

Third-party intermediaries in the retail energy market

BEIS Call for Evidence
response



Citizens Advice welcomes the opportunity to respond to the call for evidence on third-party intermediaries (TPIs) in the retail energy market. Citizens Advice provides free, independent, confidential and impartial advice to everyone on their rights and responsibilities. We are the statutory representative for domestic and microbusiness energy consumers across Great Britain.

TPIs play a central role in how consumers navigate the retail energy market. Consumer perceptions of the energy market polling Citizens Advice regularly conducts with Ofgem indicates around two-thirds (64%) of consumers use a price comparison website (PCW) to help switch supplier.¹ When those who had switched their energy supplier were asked how they found out about the energy deal they ultimately switched to, 41% used a PCW, along with 13% using an energy deal scanning service, 4% using an automated switching service and 4% through a collective switch organised by a third-party.

This all indicates that when looking to engage with the energy market, the majority of consumers will do so through a diverse range of TPIs. The reasons behind this are clear - TPIs can for many consumers help to simplify a complex market, add value and get a better deal in a sector that has a myriad of suppliers and tariff options.

However, there is a large protection gap for consumers if issues occur when using a TPI compared to engaging directly with a supplier. Key problems can include a lack of transparency, access to redress, and a lack of identification of consumers in vulnerable circumstances. As the call for evidence recognises, while energy suppliers fall under the remit of Ofgem and sectoral regulation, TPIs are subject only to general consumer law and a patchwork of voluntary schemes.

The key protection challenges this creates were highlighted in our research report [Stuck in the Middle](#) (2020), which combined legal analysis with qualitative and quantitative research with consumers. It concluded there was a strong need and consumer demand for direct regulation of energy TPIs, in line with other sectors such as financial services, with 70% of consumers surveyed agreeing that these services should be regulated, and over 75% wanting access to independent redress when things go wrong with these services. This response draws primarily on that research alongside insights from our consumer service and local Citizens Advice where consumers have raised concerns over TPIs directly. We have also looked at issues faced by microbusiness consumers in relation to broker services, including in [Closing the Protection Gap](#) (2019).

In the current circumstances, we recognise the impact ongoing historically high wholesale prices are having on the retail energy market, and by extension on TPIs. A number of prominent price comparison websites and auto switchers have temporarily halted or permanently ceased services.

¹ [Consumer Perceptions of the Energy Market Q2 2021](#) (2021) Ofgem

It is also important to note the role these services played in developing some of the unsustainable supplier business models which have now collapsed. TPIs have generally recommended suppliers primarily on the basis of price, which has led many consumers to switch to suppliers with service that is poor or inappropriate for their needs. Some of these suppliers subsequently failed, causing additional stress and hassle. We've taken steps to support consumers make more informed choices by producing an independent star rating of service performance, updated regularly and with the widest market coverage of any comparable metric.² We've offered TPIs the opportunity to integrate the rating into their platforms in recent years, but few have done so, with feedback from some that this sort of rating could conflict with their commercial interests in selling tariffs.

Auto-switching services present convenience benefits, but have increased the risks to consumers significantly by making decisions on service quality on behalf of consumers, and even making it difficult for them to understand if they're getting the best deal.

Some suppliers that have failed in recent months have in their filed accounts³ highlighted the role of switching sites in helping them achieve rapid growth, and the role of TPIs in directing consumers to risky suppliers pricing unsustainably must be considered in evaluating the causes of the widespread supplier failures and subsequent mutualised costs that consumers will have to pay. BEIS should consider whether suppliers that subsequently failed would have been able to achieve such rapid growth if not for the recommendations of TPIs, and whether market outcomes would have been improved if TPIs were regulated in that period.

Longer-term, we note the emphasis in the recent Net Zero Strategy⁴ of harnessing demand-side response (DSR) and consumer flexibility as being a cornerstone of achieving a low-carbon power system. Major industry reforms such as Faster Switching, Half-Hourly Settlement and Midata will all also lead to either an increased role or complexity for TPIs. Domestic DSR is still at a comparatively nascent stage, but the scale of system and direct consumer benefits from participation in flexibility provision is clearly considerable. While industry has usefully looked to set standards in the non-domestic space, when these services reach widespread uptake among domestic consumers, direct regulation will be essential to generate the required level of consumer confidence to unlock the benefits of flexibility and ensure TPIs are not a barrier to the benefits major industry reform programmes are expected to bring.

² In our role as consumer advocate, we operate a price comparison tool, though this is non-transactional, providing consumers with tariff information and the details for consumers to contact suppliers directly. [Compare gas and electricity prices](#) (2021) Citizens Advice.

³ [Peoples Energy \(Supply\) Limited Annual Report and Financial Statements](#) (2021) Companies House

⁴ [Net Zero Strategy](#) (2021) BEIS

Q1. Can you provide further evidence of how bill-splitters are currently operating in the market and how they interact with licensed suppliers?

