



Department for  
Energy Security  
& Net Zero

# Consultation on Regulating Third-Party Intermediaries in the Retail Energy Market

Closing date: Midnight on 15 November 2024



© Crown copyright 2024

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit [nationalarchives.gov.uk/doc/open-government-licence/version/3](https://nationalarchives.gov.uk/doc/open-government-licence/version/3) or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: [psi@nationalarchives.gsi.gov.uk](mailto:psi@nationalarchives.gsi.gov.uk).

Where we have identified any third-party copyright information you will need to obtain permission from the copyright holders concerned.

Any enquiries regarding this publication should be sent to us at: [tpiconsultation@energysecurity.gov.uk](mailto:tpiconsultation@energysecurity.gov.uk)

September 2024



## Introduction

The Government's vision for the energy sector is one that puts the consumers at the heart of everything, and where consumers feel the benefit of Great Britain becoming a clean energy superpower. Only by doing that can we resolve economic inequality and tackle the climate crisis. This means an energy sector which focuses on consumer protection while recognising the critical need for decarbonisation and clean energy; consumers should be protected, but also feel empowered to take advantage and feel the benefits of the transition to clean energy.

Central to this vision is the role of the energy retail market, as the primary interface between consumers and the energy system. Ensuring customers have confidence in the energy system and empowering consumers with choice and participation is crucial in driving forward this transformation. At its best, the retail market can be a key enabler of delivering homegrown clean energy and helping consumers to access cheaper, cleaner energy.

However, there are some shortcomings within the retail energy market. One area of concern is the failure of some Third-Party Intermediaries (TPIs), which often act as the interface between consumers and energy suppliers, to adequately meet the needs of consumers. This emerged from the Call for Evidence on Third-party Intermediaries (TPIs) in the retail energy market<sup>1</sup>, Ofgem's non-domestic market review<sup>2</sup>, and engagement with stakeholders.

TPIs range from energy brokers and consultants, which are most prominent in the non-domestic energy market, to price-comparison websites, aggregators, auto-switching services and types of load controllers, active across domestic and non-domestic markets. In the non-domestic market, there are estimated to be as many as 2,200 brokers and consultants alone, with further estimates of 50% and 80% of small and medium enterprises (SME) and Industrial & Commercial (I&C) businesses using TPIs, respectively<sup>3</sup>.

TPIs play a wide-ranging role in the retail energy market to help consumers, particularly those in the non-domestic market, secure energy contracts tailored to their needs. Their involvement is crucial for enabling consumers to navigate the complexities of the retail energy market. They can do this by helping consumers find the right energy deal and encourage the take-up of clean technologies. As a key intermediary and source of support and guidance, TPIs can encourage the take-up of clean energy sources and energy efficiency measures<sup>4</sup> which is essential for a sustainable future. However, some TPIs have been failing to meet the needs of consumers by engaging in non-transparent and mis-selling practices.

In response to these findings, there is a growing consensus on the necessity of regulating the TPI market to safeguard consumer interests. Ofgem, in their [non-domestic market review](#)<sup>5</sup> published in July 2023, recommended Government to explore regulation of TPIs based on the following reasoning *"We have proposed some changes to our licences that are related to TPIs. However, we are conscious that our proposals do not address wider issues raised about some TPI behaviour. At present, Ofgem does not regulate TPIs, meaning we are not able to intervene when TPIs do not meet the standards the non-domestic sector has a right to expect."*

---

<sup>1</sup> <https://www.gov.uk/government/calls-for-evidence/third-party-intermediaries-in-the-retail-energy-market-call-for-evidence>

<sup>2</sup> <https://www.ofgem.gov.uk/decision/non-domestic-market-review-decision>

<sup>3</sup> The data provided stems from our stakeholder engagement efforts.

