



Colin Magee

The Utility Regulator

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By email only: Colin.Magee@uregni.gov.uk

16th August 2018

Dear Colin,

Re: Third Party Intermediaries in the Retail Energy Market: UR Consultation July 2018.

The UIA is a trade association for third party intermediaries (TPIs) in the utility sector. Our aim is to promote and enhance the reputation of TPI's so to give confidence to business customers who utilise their services and for the UIA logo to be recognised as a guarantee of integrity, competence and high standard of service. All Members of the UIA must agree and operate to the [UIA Code of Practice](#) which in addition to setting the standards to which our Members adhere to, provides redress for customers should they fall short of standards expected from them.

We believe the proposal to publish TPI commission on the customer's bill will neither improve transparency or eliminate excessive charging. Indeed, what it offers is a partial transparency which could prove more damaging in the long run for the reasons we have set out in our response.

There is an assumption made that the TPI receives 100% of the commission which is not wholly true. In the GB market it is not uncommon for some suppliers to require TPI's to assign a portion of the commission to themselves, whether it be a 50/50 split of the whole margin, or the difference above a cap set by the supplier. Our concern in both these scenarios is that outwardly the commission appears to go 100% to the TPI which is not only misleading but also represents poor value to the customer and falls beneath the radar of the regulator.

In the GB market, TPI's have come to dominate the business sector often becoming the primary route to market particularly for the smaller energy suppliers. Larger TPI's have been able to exert influence on suppliers, the smaller ones less so, enabling them to offer competitive prices while securing higher margins. It is standard practice for the supplier and TPI to have a commercial agreement in place, the details of which are deemed commercially sensitive. Publishing margins would put paid to that, and our concern is that customers will see commission levels becoming very similar thus dampening down any competition, while any 'uplift' will be happening behind the scenes absorbed somewhere in the supplier costings, out of sight and reach of the regulator.

Being made aware of the commission level the customer is paying at the point of bill issue is too late. With contracts ranging from 12 months to five years, a customer could be locked into a contract that may include a commission they were unaware of and at a level they didn't agree to. In such cases neither the supplier, TPI or the regulator will be viewed in a favourable light. Add to the mix the risk of a customer inadvertently putting themselves in a worse position by trying to break the agreement, and the ramifications of that, then you can see the real damage this could cause both to the customer and reputationally to the industry.

Customers need to make informed choices **before** entering into an agreement. Our industry should be working together to facilitate customers making informed choices.

The Utility Regulator said in its position paper that a TPI Code of Practice (CoP) would be the quickest remedy and the least interventionist, but a mandatory code could face legal challenge and a voluntary code would not be a meaningful deterrent. We disagree, currently CoPs within the TPI space do not have the same traction as say [ABTA](#) in the travel industry simply because not enough customers know about them. The Utility Regulator and organisations such as Trading Standards are in a prime position to remedy this. They can help raise customer awareness of TPI's, remind them of their rights and detail the measures and bodies that are in place to protect them and signpost customers to any trade bodies or associations that provide them with support. Issues around the competency of TPI's to deliver a good service, transparency, mis-selling by omission (which is not covered under BPMRRs), unfair contracts could all be addressed via a CoP. In our opinion, TPIs would readily sign a CoP if a customer demanded it, especially if they risked losing business by not doing so.

Finally, the position paper stated that there is an absence of Trade Associations in Northern Ireland to administer a code. The UIA is open to all TPI's who operates under the jurisdiction of UK law.

Yours Sincerely

Rachael Gladwin

Director



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 customers?

Close market monitoring is a positive and proactive step in attempting to understand how this market operates, particularly the relationship between supplier and TPI and how that dictates what is offered. But disclosing commissions on a customer bill's is not presenting the customer with the full picture, indeed could distort perceptions and ultimately limit choice for the customer as TPI's exit the market place.

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.

It should be made clear that just as the energy price is made up of various components – one of which is the supplier's profit margin, so too is the TPI's; overheads; added value services; ongoing management of customer accounts as well as profit margins are factored in.

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

We don't believe this will aid transparency on customer bills, because it doesn't present the full picture. To be truly transparent all elements of the customer's bill should be broken down not just the makeup of the TPI commission, but all charges imposed by the energy supplier. Of course, this will never happen because to do so, particularly in the context of suppliers, would mean revealing commercially sensitive information to competitors which is not permissible and deliver a complicated product to the customer.

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?

If your objective is to increase transparency, then we would recommend that the Utility Regulator asks suppliers whether they offer any inducements or incentives to TPI's? Do they have quotas which TPI's must meet to continue receiving offers from them? Require that suppliers disclose the range of benefits, incentives, inducements and commission levels which they provide to their TPI's. Perhaps these points will be considered when you consult on REMM?

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.

Commission is paid for by the customer and can be structured in different ways, making attempts at standardisation problematic. How much licence would the supplier have to come up with their own 'methods' in these cases, and will that make the bill less transparent not more?

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?

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.

Customers need to make informed choices before entering into an agreement. Being made aware of the commission level at the point of bill issue is too late as the customer is locked into a legally binding contract, with ramifications for the customer if they try to renege.

Suppliers should make clear at the outset that all offers may include a commission paid by the customer for the TPI. All supplier communication and correspondence relating to offers and any subsequent agreements should include a statement which clearly advises the customer that the offer may include a commission.

Furthermore, within the supplier terms and conditions, clauses should be added which reference the role of the TPI, outline where the supplier's obligation ends and a TPI's starts and signposts to the customer where and who to go to in the event of a dispute.

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?

Given the NI competitive market is still in its early stages, one would expect that existing IT systems may not be geared for showing commissions in their various guises, so therefore may have to invest in major system changes which will be costly and will be passed on to the customer.

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

As already outlined in your paper, there are variants to how commission is structured for example: Fixed fees; a combination of fixed and pence per kWh; variable pence per kWh based on certain criteria (for example, based on consumption thresholds and contract length); percentage discounts. Commission invoiced directly by the TPI to their customer falls outside of your scope.

A proportion of the commission may be assigned to the supplier, but your solution would not show that, and would therefore be very misleading. For instance:

In the GB market, there are suppliers who provide a 'base' price (supposedly with no supplier margin built in) and then require that any commission added to that base price is divided equally between supplier and TPI.

There are some suppliers operating in the GB market who deploy a commission cap and require those TPI's who wish to exceed the cap to 'share' the difference with them.

Our concern in both these scenarios is that outwardly, the commission would appear to go 100% to the TPI which is not true. Furthermore, the added margin that the supplier claims as their own represents pure profit (their prices having already factored in all other non-energy components). The supplier is increasing their margin without having to declare it - a practice to which the UIA strongly objects because a) rather than choosing to address the issue of 'excessive' commission levels the supplier capitalises on them and b) such activity is not just opaque but misleading to the customer and a regulator.

In the GB market, TPI's can account for up to 60% of business for a supplier. The supplier/TPI relationship is formalised by an agreement which is commercially sensitive. Suppliers will understandably best serve those TPI's who offer the supplier 'best value' and may reward high performing TPI's with better prices and more flexible commission terms. Requiring suppliers to

publish commission levels on customer bill, could well jeopardise the commercially sensitive aspects of the agreement and limit the availability of 'special' prices that the customer could access.

It is our opinion that those less scrupulous will find a way around this.

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?

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

We do not agree with the proposal for reasons already outlined in our responses to your consultation questions.

