schemes.

We consider that the introduction of a robust dispute resolution mechanism for TPIs should also come with a review of existing licence conditions. These licence conditions place responsibility on energy suppliers by mandating that they must work only with TPIs that are signed up to Qualifying Dispute Settlement Schemes. The introduction of direct regulation would make these supplier obligations redundant, and their removal would lift implementation and administrative burdens that currently inappropriately fall on suppliers.

At present there is no visibility of TPI performance in this area. Complaints procedures and metrics are robustly regulated and monitored for energy suppliers. Citizens Advice publishes supplier complaints performance with a performance league table. We would expect equitably transparent processes for TPIs which are performing the important services they carry out for customers.

We encourage the establishment of clear definitions, reporting requirements and expectations so there is a clear split when it comes to supplier/TPI complaints. Further, we would like to see the TPI ADR process being managed effectively by the regulator and the appointed code body. This could help avoid double handling (and counting) of customer concerns. This can also help improve overall understanding of the complaints journey, helping with speedy resolutions.

**Appropriate data protection arrangements:** We support the proposals to have TPIs adhere to data protection regulations to ensure customer confidence. We consider robust policies, registration with the Information Commissioner's Office and alignment with Ofgem's best practices are critical elements of consumer protection and clear requirements specific to the energy sector will promote trust in the TPI market.

**Training, governance and compliance:** Energy UK supports the fostering of a culture of compliance through regular training and effective monitoring. We consider that such an approach would not only ensure adherence to regulatory requirements but also promotes accountability and trust. Effective monitoring of good governance requires at a minimum a requirement for a fit and proper assessment of key personnel and notification requirements regarding significant commercial/personnel developments.

**Consideration of net zero and energy efficiency targets:** We support the inclusion of this principle due to the critical need for TPIs to embed net zero and energy efficiency considerations into their core operations to achieve the best outcomes for customers. This not only supports the transition to a low-carbon economy but also empowers customers with essential knowledge. Educating customers about the significance of net zero is crucial for fostering sustainable practices and achieving meaningful progress. By doing so, TPIs can play a pivotal role in driving positive environmental change while enhancing and TPIs can play an important role. However, as we've noted above, the emphasis must be on customers being directed toward the best advice rather than mandating that everyone advises customers directly.

## **APPROACH TO REGULATION**

### **The Regulator**

26. What are your views on a preferred regulator if a regulatory framework was established?

Due to their experience of regulating the energy supply market as well as their coverage of TPI matters in their recent review of the non-domestic market, we are supportive of Ofgem as a suitable regulator for TPIs. We also note that Ofgem is to become the regulator overseeing the new load controllers' licensing regime, which is positive for regulatory alignment in the sector. Further, Ofgem's call for direct regulation of the energy TPIs sector follows from their own insight into customer harm flowing from TPI behaviours which suggests that Ofgem is well placed to be able to implement and monitor measures to address these harms. Additionally, Ofgem is already in place which nullifies the need to create, fund and resource afresh a new regulator. Furthermore, it is not appropriate for an industry code body to assume the role.

We recognise however that Ofgem may need specific additional resource to ensure it has capacity to work with TPIs and critically, to monitor their behaviour and seek compliance or otherwise enforce against any one TPI or TPIs should their behaviour breach the requirements of the authorisation regime.

25. Are there types of enforcement activities within the energy sector or a similarly regulated sector that would be most appropriate for TPIs?

### **Monitoring and Audit**

We consider that a robust monitoring program facilitated by effective information gathering powers is important for ensuring TPI compliance with the proposed general authorisation scheme's principles. Regular audits, even in the context of a proportionately light touch approach to the regulation of TPIs, could help maintain oversight and promote accountability. The prospective regulator's close collaboration with consumer groups and the Ombudsman is likely to prove helpful in this monitoring exercise and further increase customer trust.

### **Compliance and Enforcement**

While we see the potential benefit of having a single ombudsman for all TPI disputes as improving consistency and clarity for customers, we agree with DESNZ's assessment that this would need further exploration. We consider that the establishment of a statutory consumer advocacy role for TPIs is likely to prove quite helpful to customers, particularly household customers and smaller businesses.

We believe that the range of enforcement actions which DESNZ considers that a regulator acting reasonably and proportionately can take against TPIs seems fair. It is

our hope that the outcome to these proposals produces a regulator that is fully equipped to undertake effective enforcement against TPIs and does so confidently.