<sup>4</sup> Open Innovation Team, DESNZ-commissioned Report "Reducing non-domestic energy consumption", February 2024

<sup>5</sup> <https://www.ofgem.gov.uk/consultation/non-domestic-market-review-findings-and-policy-consultation>

*We are therefore requesting that government consider implementing regulation of the TPI market, and we are offering our support to do this” (page 8).*

Improving the quality of the TPI market, and ensuring that adequate consumer protections are in place is a key part of the government's plans to improve consumer outcomes. Direct oversight by an independent regulator, with strengthened powers to hold companies accountable for wrongdoing, enforce higher performance standards and ensure automatic customer compensation for failures, would promote transparency and accountability, ultimately leading to improved outcomes for the natural environment and consumers across the energy retail sector.

The TPI regulatory landscape is fractured, with regulatory requirements varying by type of TPI. As an example, load controllers will be regulated through provisions in Part 9 of the Energy Act 2023, while consumers who use energy brokers benefit from additional protections through Ofgem's license condition 20.5 in the standard electricity licence and 20.6 in the standard gas licence. These licence conditions mandate suppliers to engage only with brokers registered with a Qualifying Dispute Settlement Scheme. Additionally, some energy brokers signed up to voluntary Codes of Practice. However, these efforts to drive positive change in the TPI landscape have been fragmented, and could lead to different tiers of protections without reform. Establishing clear regulations dealing with specific categories of TPis, such as load controllers, would not only be helpful for consumers but would also ease market entry for new TPis.

Implementing a robust and comprehensive regulatory framework for TPis would not only strengthen consumer protection but also foster better consumer-focused practices among TPis, increase energy companies' accountability and promote innovation within the sector. Moreover, this would mitigate potential risks to consumers while providing clarity and assurance to new entrants in the retail energy sector.

This consultation aims to gather insights on additional information, risks and harms that stakeholders possess to enhance the government's understanding of the TPI market. Additionally, it seeks to ascertain stakeholders' perspectives on the type of regulatory interventions necessary and whether they support direct regulation of TPis or advocate for alternative regulatory frameworks. It aims to solicit feedback on the principles outlined in the document and gather suggestions for additional factors to be considered to ensure that the regulatory framework for TPis is future-proofed and encourages innovation. Finally, it sets out several regulatory approaches to TPis, along with a preferred option: a general authorisation regime for TPis. A general authorisation regime would be a regulatory framework that allows entities to provide services to operate in a certain market without the need for specific, individual licences.

We invite feedback on the government's preferred option and the other regulatory frameworks to ensure they are clear, effective, and enhance the energy retail market experience for all consumers, while driving urgent climate action.

# Contents

Introduction	4
General information	8
Why we are consulting	8
Consultation details	8
How to respond	9
Confidentiality and data protection	9
Quality assurance	10
Executive Summary	11
The proposals	12
Background	12
What are TPIs?	13
Current Regulatory Landscape	14
Ofgem Licence Conditions	14
Voluntary codes of practice	16
Consumer protection regulations	17
Load Controllers	17
Key risks in the current TPI market	18
Rationale for Regulation	19
Regulatory examples in different sectors	22
Financial Conduct Authority (FCA)	22
Heat Networks authorisation regime	22
Examples from other countries	23
Scope of TPIs in any regulatory option	26
Policy options for TPI regulation	30
Policy Objectives	30
Regulatory Options	31
1. The “Do-nothing” option	31
2. General Authorisation regime	34
3. Specific Authorisation regime	36
Future-proofing	39
Design of a General Authorisation Regime	41
Consultation questions	46
Next steps	48
Annex A: Glossary of terms	49

Annex B: Regulatory options' assessment against the critical success factors	50
Annex C: Regulatory approaches not part of the government's options shortlist	52
Annex D: Further analytical considerations	54

# General information

## Why we are consulting

This consultation document invites feedback on a proposal to establish a regulatory framework for TPIs within the energy retail market, and solicits stakeholders' preferences among the outlined options. The aim of this consultation is to gather input, especially from stakeholders directly affected by potential changes, and to ensure that the chosen regulatory approach fosters consumer protection and trust, encourages competition, and supports innovative practices.