Similar to what is set out in the call for evidence, our understanding of the bill-splitter market is that there are two principal models. The first involves the bill-splitter essentially operating as a white-label for a supplier, and therefore, in principle a consumer would benefit from the full range of protections under the supply licence, for example, Glide working as an agent of OVO to supply gas and electricity under OVO's supply licences.⁵

The more problematic model from a consumer protection perspective is where a bill-splitter may act independently of a supplier, potentially contracting with several suppliers, effectively becoming a separate entity that sits between supplier and consumer, limiting direct contact and communications. This can also a supplier's understanding of a consumer's characteristics, including vulnerability, and prevent access to support based on data matching, like Warm Home Discount. In some examples consumers aren't even aware who the supplier of their energy is, and their tariff details were not transparent.

This lack of consumer contact details can also create issues in a supplier failure situation. In 2019, Citizens Advice was told in discussions with a supplier of last resort that around 15% of domestic accounts with a failed supplier had been held in the name of a bill splitting company, rather than in the customer's name making the handover process much more challenging.

Research we conducted on bill-splitters in 2018 identified issues including transparency over their pricing and terms and being able to understand whether they offer value for money. All five bill-splitters scrutinised charging at or above the market average, and all the companies we looked at appeared to use a different estimate for energy usage.⁶

Terms and conditions leading to service users being individually responsible for the contract are also a concern where this is not made clear upfront and the point of sale. Individual occupants can still be liable for the whole amount if their flatmates don't pay, potentially losing any credit that had built up or worse creating an unexpected debt.

Finally, a recurrent theme among respondents from local Citizens Advice advisers when asked what issues they'd helped clients with concerning bill splitters in March 2020 was that contracts were hard to exit.

⁵ [Glide's domestic supply terms and conditions](#) (2021) Glide

⁶ [Bill-splitting companies: Is the convenience worth the cost?](#) (2018) Citizens Advice

Q2. Do customers using bill-splitters receive the same protections as those given to customers contracting directly with a licensed supplier? If not, to what extent and why?

As indicated, our understanding is that where a bill-splitter is acting as a white-label of a supplier, the supply licence protections apply, although in practice, they may still complicate how these protections are delivered. However, if a bill-splitter is acting separately, suppliers may not be fully aware of their consumers' characteristics, and therefore are unable to offer suitable support. Anecdotally we are also aware from stakeholder discussion of issues where bill-splitters have registered domestic customers as non-domestic, with a commensurate loss of protections that are afforded to domestic customers, including vulnerability protections.

Q3: Are there any types of TPI which fall outside the scope of this call for evidence? If so, should we be considering those types of TPI in future policy development and if so, why?

The scope of the call for evidence is well defined. We are not aware of any significant TPI entities that would fall outside the suggested typology. We agree with the exclusion of sales agents working on behalf of a supplier from the scope and energy consultants solely offering services such as energy audits.

While not significantly different in function from a price comparison website, we are aware of some banking apps offering in-built energy switching services. There have been examples⁷ where the number of suggested suppliers has been highly limited, potentially presenting consumer choice and transparency issues. We would welcome any consideration of TPI regulation explicitly including services like this where comparisons are "embedded" into other apps.

Q4. Should we be considering entities that conduct activities on behalf of TPIs (such as sub-brokers) in future policy development? If so, to what extent and why?

Yes. We would strongly welcome the inclusion of sub-brokers in future policy development. In response⁸ to Ofgem's Microbusiness Strategic Review we highlighted issues including challenges for suppliers in ensuring that brokers are providing information on costs up front to customers, with this being exacerbated in complex arrangements like where a broker is working through a sub-broker and the supplier

⁷ [You can now switch energy supplier through Monzo!](#) (2019) Citizens Advice

⁸ [Citizens Advice response to Ofgem's Microbusiness Strategic Review: Policy Consultation](#) (2020) Citizens Advice

does not have a direct relationship. The overall opaqueness of the sub-broker market with no indication of the numbers operating in the market, or often information on their relationship with brokers themselves means further information is needed to gain a better understanding of this market and potential consumer harms.

Previous research⁹ by Cornwall Insight showed the lack of clarity over whom a business customer was dealing was stated as a serious problem, particularly in terms of sub-brokers and other organisations. Interview insights included a supplier arguing “You will have an aggregator, then a sub-broker, and then maybe a sub of the sub-broker [...] If everybody was dealing with the supplier, then this would be much easier. The supplier has no appetite to deal with some bloke working out of his bedroom.”

Evidence shared with us from suppliers also shows some sub-brokers reportedly providing fraudulent change of tenancy documents to enable switches with very large amounts of debt, which a supplier could otherwise object, with this cost falling more broadly across the market as a result.

Future obligations on sub-brokers could potentially mirror the supplier/agent obligations in the current supply licence, with a broker ultimately being responsible for the conduct of their sub-brokers.

