

Utility Regulator

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By Email Only

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RE: Third Party Intermediaries (TPIs) in the Energy Market

Budget Energy Ltd, Flogas Natural Gas Limited and Flogas Enterprise Solutions Limited, welcome the opportunity to respond to the Utility Regulator's (UR) consultation on Third Party Intermediaries in the Energy Sector.

Budget Energy based in Derry, Northern Ireland, serves over 100,000 customers, while Flogas NI and Flogas Enterprise Solutions contribute significantly to energy provision across the region. These three entities are part of Flogas Energy and operate under DCC plc Group, with a portfolio of renewable energy generation, including solar, wind, and anaerobic digestion. For this response, we shall collectively refer to the group as Flogas and Budget Energy.

Responses to Consultation Questions

1. Do you agree with our proposed strategic aim, objectives, and scope in relation to this TPI project? If no, please provide reasoning.

We support the strategic aim of enhancing transparency, accountability and fairness for non-domestic consumers engaging with TPIs. However, we disagree with the current objectives and scope which place obligations on suppliers rather than directly on TPIs.

The proposals position suppliers as the primary agents responsible for monitoring, disclosing, and regulating TPI activity, yet in many cases suppliers do not have contractual or operational control over intermediaries or their relationships with customers. In many TPI arrangements, fees and commission agreements are negotiated independently between the customer and the TPI and the supplier may have no knowledge or control of those agreements. Imposing obligations on suppliers regarding those unknown arrangements is neither workable nor fair.

The scope of obligations proposed stretches beyond traditional supplier responsibilities and encroaches on areas better handled via direct regulation of TPIs.

We note that in Great Britain the Department for Energy Security & Net Zero is moving towards direct regulation of TPIs via registration/authorisation, dedicated regulation by Ofgem, mandatory disclosure obligations for TPIs, and dedicated redress mechanisms for businesses. This approach has been taken in GB in recognition of the different TPI models that exist and the fact that suppliers have limited control over TPI activities through contractual arrangements. We recommend that in Northern Ireland the UR consider adopting a parallel approach.

Recommendations

- The UR should refocus the obligations toward TPIs, not suppliers. Suppliers may play a supportive or facilitative role, but they should not be held liable or obligated for third-party information.
- Develop a mandatory (or at the very least a voluntary) registration scheme for TPIs, accompanied by a statutory or UR enforced Code of Conduct, thereby bringing TPIs directly into accountability.
- Maintain the supplier role where it naturally fits (e.g., providing information held by the supplier), but avoid obligations that require suppliers to police, verify, or guarantee TPI conduct.

2a. Do you think development, publication and promotion of relevant Retail TPI information on the UR's website would be beneficial to consumers? Please provide a clear rationale for your answer.

We support the principle of raising awareness among non-domestic consumers about Third Party Intermediaries (TPIs) but have significant reservations about the proposed approach. We would support UR-led public information under clearly defined conditions that avoid placing undue burden or liability on suppliers.

A general publication or educational campaign authored and managed by the Utility Regulator (UR) could provide value if it:

- Explains the existence and role of TPIs in the energy market.
- Highlights key considerations when choosing a TPI.
- Outlines the potential benefits and risks of using TPIs.
- Provides impartial, accessible guidance tailored to SMEs.

We do not support any supplier-driven platform listing the TPIs, their practices or commission details. Such an approach poses multiple risks:

- Limited Reach: SMEs are unlikely to access this information via passive website publication.
- Data Integrity Risks: Supplier-reported data risks being outdated, inaccurate or misleading.
- Displaced Regulatory Burden: Suppliers should not be responsible for verifying, validating, or managing third-party TPI information. That creates liability risks that are outside our control.
- Market Impact: Public visibility may deter some TPIs, reducing competition and choice.

If UR proceeds, we recommend:

- The UR must retain full ownership for content and data accuracy.
- The resource material must be clearly non-endorsing, educational, and caveated accordingly.
- The initiative should be paired with proactive outreach-videos, FAQs, business group partnerships to improve reach among SMEs.
- TPIs should be encouraged to sign up to voluntary self-regulation (e.g., a Code of Conduct) or an accreditation framework without supplier involvement.