## Consultation details

**Issued: 20 September 2024**

**Respond by: Midnight on 15 November 2024**

### Enquiries to:

Retail Energy Markets and Consumers Team  
Department for Energy Security and Net Zero  
3-8 Whitehall Place  
SW1A 2EG London  
Email: [tpiconsultation@energysecurity.gov.uk](mailto:tpiconsultation@energysecurity.gov.uk)

### Audiences:

This consultation will be of particular interest to the following parties:

- Third-party intermediaries (TPIs)
- Energy suppliers
- Consumer groups
- Business representative organisation
- Industry bodies
- Thinktanks

### Territorial extent:

This consultation applies to gas and electricity supply markets in Great Britain. Responsibility for the gas and electricity supply market in Northern Ireland lies with the Northern Ireland Executive's Department for the Economy.



## How to respond

We encourage respondents to make use of the online e-consultation wherever possible when submitting responses, as this is the Government's preferred method of receiving responses.

However, responses in writing or via email will also be accepted. Should you wish to submit

your main response via the e-consultation platform and provide supporting information via hard

copy or email, please be clear that this is part of the same consultation response.

**Respond online at:** <https://energygovuk.citizenspace.com/regulating-tpis/>

or

**Email to:** [tpiconsultation@energysecurity.gov.uk](mailto:tpiconsultation@energysecurity.gov.uk)

or

### **Write to:**

Retail Energy Markets and Consumers Team  
Department for Energy Security and Net Zero  
3-8 Whitehall Place  
London SW1A 2EG

When responding, please state whether you are responding as an individual or representing the views of an organisation.

Your response will be most useful if it is framed in direct response to the questions posed, though further comments and evidence are also welcome.

## Confidentiality and data protection

Information you provide in response to this consultation, including personal information, may be disclosed in accordance with UK legislation (the Freedom of Information Act 2000, the Data Protection Act 2018 and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential please tell us, but be aware that we cannot guarantee confidentiality in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not be regarded by us as a confidentiality request.

We will process your personal data in accordance with all applicable data protection laws. See our [privacy policy](#).

We will summarise all responses and publish this summary on [GOV.UK](https://www.gov.uk). The summary will include a list of names or organisations that responded, but not people's personal names, addresses or other contact details.

## Quality assurance

This consultation has been carried out in accordance with the government's [consultation principles](#).

If you have any complaints about the way this consultation has been conducted, please email: [bru@energysecurity.gov.uk](mailto:bru@energysecurity.gov.uk).

## Executive Summary

Third Party Intermediaries (TPIs) play a wide-ranging role in the retail energy market to help consumers, particularly those in the non-domestic market, secure energy contracts tailored to their needs. Their involvement is crucial for enabling consumers to navigate the complexities of the retail energy market and supporting the transition to clean power by 2030. TPIs include energy brokers and consultants, price comparison websites, bill aggregators, and load controllers.

Extensive stakeholder engagement and the publication of responses to a Call for Evidence on TPIs in July 2023 found that some TPIs in the retail energy market are failing to adequately meet non-domestic and domestic consumer needs.

While some regulatory measures have been undertaken to date, no comprehensive TPI regulatory framework currently exists. The government wants to ensure a fair, equitable, and sustainable energy future for all; regulating the TPIs under an independent regulatory body would enhance consumer protection and foster competition and innovations for a greener market. A new regulatory regime, building on and aligning existing regulations across different TPI types in the energy market, is necessary to establish a level playing field and mitigate potential risks to consumers.

We have developed regulatory proposals for TPIs after initial engagement with key energy industry stakeholders, industry analysts, and some TPIs. The proposals considered included further promoting the existing voluntary Codes of Practice, establishing a TPI licence regime, and setting up an authorisation regime (specific or general). The consultation proposes the introduction of a general authorisation regime for TPIs. Feedback is sought on these proposals to ensure clarity, effectiveness, and consumer-centricity.