Empowering the regulator to bring about a remedy for the loss or harm caused by a TPI's regulatory breach or order the payment of redress or a financial penalty would be critical. A power to remedy harm caused by a TPI's rule breach would also be of significant benefit if it can be put to urgent use such as in issuing a sales ban against an offending TPI.

### **III. SPECIFIC CONSUMER MATTERS**

#### **CUSTOMERS IN VULNERABLE CIRCUMSTANCES**

4. Do TPIs currently identify consumers who are in vulnerable situations? If so, how do they do so?

As regards non-domestic energy supply, such as for small and medium enterprises (SMEs), TPIs do not typically focus on individuals in vulnerable circumstances unless asked by energy suppliers to ascertain such information. There is no regulatory requirement for addressing 'vulnerability' in the non-domestic market.

PCWs may have website areas where customers can report vulnerability. We would welcome seeing all PCWs operate in this manner. We see this as being beneficial to customers and we would want to see something similar, in all places appropriate, under a new TPI regulatory regime.

5. Should the design principles for TPI regulation include a requirement to identify consumers in vulnerable situations? How could TPIs record and retain that information?

In the SSES work on licensing, the consultation proposed Demand Side Response Service Providers (DSRSPs) could have obligations to identify and maintain records of customers in vulnerable situations. Energy UK recommends alignment as it would not make sense for TPI regulation to include vulnerable customers but not for load controllers.

Energy UK considers that there is a need for energy suppliers, to be aware as possible, whether customers are on the Priority Services Register (PSR) and/or have received the Warm Home Discount (WHD) through the TPI. This information should be passed along to the new supplier to facilitate setting up a customer's account with the appropriate support and ensure continuity in WHD provision. New or smaller suppliers might not offer the WHD, so it's crucial for a good customer experience that TPIs ask customers whether they have previously received the WHD. If they don't, there's a risk that vulnerable or fuel-poor households could end up switching to a supplier that doesn't provide the support they need.

Under a regulatory regime, which does not include specific obligations for TPIs, such as general authorisation as envisioned by DESNZ in the consultation, it can be difficult to ascertain where TPI obligations to these customers start and end.

## **DOMESTIC CUSTOMER DISPUTE RESOLUTION**

### **6. Should ADR services be expanded to domestic customers in line with existing provisions for non-domestic consumers?**

Energy UK notes that in the SSES work, it was proposed that there should be a single common ADR scheme for DSRSPs, which would apply solely to domestic consumers. In our response, Energy UK suggested that this scheme should be extended to non-domestic ADR schemes and that this should also be expanded to cover TPIs. This would go some way to stamping out the inconsistent outcomes suppliers are starting to see with multiple ADRs surfacing in the TPI space.

On scheme design, the regulatory regime should mirror the complaints management process in the supply licence, and it needs to be a single, common scheme. The framework should be as simple as possible given that consumers have little awareness of how an ADR service works. The ADR should also be competitive, providing a good value service and driving up standards through the ADR provider. This can be done by retendering the ADR provider, and monitoring the outcomes of the service. An ADR could be helpful to mitigate consumers contacting their suppliers to discuss complaints about any app-based aggregators, with suppliers required to be contactable whereas there is no such requirement for other players.

There is a risk that complaints could be raised via the supplier and not raised with the TPI. We would expect to see clear definitions, reporting requirements and expectations set out so there is a clear split and the TPI ADR process is being managed effectively by the regulator and the appointed ADR body. This would avoid double handling (and counting) of consumer concerns and give consumers a clear direction of where and with whom to raise the dispute or complaint. This, in turn, affords the opportunity for a speedy resolution to the problem.

## **IV. VIEWS ACROSS VARIOUS CONSULTATION QUESTIONS**

### **2. Are there any further harms and risks stemming from TPI behaviours that you believe warrant our attention? Please provide examples and any relevant specific figures, if available.**

Energy UK's supplier members have observed notable volumes of energy supply fraud relating to change of tenancy (CoT) fraud which involve those either acting as or pretending to be acting as TPIs. While it would be fair to say the majority of TPIs do not engage in this behaviour, it is a challenging problem for customers and suppliers in this unregulated portion of the energy market. CoT fraud generally involves behaviour to help avoid paying for the supply of energy. This can lead to financial impacts for customers as well as frustration upon changing tenancy due to the fraud management practices needed to deal with fraudulent CoT activities.