2b. Do you suggest any alternative/additional methods of sharing this TPI information with non-domestic consumers? If so, please describe.

We believe any TPI-related consumer information must sit solely with the Utility Regulator (UR). We recommend a UR-hosted public education initiative to support non-domestic consumers engaging with TPIs.

This could include:

- Targeted outreach campaigns e.g. short videos, FAQs, and case studies, which are focused on the benefits, risks and key questions to ask when engaging with TPIs.
- Clear consumer checklists or guidance.
- Partnerships with business groups to expand reach.

This would promote understanding without placing liability on suppliers, who have no control over TPI practices.

3a. Would you consider enhanced monitoring and reporting (to include i) regular supplier information submission and ii) a programme of engagement) to be beneficial in ensuring that consumers are adequately protected? Please provide clear rationale for your answer.

No. We do not support supplier-led monitoring and reporting of TPI related data.

Key concerns include:

- **Limited Visibility:** Suppliers often do not have full information on TPI agreements or commission.
- **Commercial and competitive harm:** Reporting on who suppliers work with, and the volumes involved, would expose commercially sensitive data, potentially undermining competitive positioning.
- **Minimal consumer benefit:** There is no evidence that collecting this data will meaningfully enhance consumer protection.
- **Legal and privacy risk:** Gathering, storing, and disclosing third party data could raise GDPR, contractual, or confidentiality issues.
- **Unrealistic resource implications:** Tracking every TPI interaction, commission level, and customer detail would require costly system changes, process overhauls, and substantial staffing, redirecting focus from delivering service to compliance administration.

In short, this proposal misplaces regulatory responsibility.

3b. Should a regular supplier information submission be voluntary or implemented through a licence requirement?

We do not believe that any reporting should be required from suppliers. However, if any reporting is required, it should be voluntary and high-level rather than implemented through a licence condition.

The following are our key reasons for opposing licence-based and/or voluntary supplier reporting:

- **Confidentiality and commercial harm:** Much of the data that would be sought is commercially sensitive and protected by NDAs. Forcing disclosure would undermine trust, damage commercial relationships, and distort competition.
- **Regulatory overreach:** Imposing a licence condition requiring suppliers to monitor or report on TPI activity would represent an indirect form of regulation of TPIs. This would exceed the UR's current statutory powers and set a concerning precedent. It would also result in an unnecessary concern for suppliers where potential non-compliances occur.
- **Disproportionate burden:** The administrative and resource burden of such a requirement would fall unevenly on smaller suppliers, potentially affecting market diversity and competitiveness.
- **Precedent for further obligations:** Introducing such a mandate could signal a broader shift towards making suppliers accountable for the actions of unregulated market participants, which would be unjustified without proper statutory authority. Ultimately this would have a knock-on effect on competition in such areas.
- **Lack of data availability:** Suppliers may not have access to data on all TPIs or TPI activities meaning that the data that the UR would receive would be incomplete and therefore of limited benefit. It is difficult to understand how this could be deemed a proportionate or transparent regulatory requirement on suppliers.

Any reporting related to TPIs must be voluntary, high-level, and designed to avoid regulatory overreach or disproportionate burden. Licence-based obligations must not be introduced unless and until the UR has explicit statutory powers to regulate TPIs directly, and in that event, TPIs should be reporting directly to the UR and possibly have their own licence-based obligations.

3c. Can you suggest any alternative methods of monitoring and reporting TPI activity?

We recommend a risk-based approach focused on:

- Monitoring complaint trends via the Consumer Council and Trading Standards Service (TSS) to identify emerging issues; we note that there have been no logged complaints or enquiries with TSS over the last five years related to TPI mis-selling.
- Conducting targeted business surveys to gather specific market insights.
- Encouragement of voluntary TPI self-reporting, accreditation or registration: If TPIs wish to be seen as reputable actors, they should participate in voluntary transparency schemes or codes, managed independently of suppliers.