Q5. Are there any other harms (or risk of harm) to customers from existing TPIs that we should be considering? Please provide reasons.

The lack of information transparency, issues around the contracting and sales process, adequacy of customer service arrangements including for those in vulnerable circumstances and lack of alternative redress mechanisms identified in the call for evidence mirror the core harms we have identified in our own research related to TPIs.

Naturally the key consideration for many consumers when comparing suppliers is price, with 51% of switchers¹⁰ opting for a better tariff as the reason they switched. But with 18% choosing their supplier on the basis of offering green energy, 24% customer service and 19% on the basis of a good reputation, other considerations are also clearly central to consumers. Though some TPIs in the domestic market do offer information on these areas, others don't, or do so in an inconsistent or hard to compare manner.

A further focus of potential harm in the call for evidence could have been to what extent TPIs support net zero ambitions. Integrating the outcomes of the “designing a framework for transparency of carbon content in energy products” BEIS consultation into the TPI market would be a logical first step to ensure that where consumers are

⁹ [The role of TPIs in the GB SME and microbusiness energy sector](#) (2019) Cornwall Insight

¹⁰ [Consumer Perceptions of the Energy Market Q2 2021](#) (2021) Ofgem

comparing which energy services to take up, they can be confident of the authenticity of any green claims.

We have concerns over practices where the interaction of TPIs and data-matching to support low-income and vulnerable consumers like the Warm Home Discount and Energy Company Obligation. For example, data matching means that most households eligible under the Core Group receive their rebate without having to take any action. However, if suppliers don't have access to customer details such as their name, because the contract is held in the name of the TPI, this process can be blocked.

Finally, there is evidence that poor data quality and authentication from TPIs is a participatory factor in Erroneous Transfers (ETs). While the rate of ETs has been declining in recent years, and the introduction of initiatives such as the REL under Faster Switching should improve the reliability of switches, industry evidence going back to the CMA Energy Market Investigation has pointed to TPIs being a factor in ETs.¹¹

Q6. Are there other harms (or risk of harm) to customers from emerging TPIs that we should be considering? Please provide reasons.

For emerging TPIs which will become more important in the transition to a smart, flexible net-zero system, in our view potential harms centre around the greater degree of control such TPIs might exert over consumer's homes and assets or devices.

Qualitative research commissioned by Citizens Advice used deliberative workshops to introduce consumers to the concept of a "Smart TPI" which would take control of household devices and respond to price signals to save the consumers money. The findings showed this was a new concept to many consumers, with immediate concerns of loss of control and misuse of data.

Those research participants in vulnerable circumstances highlighted the harms they might experience from these innovative TPI models would be higher, particularly around the loss of supply or failure of devices being highly problematic if they are relying on assistive technology or health equipment, and the loss or misuse of highly sensitive data, especially if about income and health.

Our most recent research¹² on smart appliances further reinforced that people's confidence in smart home technology is low. While 49% of participants in consumer polling were confident they understood the concept of time-of-use tariffs linked to smart appliances, under a third (29%) said that they would be likely to use time-of-use tariffs linked to smart appliances.

¹¹ [Appendix 6.1: Creating stronger incentives for third party intermediaries to engage customers](#) (2016) CMA

¹² [Smartening up](#) (2021) Citizens Advice

This research also concluded that if people aren't presented with clear and engaging information about how their data will be used, then it is difficult to make an informed decision. Sometimes the design of sign-up processes for products and services can mean that people won't even realise that they've made a decision about their data sharing preferences. In our Clear and in Control¹³ research we found that lengthy terms and conditions, with complex legal terminology, are neither understood nor trusted by consumers. They're often not read and reduce trust in products and services.

In summary, smart TPIs taking control of assets to offer flexibility services will need the data to achieve this, but it is central to consumer trust that consumers can comprehend the choices of what data is used and why.

Q7. Does a lack of information transparency by TPIs concerning their market coverage or commercial arrangements with suppliers cause harm (or a risk of harm) to domestic customers? If so, to what extent and why?

We share the broad concerns identified in the call for evidence around the lack of transparency by TPIs causing harm to domestic customers. We will expand on two specific issues.

Firstly, we have direct evidence gathered on the autoswitch market on how public statements on market coverage have not matched up with the reality of the panel of suppliers they have worked with. Autoswitchers at the time advertised statements including "We have one of the biggest selections", "We can switch you to all the main providers", and "There isn't anyone else out there that can switch you to more providers". We collected data from 8 autoswitchers about the tariffs they sold. Some autoswitchers were able to switch consumers to fewer than 15 suppliers, out of a total of around 70 suppliers then in the market. We estimated this could lead to customers spending up to £70 more than if they had searched themselves. The best performing autoswitcher saved £65 more than the worst.