In the interest of consistency, we suggest, for example, specific minimum criteria requirements of what constitutes a valid customer Letter of Authority (LOA) to standardise LOAs across the industry. The REC TPIs CoP sets out principles of what constitutes a minimum standard for the LOA.

Some of our members report various instances of receipt of LOAs which are not of an acceptable standard and which they then must reject. There have been instances where TPIs have either signed LOAs on behalf of the customer or where TPIs have agreed to contracts without customers seeing the final proposal contract before signing. These members have observed instances of mis-selling, which as the suppliers, they are tasked with putting right after the event. This carries with it a financial burden when selling back any energy bought in advance for the contract period. This can also hinder the customers' ability to pick the best products suitable for them. There is a risk here that a customer could be left unaware of information on all the supply proposals presented and the opportunities that may have been in their best interests.

### 3. What are the main challenges with improving price transparency?

A structural market design, where TPIs are integrated to provide price comparison, adds in cost. This cost, without careful management, can end up increasing customer bills.

With the increased adoption of dynamic time of use tariffs, it's difficult to estimate what an exact price for a property will be, as this is dependent on things like energy usage, house efficiency, and how well heating is retained.

### 7. Are there further regulatory examples from other sectors that we should be learning lessons from?

There are already specific requirements for non-domestic brokers effectively implemented via the energy Supply Licence Conditions (SLCs). So additional obligations for TPIs would need to be comparable to the SLC requirements that apply via their relationships with suppliers. Further, the SLC rules relating to suppliers' interactions with TPIs should be reviewed and removed where redundant.

### 8. What are your views on the types of TPIs included in the first section of the scope table?

We agree that the main focus of the policy intent and regulation should cover the organisations mentioned both within the high priority scope and low priority, however consideration should be given to the type of customer they serve, the levels of protections needed and the type of activity they undertake. This is especially relevant when stipulating limitations and timeframes within any regulatory framework.

We would also like to highlight to DESNZ, predominantly within the I&C part of the market, that there are organisations within a unique industry sector who provide a broader range of business-to-business (B2B) services to their clients. Energy

services/procurement forming only a small element of their core contractual non-energy related obligations. This includes property managing agents, member-owned co-operatives, public buying organisations and beyond. An example would be public sector organisations who also provide a wide range of services to Councils, Blue Light Services or schools in addition to energy procurement. They are required to maintain client protections via mandatory obligations.

Some of the obligations on customer protections mirror or overlap the proposed TPI Regulation design principles. We would advocate for a carefully scoped regulatory approach that addresses the specific needs of the energy market while acknowledging the diverse roles and existing frameworks/regulations/codes applicable to these types of B2B client service organisations.

**9. Do you think any further types of TPIs should be explored? If yes, do these match with any of the expanded scope category and if they do not, why not?**

We would recommend expanding on the definitions of “broker” and “consultant” and any subcategories that fall within them when drafting any obligations. To build on our suggestion elsewhere in this response, there should be some clear distinction. Some companies primarily generate revenue by comparing energy tariffs and earning commissions. The main business of others is not centred around energy tariffs but they may offer them as an additional service to complement their core product-proposition. While the latter may receive commissions for offering energy tariffs, it is not their primary business focus, and their motivations and drivers may differ significantly from those of traditional brokers.

**12. Do you have any views on how the number of TPIs within the market might change in the coming years?**

**13. How might the TPI market evolve in the next 5 years, particularly in the context of Market-wide Half Hourly Settlements, Net Zero ambitions and more innovative tariffs and low carbon technologies being introduced to the market?**

The number of TPIs in the market drastically shifted during Covid-19. Digital initiatives are being developed to better deliver flexibility services for customers, such as tariff data standard interoperability, market half hourly settlement and asset registration. As TPIs will likely gain access to some of the data through these schemes, it's likely that TPIs will face a resurgence over the coming years.

In this context, TPIs will help to provide better clarity and price comparison for customers on new technologies they will likely engage with.

As they will be dealing with increasingly complex and potentially sensitive customer data, data protection should be a key part of the regulatory process.

**If you would like to discuss the above or any other related matters, contact me directly at [candice.orr@energy-uk.org.uk](mailto:candice.orr@energy-uk.org.uk).**