This consultation invites stakeholders to provide feedback on DESNZ's preferred regulatory option and other frameworks, and on the typologies of TPIs which should be covered by those. The consultation period closes at midnight on 15 November, with a government response to follow in due course.

Regulating TPIs presents a tangible opportunity to support consumers, enhance protection, and improve their experiences in the energy retail market. It is also an opportunity to help improve the service offered by TPIs, where there is a potentially valuable role they can play in helping the UK to meet our net zero ambitions. It is an important step towards achieving the government's overarching vision for a retail energy market that works better for consumers, is more resilient and investable, and supports the transformation of our energy system.

# The proposals

## Background

The government want to see a retail energy market that works for consumers, ensuring there are adequate and appropriate protections whilst also recognising the role that decarbonisation and clean power must play in our energy system.

Consumers should be protected, whilst also reaping the benefits from innovation in the energy market and the transition to net zero. We are committed to supporting consumers through robust consumer protections, ensuring consumers have greater confidence when engaging with the energy sector.

In this context, TPIs play a vital role, by sitting between energy suppliers and customers, helping the latter engage with the market and secure better outcomes from it. Overall, TPIs can enhance market efficiency by connecting buyers and sellers, ensuring that energy supply meets demand efficiently. Through their platforms, businesses gain access to a diverse array of advice, energy products and suppliers, enabling them to choose options tailored to their needs and champion green choices. Moreover, TPIs can offer specialised expertise, assisting clients in navigating the complexities of energy procurement, regulations, and market dynamics. They can help businesses manage risk by providing insights, analysis, and hedging strategies to mitigate price volatility.

The term TPI refers to a wide range of business types and models which operate in the retail energy market that offer valuable services that can help customers secure the energy services better tailored to their circumstances. In this consultation, when we use the term of TPIs we are generally referring to the most commonly used TPIs, such as Price Comparison Websites (PCWs), auto-switching services, bill-splitters, and energy brokers and consultants. This list is not exhaustive and given the changing nature of the energy market, we expect that other types of TPIs will emerge and develop in response to market reforms or technological change. However, extensive consumer engagement, including contributions to our call for evidence, has revealed concerns about certain TPIs' conduct, resulting in adverse outcomes for consumers. The risks identified include a lack of information transparency, complex contracting practices leading to mis-selling, inadequate customer services, and limited ability to resolve complaints.

TPIs operate in both domestic and non-domestic markets, but have different roles in the two, with direct price comparison options being far less available in the non-domestic market and as a result TPIs' activities leaning towards broker-type models of operation. Ofgem's [Non-domestic market review](#)<sup>6</sup> echoed these challenges, emphasising the failure of TPIs to meet the needs of non-domestic consumers and recommending Government look into mandatory regulation and direct oversight of TPIs. Consequently, tailored protection is necessary for businesses engaging with TPIs to ensure they do not suffer unnecessary consumer harms.

---

<sup>6</sup> <https://www.ofgem.gov.uk/decision/non-domestic-market-review-decision>

Engagement with Ofgem and wider stakeholders, including with suppliers, consumer groups, business representatives, and some TPIs, has underscored the need for market regulation. Additionally, reviews by various government bodies have highlighted the TPI market's shortcomings, particularly in serving non-domestic consumers, with Citizens Advice publishing a report in 2020 on improving protections for people using energy TPIs.<sup>7</sup>

While non-domestic TPIs have recently faced negative media attention, evidence also shows harm caused by some TPIs operating in the domestic space. Following the exceptional rise in energy prices since 2021, some TPIs such as some price comparison websites (PCW) paused their activities. However, we anticipate a return of price competition to the domestic retail market, along with the resurgence of PCW usage. Moreover, as we move toward achieving net zero, TPIs could play an increasingly significant role in assisting domestic customers with navigating and accessing new products and services.