This approach would reduce any unnecessary administrative burden and costs on suppliers, while maintaining effective oversight of TPI activity and protecting consumers if deemed appropriate.

Currently, Northern Ireland lacks a formal dispute resolution mechanism for businesses dealing with TPIs, unlike in Great Britain where the Qualifying Dispute Settlement Scheme (QDSS) supports customers in resolving disputes. Introducing a similar mechanism in NI would directly support accountability, empower non-domestic consumers, and complement other transparency initiatives.

3d. Would it be beneficial for the TPI information gathered by UR to be anonymised and published (in addition to being used internally by UR for market monitoring)?

We support anonymised publication of TPI data only if:

- The data is clearly caveated to avoid misinterpretation.
- It does not serve as a proxy for supplier compliance or enforcement if the UR decides to collect data from suppliers.
- It protects commercial confidentiality and sensitive business information.
- Should data be collected from suppliers or other licenced entities, it will be important to caveat any published data to state that it is not complete and does not include data associated with TPI activities that suppliers have no knowledge of.

Given the existence of NDAs and the sensitive nature of this data, care must be taken to ensure anonymisation does not undermine trust or mislead stakeholders. There is a risk that anonymised data could be misunderstood, so accompanying explanations are essential to maintain transparency without compromising confidentiality.

4a. Are you of the view that TPI commissions being published would increase levels of transparency and benefit consumers? Please provide clear rationale for your answer.

We do not support publishing TPI commissions via suppliers, this may create more confusion than clarity for consumers and would significantly distort the current regulatory balance by shifting responsibility for transparency to suppliers who neither set nor control those fees. As appears to have happened in GB, it would likely result in the establishment of other TPI business models that would ensure that such data is not provided to suppliers by TPIs and therefore not published.

Our key concerns are as follows:

- **Confusion for customers:** Commission figures alone offer no context or clarity for consumers. Without understanding the nature of the service provided, the complexity of the arrangement or value received, consumers are likely to misinterpret figures and draw incorrect conclusions, potentially harming trust, and engagement with both TPIs and suppliers.
- **Commercial sensitivity and NDAs:** Commission information is commercially sensitive, subject to non-disclosure agreements (NDAs). Requiring disclosure would violate these agreements, damage commercial relationships, and introduce legal risk for suppliers.
- **Lack of supplier visibility and control:** Suppliers typically have limited, if any, access to precise TPI commission information. Any requirement to publish such data would therefore risk inaccuracy and inconsistency, further undermining consumer confidence.
- It could only serve to promote the establishment of more indirect TPI business models that have little or no interaction with suppliers.

Responsibility for commission transparency should sit directly with TPIs, who have the contractual relationship with customers and are best placed to explain the nature and value of their services. This is not a question of supplier transparency but rather a potential regulatory gap in TPI oversight, if some customer harm can be evidenced.

We therefore strongly urge the UR to withdraw this proposal and instead focus on developing a targeted framework for TPI accountability and consumer education, ensuring that transparency is achieved where it can genuinely inform and protect consumers.

4b. Which publication format should be used for Third Party Costs: i) consumer bills and on request, ii) a customer's Principal Terms and upon request iii) both i and ii or iv) another publication? Please provide information to support your answer.

We do not support publishing TPI commission or cost information on consumer bills. Bills are designed to provide clear information about energy consumption and charges from suppliers, not to present complex, commercially sensitive, and highly variable third-party data. We believe that including such information would risk confusing consumers and distorting the purpose of billing.

Instead, a generic statement regarding the possibility of third-party fees could be included in the Principal Terms and Conditions or similar contract documents. This statement should clarify that detailed fee information varies widely depending on individual agreements, tariffs, usage, and broker arrangements and is not determined by the supplier, and that the customer should contact their broker directly for further information.

We believe it is the consumer's responsibility to request specific commission or fee details directly from their TPI.

Alternative formats, such as contract summaries or pre-contract information provided by TPIs, may also provide proportionate transparency without the operational disruption or significant cost that re-engineering billing systems would entail. Mandating billing disclosures would impose unrealistic system changes, increase compliance costs, and risk generating consumer confusion and complaints rather than enhancing understanding. We have not seen any evidence of harm to customers that would warrant such significant new requirement on suppliers.