Secondly, we have direct evidence from operating our own price comparison tool of the challenges in presenting a wide view of the market when bespoke tariffs have proliferated extensively. As of January 2021, 41% of tariffs on the market were exclusive compared with 21% in December 2019¹⁴. Our own price comparison website informs consumers where they can access exclusive deals, however, this can lead to a confused customer journey. The fact that a tariff is exclusive and how to access it should be clearer.

¹³ [Clear and in control](#) (2019) Citizens Advice

¹⁴ Internal Citizens Advice data

To address this, we have previously recommended that consumers should have clear information about the services TPIs offer and be able to understand if a TPI has a special deal with an energy supplier. If involved in a longer-term relationship with a TPI, consumers should also be kept up to date about this service, for example they should know if an autoswitcher is comparing significantly less of the market than when they first signed up to the service.

Consumers should also always be able to understand on what basis an estimate of savings from switching is being given, and this should be based on accurate, up to date consumption information, which may not now be regularly requested by the auto switcher and therefore projected savings may not reflect changed circumstances. This will become more important as half-hourly settlement is introduced and more smart time of use tariffs become available. We note that to date, TPIs have generally been slow to adapt their services to make use of more granular data and compare more complex smart tariffs.

Principles-based energy supply licence rules on communications and informed choices could form a basis for considering what measures to put in place to ensure transparency from TPIs.

Q8. Do market-driven collective switching schemes cause harm or a risk of harm to customers? If so, to what extent and why?

We have limited evidence of harm from collective switching schemes. If well managed, these schemes - often in partnerships with trusted bodies like local authorities - can help drive engagement from those otherwise less likely to switch. Consumer service case studies (example below) have suggested that in some instances there have been issues of incorrect projections of savings leading to a negative experience when after the switch, bills have been higher, however, these are not unique issues to collective switch schemes. Similarly, we agree that there could be a lack of transparency in relation to how the deal compares with others or how many companies participated in the auction, similar to other TPI services.

Janet was invited to take part in a collective energy switch scheme run by her union. She filled in her current details and likely consumption and it generated a projected saving of £110 per year. The saving seemed real, so Janet switched, but after a few months noticed her direct debit was increasing and she was getting more and more into debt. Having compared the standing charge and unit rate, both were actually higher than her old tariff. When she contacted the collective switch provider, she was told they had actually generated the saving versus a standard variable tariff, not the previous fixed tariff and details that she had provided - consumer service case study (April 2021)

Q9. Do the contracting and sales practices of any of these (or other) types of TPIs cause harm (or a risk of harm) to domestic customers or have an impact on the wider market? If so, to what extent and why?

Some protections can be passed on via contracts between the supplier and the TPI, where these exist, so contracting does offer the potential to enhance consumer outcomes, for example in the non-domestic market by suppliers setting minimum standards for brokers. The Consumer Rights Act 2015 and Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 also offer a baseline of protections around contracting and sales practice.

However, we agree existing contracting and sales practices in the TPI market can also cause harm to domestic consumers. This is particularly the case for bill-splitter terms allowing for charges for excessive use or over-usage, and management charges, overall leading to a complex set of charges for consumers to understand and feel assured they are getting the best deal.

We also agree with the assessment in the call for evidence that autoswitchers may not always fully inform customers of the criteria which they will use to evaluate and select a new supplier. For example, what customer preferences will be taken into account, or what may change for the customer as a result of the switch, with consumer service evidence including consumers experiencing different payment methods, not having access to paper bills and not receiving support they previously had such as regular meter readings being taken after signing up to an auto switcher service and switching supplier.

Q10. Do TPIs' customer service arrangements and/or approach to consumer protection cause harm (or risk of harm) to domestic customers? If so, to what extent and why?

We have previously highlighted the gaps in consumer protection caused by the current arrangements where when fulfilling similar roles in the energy sector, energy suppliers are subject to sectoral regulation and TPIs only general consumer law. This is particularly pressing when TPIs take on the role of primary interface for a consumer's energy supply, such as with bill-splitters and autoswitchers.

With the call for evidence highlighting the implications of Supplier of Last Resort, we would add we are aware of cases where autoswitchers have switched consumers to multiple suppliers that have failed, and consumers have been unable to resolve issues around direct debits, leading to unpaid bills or debts mounting unexpectedly. There have also been issues where supply has been switched for one fuel but not the other,

leading to consumer confusion and further billing issues that again, have stretched for months.

Ian switched to Simplicity in August 2020 through an auto switcher and set up his direct debit. The switch for his gas supply had not taken place by the time Simplicity went through Supplier of Last Resort meaning he had credit with Simplicity he has struggled to get back and debt with his old supplier, with the direct debit having been cancelled. He was then switched by the auto switcher to People's Energy, which has also subsequently failed. - consumer service case study August 2021

Q11. How do TPIs' current practices impact domestic customers in vulnerable situations and who may require additional support?

