Utility Regulator Consultation

Third Party Intermediaries in the Retail Energy Market Consultation

28th August 2018

1. Introduction

Energia welcomes the opportunity to respond to the Utility Regulator (UR) Consultation on Third Party Intermediaries in the Retail Energy Market. As a licenced supplier operating in Northern Ireland the majority of our interactions with the customer are heavily regulated. In contrast the growth of the TPI sector now sees an increasing number of customers deal nearly exclusively with the consultant rather than the supplier. This effectively bypasses many of the regulatory measures put in place by the UR to protect customers. While the UR indicated in their recent position paper that TPIs represent a fraction of the market it is worth noting that it is a growth sector and an issue that is likely underreported due to a lack of engagement or agency on the behalf of customers who employ TPIs. This response contains some general comments then moves on to address the consultation questions.

2. General Comments

This consultation paper follows on from an earlier UR Call for Evidence and a subsequent Position Paper issued in November 2017 and March 2018 respectively. During the consultation process the UR proposed and dismissed a number of solutions to address the issue of errant behaviour by some TPIs in the market. While we do not agree with the decision to shelf the proposals, particularly the option to introduce a Code of Practice, we welcome this paper and believe that in the context of the UR's decision not to introduce a code there is a greater impetus to implement this measure. When considering its introduction we welcome the UR's holistic review in terms of the cost to suppliers to implement.

Energia contend that intermediaries do have a role to play in the NI market and efforts to introduce greater transparency should be welcomed by all stakeholders. While the majority of intermediaries operate in professional manner negative behaviours do exist and there are concerns that as the sector continue to expand that these behaviours will also grow. Energia's experience with intermediaries is generally positive but we are becoming increasingly aware of rogue behaviour amongst some TPIs. These issues have included invalid/unauthorised Letters of Authority (LOA)/contracts and a lack of transparency on their fees.

In order for this measure to be effective it must be mandatory for all suppliers to comply with. Whilst the option of presenting text where TPI commission is not available would seem pragmatic it could be used as a reason to not display the information should a supplier wish to do so. If text is to be used it is important that it is the exception rather than the rule. Furthermore, while some suppliers may not use TPIs, we cannot envisage a situation where a supplier engages with TPIs but is not recording the detail in relation to the commission that they are paying them.

While any system change will come at a cost, the scale of the project here is mitigated by the abilities of our existing systems and the detail we already record in relation to TPIs and their commission. This manageable change combined with merits of the approach mean that it is a seemingly cost effective intervention. However, this is only if it the change is mandatory. Otherwise the benefits are significantly undermined as the industry may not engage with the requirement thus rendering any investment obsolete.

3. Consultation Questions

Q1. Do respondents agree that where this consultation has an impact on the groups listed, those impacts are likely to be positive in relation to equality of opportunity for energy consumers?

No comment.

Q2. Do respondents consider that the proposal around TPI transparency need to be refined in any way to meet the equality provisions? If so, why and how? Please provide supporting information and evidence.

No comment.

Q3. Do respondents agree that TPI commissions being published on customer bills would increase levels of transparency for customers? If not please provide a clear rationale why

By displaying TPI commission on the bill it will undoubtedly improve transparency when compared to the status quo. Greater transparency will engender trust and as a result will be beneficial from customer, TPI and supplier point of view. This action will have limited impact on TPIs that are transparent and engaged with their customers but conversely will deter some negative behaviour by clearly stating the TPI's commission. Publishing of the commission will only be effective if all suppliers are required to do so.

Q4. Of those customers acquired via the TPI channel, can suppliers indicate what proportion have their commission paid on pence per KWh basis? Can suppliers clarify and provide data on other common models of commission used in NI?

Practically all of our customers have their commission paid on pence/kwh basis and this appears to be the industry standard. A minority of TPIs would have in the past had their commission paid upfront but this has all but ceased. While suppliers may have some existing contracts structured in such a way that doesn't lend itself to uniform reporting under pence/kwh, contracts do have limited duration and there should be an opportunity to move to this way of reporting. It is not clear what the difficulty would be in moving to this style of reporting if mandated by the UR. Any contention that it is not feasible should be backed up and validated by sufficient detail.