4c. Which publication cost structure would be most beneficial to consumers: i) a lump sum for contract duration ii) a cost per unit iii) combined approach (both i&ii) iv) other? Please provide information to support your answer.

We strongly oppose any mandated publication of TPI commission cost structures by suppliers. Given the varied nature of TPI cost arrangements, ranging from lump sums to per-unit fees or combinations thereof, we believe this is ultimately a matter for consumers to agree directly with their TPIs. Suppliers have no role in setting or validating them. Indeed it is entirely possible that TPIs have different commission structures for different customers.

Attempting to standardise or prescribe a format for disclosing these costs would be potentially harmful, given the wide variation in how TPIs charge fees. This is a consumer-TPI contractual matter, not one for supplier oversight or regulatory enforcement via suppliers.

Each proposed format carries risk:

- A lump sum format may appear disproportionately large without context, misleading customers.
- A per unit format may understate total costs for higher usage consumers, distorting perceptions of value.
- A combined format adds complexity and customer confusion, especially where usage or contract terms vary.

We do not support prescribing a single cost structure format for publication, as this could unintentionally encourage consumers to misinterpret their contracts or seek to exit fixed-term contracts prematurely, undermining market stability.

Suppliers must not be required to publish, validate or explain third party commission structures. The responsibility must sit fully with TPIS who set the terms with their own clients.

In summary, Flogas and Budget Energy believe that transparency should focus on:

- Empowering consumers to request commission details directly from their TPI.
- Regulator-led education to raise awareness of different fee models.
- Avoiding burdensome or misleading publication requirements that fall outside supplier's control.

4d. What changes to billing systems—or wider systems and processes— would be required in order to enable the publication of TPI commissions on a customer's bill? Do respondents have any view of the difficulty and cost of these changes?

We strongly advise against including TPI commission information on customer bills. Given the highly bespoke and varied nature of TPI/broker agreements, including differing fee structures, contract durations and customer usage patterns, there is no standard format that can be reliably implemented in billing systems without creating significant complexity, cost, and operational risk.

Such changes would likely involve:

- Significant IT development to reconfigure billing systems, including new data fields, logic paths and interfaces to capture third party commercial information not currently held or validated by suppliers.
- High costs potentially reaching six to seven figures.
- Risks of producing inaccurate or misleading bills, which could undermine consumer confidence.
- Privacy and data protection concerns, especially where commission information is commercially sensitive or governed by NDAs between brokers and customers.
- Disruption to other critical billing operations, including risk of errors, customer confusion and increased complaints due to unclear or misrepresented data.
- Omission of TPI data on customer bills where suppliers do not have the information. It is difficult to understand the merit of publication or the inclusion of TPI data on only certain bills where suppliers may have information.

Given these challenges, any attempt to publish TPI commissions via billing systems would be disproportionate, operationally risky, and unlikely to improve consumer understanding.

5a. Do you agree with the exclusion of the potential measures (4-6) for the reasons described above? If not, please provide reasoning.

Yes, we agree with the exclusion of Measures 4 and 5, as they would impose unrealistic and unenforceable obligations on suppliers for activities outside their control. We believe that measure 6 should be considered as a potential future development.

Measure 4: Code of Practice

- Requiring suppliers to adopt or enforce a mandatory TPI Code of Practice places them in a policing role without the authority to compel TPI compliance.
- If participation is voluntary, coverage could be fragmented. This could lead to inconsistent consumer protections and further confusion.
- Suppliers might be held to account for TPI behaviour that they cannot reliably oversee or sanction, thereby creating regulatory exposure for matters they do not control.

Measure 5: Alternative dispute resolution (ADR) scheme

We agree that an ADR scheme is not currently suitable for implementation in Northern Ireland.