The core issue around the treatment of consumers in vulnerable circumstances is that while suppliers are under obligation to identify these consumers and offer them support under SLC 0, general consumer law that TPIs are subject to places no such obligation to identify consumers in vulnerable circumstances, except where business practices are specifically targeting the vulnerable.

Ofgem's 2025 Vulnerability Strategy¹⁵ stated that TPIs should "take responsibility" for consumer groups, including the digitally disengaged and those with a disability. The regulator concluded that as TPIs play a "crucial role in encouraging consumer engagement and it's important that consumers in vulnerable situations are able to use this resource". However, without a regulatory basis on which to do so, suppliers have indicated that TPIs are typically unwilling to collect sensitive data about consumer vulnerabilities.

Another angle to consider is the impact of regulatory reforms on the switching process and therefore the supplier-TPI relationship in the context of consumer vulnerability. The RECCo-sponsored PCW/Supplier forum considered¹⁶ the implications of Faster Switching on existing processes between the two entities, concluding that "Suppliers and PCWs will continue to agree on a bilateral basis, whether and how to capture this information from consumers at the point of sale [...] Suppliers will need to consider the timing of obtaining information within the context of faster switching timeframes, particularly a next day switch."

This highlights that practice in this area is inconsistent, potentially leading to differential consumer outcomes. It also highlights how where under current arrangements, suppliers have had weeks to contact a consumer and determine vulnerability, as soon as next year under Faster Switching a consumer could be with a supplier next day,

¹⁵ [Consumer Vulnerability Strategy 2025](#) (2019) Ofgem

¹⁶ Summary of Agreed Positions (2021) RECCo PCW/Supplier forum

placing even more importance on the point of sale - including TPIs - as the key point to capture vulnerability information.

There are also issues that arise from the interaction of TPIs and data-matching to support low-income and vulnerable consumers like the Warm Home Discount. Data matching means that most households eligible under the Core Group receive their rebate without having to take any action. However, if suppliers don't have access to customer details such as their name, because the contract is held in the name of the TPI, this process can be blocked.

We have previously advocated that TPIs could take more responsibility for identifying vulnerability and, subject to appropriate data privacy controls, TPIs should pass on customer information to suppliers and energy networks to ensure consumer protection where it is in their interest.

Q12. To what extent do domestic customers have adequate access to redress when interacting with TPIs? Please provide reasons.

We are firmly of the view that domestic consumers have inadequate access to redress under current arrangements when interacting with energy TPIs.

Legal analysis commissioned by Citizens Advice confirmed that while individual consumers can rely upon the rights and protections in any dispute with a trader, if necessary in court, there is not a compulsory alternative dispute resolution (ADR) scheme for out of court resolution of consumer complaints for domestic energy TPI users. TPIs also sit out additional sector-specific requirements on complaints handling.

Previous BEIS research¹⁷ has also reinforced the value of ADR over courts as a mechanism of resolution. This analysis found consumers reported that the minimum value of a case that they would consider taking to the courts is higher than for ADR, supporting the finding that the court process is more costly and more time consuming than the ADR process. We agree with the assessment in the call for evidence that court action would be largely unviable for many domestic consumers to enforce their rights.

We view it as imperative that if a consumer can't resolve a complaint directly with the company, they should be able to easily use an ADR service for a binding decision, rather than having to seek redress through the courts. We also see value in a single ADR provider across energy; previous Citizens Advice research¹⁸ found that multiple ADR providers can be confusing for consumers and add to the complexity of the ADR landscape, as well as wider benefits such as if all complaints go to only one ADR

¹⁷ [Resolving Consumer Disputes](#) (2018) BEIS

¹⁸ [Confusion, gaps, and overlaps](#) (2017) Citizens Advice

provider, it will be easier to spot sector-wide trends in complaints and to understand where consumers are experiencing problems.

Finally, the implementation of Ofgem's Microbusiness Strategic Review proposals will see the introduction of a requirement for suppliers to only work with brokers signed up to a qualifying alternative dispute resolution scheme. We strongly support this, but once implemented it will mean in effect that without further reform, domestic TPI customers will soon be afforded less protection than microbusinesses - reinforcing the need for broader action.

We would also add that in addition to formal ADR, there is also an important place for advice and assistance. If consumers need help resolving their problem, they should be referred to free, confidential and impartial advice. Those with complex problems or in vulnerable circumstances should be offered additional help from the Extra Help Unit.

Q13. Do any potential harms or risks impact business customers differently depending on their size? If so, to what extent and why?

As our consumer advocacy duties extend to domestic and microbusiness customers, we will limit our comments to those consumer groups.

In broad terms, we would highlight how high a proportion of the non-domestic market is made up of smaller entities, with 5.7 million (96%) of businesses being micro-businesses.¹⁹ Our previous research²⁰ has also highlighted how smaller businesses are in their characteristics and how they experience the market, often very similar to domestic consumers. Despite this, due to different rules, there is often less signposting to third party support, and communications on issues like debt can appear aggressive and prevent early engagement.

