

Appendix 9.4: Evidence concerning the third party intermediary code of conduct remedy

Parties' responses to the Remedies Notice

The Six Large Energy Firms

1. Centrica said that it supported the growth of third party intermediaries (TPIs). However, it remained concerned by the practices of some brokers and the general opaqueness of the services that they were providing relative to the costs borne, directly or indirectly, by customers. It supported Ofgem's code of practice (CoP) and said that the CoP should reflect the requirements of this remedy, thus negating the requirement for a separate remedy (by the CMA) in addition to Ofgem's CoP. However, it argued for greater specificity¹ of disclosures by brokers to their microbusiness customers, which would be necessary for Ofgem's CoP to be effective. It also said that the CoP must have a clear and robust enforcement mechanism.
2. Scottish Power said that this remedy was likely to be an effective and proportionate remedy with regards to transparency around TPIs. However, it said that this remedy should not be introduced in addition to Ofgem's CoP – one or the other should suffice. It said it would be inefficient and confusing to have two overlapping (and potentially conflicting) measures in place at the same time.
3. Scottish Power also highlighted a potential issue with regard to TPIs disclosing the amounts of their commissions. It said that a controlled experiment by the US Federal Trade Commission² showed that when consumers were made aware of the level of the commission for mortgage products, this information distorted their choice in favour of the lowest commission product rather than the lowest overall price. Therefore, Scottish Power clarified that it was important that customers were aware that there was a commission associated with the price they were offered, but that it should not necessarily be required that customers were made aware of the amount of that commission.
4. Scottish Power added that it was concerned that some TPIs were charging very large commissions and were not necessarily getting the best deal for the

¹ See [Centrica's response to the Remedies Notice](#) for further details.

² Lacko, J and Pappalardo, J (2004) for the FTC, [The Effect of Mortgage Broker Compensation Disclosures on Consumers and Competition: A Controlled Experiment](#) (Scottish Power's response to the Remedies Notice).

customer. It highlighted that in the domestic market, one of the factors that largely addressed these issues was the use of published tariffs.

5. EDF Energy told us that it supported a remedy to improve transparency of TPI incentives. However, it strongly favoured direct regulation of TPIs by way of licensing by Ofgem. EDF Energy added that customers made a choice based on the product specifics and also needed to see the total price (including TPI commission) at their specific consumption level to militate against potential unit rate/standing charge gaming by suppliers or PCWs.
6. SSE said that it welcomed any remedy that would improve transparency and trust in TPIs. Therefore, it supported Ofgem's CoP in principle, provided that obligations for code adherence were placed directly on TPIs. SSE added that the most difficult and costly aspect of this remedy would be monitoring compliance, and hence Ofgem would be the natural agency for monitoring because it already had well-developed systems for monitoring obligations on suppliers which could be applied to TPIs. SSE would therefore support this remedy in parallel with the Ofgem's CoP being made mandatory.
7. E.ON said that this remedy would be effective, especially when used in conjunction with Ofgem's CoP, which it hoped Ofgem will expedite.
8. RWE told us that this remedy would be effective in improving transparency and could significantly improve customer trust in TPIs. It was in favour of this remedy being implemented in addition to a revised version of Ofgem's CoP, which it said should be implemented under a direct regulation of TPIs and appropriate powers would need to be granted to Ofgem in order to enforce this remedy.

Non-Six Large Energy Firms

9. [REDACTED].
10. Gazprom told us that it supported Ofgem's CoP, and was keen that Ofgem implement the CoP at its earliest, given the significant amount of time and effort Ofgem had already spent on consultations with suppliers. It did not support duplication of regulation and was in favour of Ofgem implementing its CoP due to the detailed work Ofgem had already done. It supported any reasonable remedy to increase transparency regarding TPIs.
11. Ecotricity said that TPIs should be required to provide exhaustive and transparent information to microbusiness customers.

12. Good Energy was strongly in favour of directly licensing TPIs, which would be managed by Ofgem. It said that many TPIs followed good practice, however some without proper training did not.
13. Corona Energy said that TPIs performed a useful function in the market. However, it supported Ofgem's CoP, whereby TPIs would be accredited.
14. OVO and Eggbrough Power said that they supported a remedy to increase transparency regarding TPIs.

Third party intermediaries

15. Inenco said that Ofgem's CoP would encourage greater transparency with regard to TPIs and ensure that TPIs treated customers fairly. It added that this should negate the need for additional remedies by the CMA. It also added that any remedy should be carefully thought through. It said that its commission rates were market reflective and that it did not mislead customers.
16. [X] said that it supported Ofgem's CoP, via a system whereby suppliers could work with accredited TPIs, who had signed up to the CoP.
17. CIPS said that it supported the implementation of Ofgem's CoP on a mandatory basis. In addition, it proposed that further measures were required in the CoP such as publication of commission rates of TPIs.
18. Utilities Savings Ltd said that Ofgem's CoP was a starting point and that it had operated according to the UIA code of practice for a number of years. It also said that the UIA had made a significant contribution to Ofgem's work in this area.
19. UIA said that it had its own code of practice and that variations of the CMA's proposed remedy were already included in its code of practice.