While we support the long-term aim of providing small business consumers with access to an independent, fair, and accessible dispute resolution mechanism, several fundamental barriers exist:

- **Lack of TPI infrastructure:** There is no existing TPI trade association, Code of Practice, or registration framework in Northern Ireland to underpin or administer such a scheme.
- **Regulatory limitations:** The Utility Regulator does not currently have the statutory powers to introduce or oversee an ADR scheme for TPIs, whether mandatory or voluntary.
- **Absence of an ADR provider:** Northern Ireland lacks an equivalent to the Energy Ombudsman or similar independent body capable of managing ADR processes for energy market participants.

Measure 6:

General Authorisation Regime

We believe that a General Authorisation Regime should be considered as a proportionate and effective mechanism to enhance oversight of TPIs.

A General Authorisation framework could help ensure minimum standards, transparency, and accountability among TPIs. However, its introduction would require:

- **Primary legislation** to establish the legal basis for authorisation and oversight; and
- **Regulatory powers** enabling the Utility Regulator to monitor compliance and enforce conditions.

At present, we note that the Utility Regulator does not have the statutory powers to establish or administer such a regime. Without enabling legislation or a designated oversight body, a General Authorisation model cannot be practically or lawfully implemented. Nevertheless, we recommend that this option be explored further as part of future policy development.

5b. Are there any alternative measures, not discussed that you think should be considered? If so, please provide a description.

We believe alternative measures should focus on direct oversight of TPIs rather than placing obligations on suppliers. This could include a UR-led TPI registration scheme, a mandatory (or at the very least voluntary) TPI Code of Conduct, and TPI-led commission disclosure directly to customers. Additionally, targeted consumer education, including practical guidance on working with brokers, would help improve transparency and consumer outcomes without overburdening suppliers or distorting market roles.

6. Are you aware of any issues/concerns impacting micro/small scale generators through their arrangements with TPIs? If yes, please specify.

We recommend that the Utility Regulator obtain information directly from micro and small-scale generators to better understand the nature and extent of any issues arising from their arrangements with TPIs. Suppliers are not party to, nor do they oversee, these TPI arrangements and therefore cannot reliably monitor or report on any such concerns. Responsibility for identifying and addressing these matters should rest with TPIs and the regulator.

7. Do micro/small scale generators require regulatory protection when engaging with TPIs in the energy market in Northern Ireland? Please provide any information to support your answer.

We recommend that the Utility Regulator engage directly with micro and small-scale generators to determine whether additional regulatory protections are required when dealing with TPIs. Any such protections should apply directly to TPIs, ensuring transparency, fair treatment, and accountability. Suppliers are not involved in, nor do they have oversight of, TPI arrangements and therefore cannot be responsible for enforcing or monitoring compliance in this area.

8. If you answered yes to Q7, what regulatory protections do you feel would benefit micro/small scale generators in Northern Ireland? Please provide examples to support your answer where necessary.

Effective regulatory protections should be focused on TPIs and could include:

- **TPI registration or licensing** to ensure only accountable intermediaries operate in the market.
- **Mandatory (or voluntary) Codes of Conduct** for TPIs establishing standards for transparency, fair dealing, and disclosure of fees and commissions.
- **Upfront disclosure of fees and commissions** by TPIs to enable micro-generators to make informed decisions.
- **Guidance and dispute resolution mechanisms** to allow generators to resolve issues directly with TPIs.

For example, a registered TPI would be required to provide full commission details to a generator before entering a contract, reducing risk and improving confidence. These measures protect generators without imposing obligations on suppliers.

9. Do you think that any of the potential measures outlined in Section 3 in relation to Retail TPIs could or should be considered for application to Wholesale TPI operations? Please provide any information to support your answer.

Yes, but only measures directly targeting TPIs should be applied to wholesale operations. As outlined above, appropriate measures could include TPI registration, TPI's Codes of Conduct, and mandatory disclosure of fees and commissions by TPIs. Any measures that would require supplier involvement, such as publishing TPI fees or validating relationships are inappropriate, as suppliers cannot control, verify, or enforce TPI arrangements. Regulatory focus should remain on TPIs themselves to ensure accountability and transparency.

We appreciate the opportunity to provide input on this consultation.

Yours sincerely,

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