A particular issue where consumers classed as non-domestic can experience harm is where the property is mixed use, such as a pub or shop with a flat over the main business. Disconnection rates are far higher in the non-domestic sector, presenting an obvious high risk of harm. This risk is even more pressing given evidence that certain types of TPIs have set up domestic customers on non-domestic contracts.

¹⁹ [Business statistics](#) (2021) HOC library

²⁰ [Closing the Protection Gap](#) (2020) Citizens Advice

The consumer lives in a property that is a pub with a family home above. She lives with her two young children and a spouse who is registered as disabled. The consumer gave her notice to the brewery, who owned the pub, but continued to work and live in the property as there was no alternative accommodation they could move to. The consumer was threatened with disconnection as their account was in arrears. The consumer did not dispute the debt but, given the circumstances, wanted the threat of disconnection to be removed. Consumer service case study - January 2018

In summary, a large part of the non-domestic market is made of very small businesses who are less able to represent their interests than large entities with specialist teams or experience negotiating bespoke contracting arrangements for energy.

Q14. Does a lack of transparency by TPIs concerning their market coverage and commercial arrangements with suppliers cause harm (or risk of harm) to business customers? If so, to what extent and why?

Our past research²¹ found price transparency was the key factor in ensuring that business energy consumers can confidently navigate the energy market.

We've also recommended that during the sales process, non-domestic TPIs should present information about market coverage, disclose their commission arrangements and the nature of their relationships with suppliers, with any ongoing commission could also be included as a separate line item on bills. We agreed with the conclusion of the Ofgem MBSR that a lack of transparency from brokers was causing harm to non-domestic customers and its subsequent policy remedies in this area.

There are also gaps in the MBSR rules, which we highlighted in our response²² to Ofgem, such as that the proposals will not protect consumers using brokers who they pay directly. While we think these represent a lower risk currently, these models could become more prevalent in future and take over more of the supplier role.

Q15. Are you aware of any contracting or sales practices by TPIs that cause harm (or risk of harm) to business customers? If so, to what extent and why?

Our evidence shows aggressive and at times misleading sales practice in the business TPI market.

²¹ [Closing the Protection Gap](#) (2020) Citizens Advice

²² [Citizens Advice response to Ofgem's Microbusiness Strategic Review: Policy Consultation](#) (2020) Citizens Advice

Research commissioned by Citizens Advice and conducted by Cornwall Insight found that aggressive sales tactics by TPIs were noted by suppliers, with a common situation being one where a customer has signed a deal through one intermediary but is then contacted by another TPI and encouraged to break that deal in favour of what is claimed to be a better one. Other concerns publicly available and identified in the call for evidence include a small minority of TPIs impersonating suppliers or other organisations to gain consent for a switch.

Q16. Do TPIs affect business customers' access to smart metering, smart tariffs and other smart products and services? If so, to what extent and why?

We are not aware of any widespread examples of TPI poor practice or procedure affecting consumer access to smart metering. However, as TPIs have no requirement or direct incentive to promote the roll-out and are a major source of information for many non-domestic consumers, there is a lost opportunity for the benefits of smart metering to be communicated. Furthermore, given how microbusiness deals are often bespoke, barriers have existed to the development of price-comparison type approaches. Stemming from this, the arrival of more smart-tariff based propositions may also be challenging for the non-domestic TPI sector which has seen comparatively limited disruption or innovation in practice over recent years.

Q17. Do TPIs' customer service arrangements cause harm (or risk of harm) to business customers? If so, to what extent and why?

We share concerns industry have expressed that where through an exclusive letter of authority (LOA) a broker is the main point of contact for a customer, but provides inadequate customer service, this can lead to poor outcomes. Another element of use of LOAs is specifically the perceived duration of any authority and the risk of confusion over precisely what responsibilities the customer is delegating,

Q18. To what extent do business customers have adequate access to redress when interacting with TPIs? Please provide reasons.

We strongly welcomed the Ofgem MBSR remedy for suppliers to only work with brokers signed up to a qualifying alternative dispute resolution scheme, noting that where there isn't a direct contractual arrangement with a supplier, microbusinesses would still struggle to access redress.

However, before redress a crucially important element of assistance is advice. We expressed concern that while there will continue to be a requirement to inform

microbusiness consumers about their rights to access dispute resolution on all bills, there won't be any similar requirement to provide information about free, independent advice that is available from the consumer service helpline.

In 2018, 50% of contacts to the Energy Ombudsman²³ were about complaints that were outside its terms of reference. A significant number of these are due to consumers contacting the Ombudsman too early, in part because details of the Ombudsman service are readily available on energy bills. At this stage, these consumers would have benefited more from access to independent advice from the consumer service helpline to help them solve their complaint with their supplier.