Q5. Do respondents agree that standardising the reporting of TPI commissions on customer's bills would increase levels of transparency for customers? If not please provide a clear rationale why; and if yes, how best would this be achieved.

Mandating all suppliers to include TPI commission on the bill in a standardised format will greatly improve transparency. By standardising the approach and making it mandatory customers will become familiar with this as a feature of the bill irrespective of who their supplier is and will become aware of the charges of the TPI.

Q6. Of those customers acquired via the TPI channel, can suppliers indicate for what proportion they would have data on the level of commission being paid?

The norm across the market is that TPIs are paid via pence/kwh rate. In order to facilitate the payment of the rate in this way it is essential to have detailed information in relation to the TPI fees. We capture all of this information and it is difficult to envisage a scenario where a supplier is not routinely recording this information.

Q7. Do respondents believe if a supplier is not aware of the TPI commission, the customer bill should include a general statement advising / reminding the customer that they may be paying commission and they should ask their broker for information on this? If not please provide a clear rationale why

For this proposal to work it needs to be mandatory and universally applied. There is a concern here that by allowing suppliers to opt out that you may incentivise behaviour where suppliers do not report this information but instead display the above text. While there will be occasions where the supplier is unable to display the TPI commission and this should be accounted for in the design, it is also important that this is then not used to avoid displaying the TPI commission completely. If the UR does include an alternative to displaying the TPI commission, what are the proposed criteria for this and when would it apply?

It is difficult to see how a supplier would not be aware of the TPI commission that they are paying. One of the few scenarios would be if the customer pays the TPI directly and this is beyond the scope of this consultation and is a matter for the customer.

Q8. 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?

Any additional text on the bill will likely have a knock on effect on the rest of the bill. So in terms of including the TPI commission as a line item and in particular having to include a statement as outlined in Q7 this will result in suppliers having to find space in an already packed bill. There will also be a further work to enable us to display the commission as a line item. However, the scale of the project is mitigated by the existence of this information and the capabilities of our current billing system that should allow us to display the line item with greater ease. What is unclear at this time is the scale of the work to capture this detail in REMM. If this is to feed into REMM reporting then there may be a larger project to allow for this information to be captured and reported. Overall, the cost of the project would appear to be proportionate to the benefits of the change.

Q9. What other difficulties should be considered when publishing TPI commissions?

As outlined above there will be additional work in relation to REMM reporting. It is difficult to say what the cost here will be without seeing the exact data but if it were limited to basic information such as the number of sites and the consultation fees it should be achievable with a relatively small outlay in terms of time and cost.

Q10. To what extent do respondents believe all the difficulties highlighted with this proposal can or cannot be mitigated? Are the difficulties outweighed by the potential customer benefit?

As with any billing project there will be a lead in time and cost associated with the implementation. Mitigating factors in relation to the scale of the project are the existing ability to display separate line items and the data in relation to TPI commission which we already capture. As such we will largely be working with existing systems and information rather than creating a bespoke change. On the surface the benefits of the proposal would appear to outweigh the cost of implementation. This is caveated with the proposal being made mandatory and applied across the board.

Q11. Do respondents think that a requirement on suppliers to include TPI commissions on customer bills should voluntary, or mandated through a new licence obligation? What would respondents see as the issues with each approach?

A voluntary requirement will not be sufficient. Whilst most suppliers and TPIs will likely engage willingly with a voluntary code there is scope for abuse. Stakeholders may face direct or indirect pressures to omit the TPIs commission. While this is unlikely for most participant, by creating this loophole it undermines the integrity of the whole proposal and all it takes a minority of stakeholders to ignore the measure to significantly undermine the process. Similar to the point made under Q10 if displaying the commission is voluntary our assessment of the CBA of implementing the proposal quickly turns negative.