Regulating TPIs is a necessary step to further provide consumers with assurance and enforcing standards effectively when necessary. Regulation would also support building greater consumer engagement in achieving the Net Zero targets, as customers would be guided and enabled in their choices by TPIs' expert advice and support. This consultation aligns with the government's support for Ofgem's initiatives to improve the non-domestic energy market and reflects our collaborative approach with stakeholders. But government wants to go further, creating a regulatory landscape that covers both the domestic and non-domestic side of TPI activity. We wish to see a regulated TPI market that strikes the right balance between providing protections for consumers and fostering greater trust in the retail energy market while at the same time ensuring any regulation is future proofed for new TPI entrants and does not stifle innovation in offerings with the TPI sector.

1. Since the launch of our Call for Evidence on TPIs in the retail energy market in August 2021, have you observed any significant developments in the TPI market that could inform potential regulatory decisions?

## What are TPIs?

TPIs typically sit between the regulated entities in the energy system and customers, helping them engage with the market. TPIs refer to a wide range of business types and models which operate in the retail energy market that provide customers with products and services linked to energy supply. TPIs operate in both the domestic and non-domestic segments of the retail energy market.

TPIs include:

- **Price comparison websites** - Digital platforms that aggregate and display a range of products or services for customers to compare.

---

<sup>7</sup> Stuck in the middle - How to improve protections for people using energy third party intermediaries - Citizens Advice (2020), [https://www.citizensadvice.org.uk/Global/CitizensAdvice/Energy/TPIs%20report%20-%20FINAL%20\(1\).pdf](https://www.citizensadvice.org.uk/Global/CitizensAdvice/Energy/TPIs%20report%20-%20FINAL%20(1).pdf)

- **Auto-switching services** - A type of TPI that automatically switches customers to a new tariff or supplier on their behalf according to price or other criteria based on customer preferences.
- **Bill splitters** - A type of TPI that offers to consolidate a number of household utility bills, including energy supply, into a single bill and split this across multiple bill-payers, such as tenants in shared accommodation.
- **Energy brokers and consultants** - A type of TPI that supports business customers with their energy procurement, such as comparing and recommending tariffs from a range of suppliers or negotiating contracts on a business customer's behalf.

## Current Regulatory Landscape

The regulatory oversight of TPIs within the energy market primarily consists of voluntary codes of practice, Ofgem licence conditions on energy suppliers, and consumer protection regulations. However, the regulatory oversight differs by individual types of TPI.

TPIs can currently choose between a number of voluntary codes of practice to sign up to. These codes of practice, while not legally binding, outline best practices and standards for TPI conduct in areas such as transparency, customer engagement, and ethical behaviour.

Additionally, Ofgem imposes licence conditions on energy suppliers that indirectly affect the activities of TPIs. These conditions, outlined in the Standard Supply Licence Conditions (SLCs), include requirements related to transparent pricing for non-domestic customers using TPIs and access to redress for microbusiness consumers, and, from later this year, to small businesses.<sup>8</sup> While these conditions are primarily directed at suppliers, they indirectly influence the behaviour of TPIs acting on behalf of suppliers.

Energy consumers have other safeguards in place. The Business Protections from Misleading Marketing Regulations 2008 (BPMMR)<sup>9</sup>, provides for criminal offences that apply where a person who is acting for the purposes relating to his trade, craft, business or profession (“trader”) engages in misleading advertising. These regulations provide overarching safeguards for energy consumers, including those engaging with TPIs. These regulations ensure that consumers are protected from unfair trading practices, have access to clear and transparent information, and can seek redress in case of disputes.

## Ofgem Licence Conditions

The emergence of energy suppliers was established through the Gas Act 1986 and Electricity Act 1989 (“the Acts”), marking Great Britain's privatisation and liberalisation of energy markets towards the close of the 20th century. Suppliers serve as the primary link between the energy system and customers, with some TPIs facilitating specific functions or serving as intermediaries between suppliers and customers.