An important element of any future TPI regulation framework will be ensuring that as well as access to redress, access and adequate signposting to advice and assistance are equally prioritised.

Q19. Do TPIs, such as load controllers, create actual or potential energy system risks? If so, what risks and why?

We agree that TPIs controlling significant electrical load ought to have the appropriate cyber security protections in place to protect the energy system from the impacts of cyber-attack.

Our demand-side response (DSR) risk register²⁴, created in collaboration with Energy UK and the Association for Decentralised Energy considered the risk of cyber attacks and found that this risk was “likely to be protected” by existing work including the BSI energy smart appliance programme, work by the Energy UK retail cyber security working group, revision of the NIS Directive and additional measures such as the drafting of a cybersecurity network code.

Q20. What, if any, interventions in addition to Ofgem’s proposals would be required to address actual or potential harm to business customers and why?

We continue to argue that while the MBSR regulatory interventions are a positive improvement in protections, they are naturally limited by the current legislative framework, meaning practical challenges remain in enforcing regulation on TPIs via suppliers. Compared to a sectoral regulator, suppliers are not best-placed to police all the wide range of individual brokers operating in the market, with it only being practical for suppliers to monitor brokers that they have a direct contractual relationship with.

²³ [Energy Sector Report](#) (2018) OS: Energy

²⁴ [Demanding Attention](#) (2021) Energy UK, ADE and Citizens Advice

Direct regulation would allow better scrutiny from Ofgem, better data to understand emerging compliance issues and overall raise standards.

Q21. Are any of the existing voluntary schemes and code of practices effective in protecting customers from harm (or risk of harm) caused by TPIs? Please provide reasons.

We are supportive of voluntary schemes in that they offer a higher level of protection than general consumer law. Where such schemes achieve a high level of market participation, there is a benefit to standards being raised. For example, Ofgem's existing Confidence Code for PCWs does cover some of the largest market participants. The FlexAssure code has also provided a valuable space for flexibility providers to converge and collaborate across aggregators, DNOs and other participants.

However, there is also a general perception we have found from stakeholder discussion that those TPIs keen to engage with voluntary schemes are those already striving to reach best practice, whereas those causing consumer detriment, particularly in the non-domestic broker market, are less likely to be a member of any accreditation or standards scheme. This trend fundamentally limits the effectiveness of any voluntary scheme. The CMA in its Digital Comparison Tools²⁵ study also found limitations to the voluntary approach, concluding that "the voluntary schemes adopted in energy and telecoms appear more likely respectively to lead to distortions or to lack substantial impact" and lack "formal sanctions other than suspension or exclusion for non-compliance".

There are also issues around the flexibility of voluntary schemes and their ability to incorporate innovative new business models. For example, autoswitchers and bill splitters would not be able to accredit with Ofgem's PCW confidence code, as well as services which do not compare energy suppliers, but compare tariffs internally to ensure customers are not experiencing a loyalty penalty are not able to benefit from Ofgem approval. Any future regulation must be able to adapt to new service offerings.

Q22. Are there any specific requirements within the existing voluntary schemes and codes of practice which would be useful to replicate in any future regulatory framework (should this be required)? If so, which requirements, for which type of TPI, and why?

There are elements of Ofgem's PCW confidence code we would see particular value in replicating in a future regulatory framework.

²⁵ [Digital comparison tools market study - Final report](#) (2017) CMA

For example - requirement six²⁶ – quality of service and signposting to information - is particularly relevant in the context of growing consumer demand for information on the customer service of their energy supplier. If a TPI is to display customer service performance rankings that ranking should be objective, applied consistently, regularly refreshed, well-explained and externally quality-assured.

Similarly, requirement seven, setting minimum standards on the quality of information provided about tariffs and the frequency with which tariff information should be updated or removed if no longer relevant would be valuable across any TPI seeking to move consumer between tariffs, based on consumer service evidence of consumers seeking to access tariffs that are no longer available or inaccurately displayed.

Requirement seven also sets important baseline standards on personal projections and that the costs of all tariffs (including a consumer's current tariff) must be calculated as a default using the methodology based on the definition of Estimated Annual Costs. There are though some industry concerns on accuracy of tariff data used by TPIs currently, with back-end systems quite manual in nature, so this standard could be developed further.

Accurate comparison and the standards and methodology being used will become even more central an issue in the future as smart tariff comparison becomes more mainstream and cost projections must be based on actual granular usage to provide an accurate assessment. A set of standards in relation to smart tariff comparison would be a valuable addition to any future TPI regulatory framework, building on work done by the BEIS smart meter-enabled tariffs comparison project.

Representing as it does sector-led best practice, we'd also highlight FlexAssure provisions around technical due diligence and data protection as offering a good starting point for any future regulatory framework incorporating demand-side response flexibility.

Finally, a common theme across several voluntary schemes is having an established complaints procedure. We see this as essential for any future regulatory framework.

Q23. Do you agree that any regulatory framework for TPIs (if required) should display the features listed at the start of this chapter? Are there any other features that any regulatory framework should display? Please provide reasons.

We agree with all of the features of a future regulatory framework listed in the call for evidence. Given the size of the TPI market and the speed with which it has evolved in recent years, it's important that the framework is flexible and doesn't act as a barrier to

²⁶ [Publication of the Revised Ofgem Confidence Code](#) (2017) Ofgem

innovation. We also strongly support the need for the framework to be enforceable and able to creditably deter breaches of regulatory obligations.

While implicit in several of the requirements and an outcomes-focused approach, we also believe there would be value in fairness being a central feature of the regulatory framework. Similarly to how suppliers are regulated, the overriding principle should apply that TPIs must actively consider how to treat consumers fairly and ensure their actions do not cause detriment. Other regulators are now looking to set an even higher standard, with the FCA's consultation on introducing a Consumer Duty²⁷ considering compelling service providers to:

- ask themselves what outcomes consumers should be able to expect from their products and services
- act to enable rather than hinder these outcomes
- assess the effectiveness of their actions

This may be appropriate to consider for the regulation of energy TPI services. We would also argue that when the framework seeks to be proportionate to harm or risk of harm, harm to consumers in vulnerable circumstances should be particularly highly weighted in consideration of whether to impose obligations or take regulatory action.

Q24. Are there examples of regulatory frameworks for TPIs operating in other sectors that represent best practice? Please provide reasons. And Q25. What types of regulatory models should we be considering if regulatory intervention is required? Please provide reasons.

The call for evidence identifies the FCA regulation of the insurance comparison market. We have in our previous research²⁸ argued that this authorisation approach offers the best balance compared to consumer law, voluntary and licensing approaches, measured against metrics of:

- **Speed to implement and adapt** - while authorisation would need legislation to implement, once operation it could be more flexible and able to swiftly adapt
- **Enforcement** - if authorised TPIs broke the rules and it was proportionate to do so, the sectoral regulator could launch investigations and impose remedies
- **Innovation** - taking a risk-based principles-led approach would enable a higher degree of innovation than licensing
- **Protections** - TPI customers would benefit from a level of protection within the sectoral regulatory regime

²⁷ [CP21/13: A new Consumer Duty](#) (2021) FCA

²⁸ [Stuck in the Middle](#) (2020) Citizens Advice

- **Convergence with other sectors** - many TPIs in the energy sector - particularly PCWs are already subject to authorisation, are familiar with the requirements

Authorisation also has the benefit that given the high number of TPIs in the energy market - over 3,000 if including the non-domestic broker market - the resource requirements compared to a licensing approach would be lower. We see particular parallels in that BEIS in seeking to implement a regulatory framework in heat networks²⁹ concluded that “a full licensing regime would create an unduly burdensome approach for this market. The large number of market participants relative to other utilities could give rise to significant additional regulatory and administrative burden”. Whereas by contrast, an authorisation regime was seen as “inherently lighter touch than having to apply for, then be checked and considered suitable for a licence. Authorisation also means there is no need to update or amend individual licences if new innovations or requirements are introduced.” The TPI market has clear similarities both in the number of market participants and the expected degree of future innovation.

We also believe there is particular value to the FCA approach³⁰ in that those applicants seeking authorisation meet Threshold Conditions, which are designed to prevent harm from occurring, particularly “fit and proper” tests that the firm must have suitably qualified people, an appropriate business model, controls and governance systems.

Overall authorisation has the potential to be a successful way of regulating TPI activities without posing undue barriers to new models and market entrants. However, it would also be essential that any regulatory framework be adequately resourced to allow the regulator to adequately monitor the market and launch enforcement action where necessary.

Q26. Do you have a view on how best we could accommodate emerging and future TPIs in any regulatory framework? Please provide reasons.

It is vital that emerging innovative services are able to enter the market in the context of any future regulatory framework. Some elements of consumer protection could be applied universally to all TPIs seeking to enter the market such as a fairness principle or consumer duty, advice signposting, complaints handling, access to alternative redress and data protection standards. Any specific regulatory measures bespoke to the emerging innovative services could then be added in as services enter the market, in a proportionate and risk-based manner. TPIs should also continue to be signposted to existing innovation support measures such as the Ofgem, REC and BSC sandboxes.

²⁹ [Heat Networks: Building A Market Framework](#) (2020) BEIS

³⁰ [Our Approach to Authorisation](#) (FCA) 2017

Q27. What specific regulatory interventions, if any, might be necessary to mitigate energy system risks from TPIs that control load using communication networks? Please provide reasons.

We do not have any specific regulatory interventions we would at this stage suggest to mitigate this risk, though naturally, we welcome it being carefully monitored alongside the impact of existing workstreams such as the Smart Systems and Flexibility Plan.

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