<sup>8</sup> <https://www.ofgem.gov.uk/decision/non-domestic-market-review-decision>

<sup>9</sup> <https://www.legislation.gov.uk/ukSI/2008/1276/contents/made>

Activities related to gas and electricity, such as generation, transmission, distribution, and supply, are prohibited under the Acts unless the entity conducting such activities is licensed by Ofgem or exempt from licensing requirements. Ofgem's SLCs serve as the primary regulatory tool for governing the retail market, setting forth legal requirements dictating how suppliers must operate and engage with customers. Unlike suppliers, TPIs are not directly subject to a licensing regime or specific regulatory requirements to participate in the retail market.

The current regulatory framework for the retail market, comprising Ofgem's SLCs, was primarily formulated at a time when most customers interacted directly with their supplier and controlled their energy consumption. While this framework has evolved with market development, it largely fails to fully reflect the role TPIs play, their increasing prevalence, and their importance in enabling customers to engage in the market or manage energy usage via TPIs.

Despite not being subject to a licensing regime or specific regulatory requirements in the retail energy market, Ofgem exercises indirect oversight of TPIs working with some non-domestic consumers. For instance, SLC 20.5 in electricity and 20.6 in gas mandates that suppliers engage only with brokers registered with a qualifying Alternative Dispute Resolution scheme, and SLC 20.6 electricity and SLC 20.7 gas includes energy broker fee transparency for microbusiness customers. On 5 April 2024, Ofgem announced their decision on some of the SLCs relevant for TPIs following a consultation period from December 2023 to February 2024.<sup>10</sup> The key changes, effective later this year, include:

- Expanding the Standards of Conduct, already applicable to microbusiness and domestic customers, to all non-domestic consumers, enabling Ofgem to address unfair treatment by suppliers across all domestic and non-domestic customers.
- Requiring clear display of TPI fees in the principal terms for all non-domestic customers, with suppliers obligated to provide this information upon request. These changes will come into effect on 1 October 2024.
- Aligning with the government's new Small Business customer definition agreed on following consultation on the expansion of the Energy Ombudsman's remit,<sup>11</sup> Ofgem will require suppliers to collaborate only with TPIs that are members of a Qualifying Dispute Settlement scheme<sup>12</sup> when working on Small Business contracts.

These updates aim to enhance fairness, transparency, and protection for non-domestic customers in the energy market.

Alongside these changes, a licensing regime for a specific category of TPIs, load controllers, is underway and a public consultation opened earlier this year.<sup>13</sup> This change is provided for in the Energy Act 2023. The Act provides powers to make

---

<sup>10</sup> <https://www.ofgem.gov.uk/publications/non-domestic-market-review-decision>

<sup>11</sup> <https://www.gov.uk/government/consultations/new-threshold-for-businesses-accessing-the-energy-ombudsman>

<sup>12</sup> A Qualifying Dispute Settlement Scheme is any scheme of dispute settlement, resolution and/or redress that demonstrably provides independent, fair, effective and transparent out-of dispute settlement relating to TPI activities. These schemes are not approved by Ofgem.

<sup>13</sup> <https://www.gov.uk/government/consultations/delivering-a-smart-and-secure-electricity-system-implementation>

activities related to load controllers licensable and enables Government to regulate organisations who are involved in remotely controlling smart devices in people's homes or businesses.

## Voluntary codes of practice

Depending on the services offered by a TPI, there may be voluntary accreditation schemes or industry codes of practice (CoP) to which they can sign up. These initiatives aim to establish common standards or best practices for accredited members who voluntarily agree and adhere to the specified requirements. As voluntary initiatives, not all TPIs have signed up to these CoP. Currently, several examples of self-regulation via voluntary schemes or codes of practice exist in the market:

- **Brokers: The Retail Energy Code Company (RECCo) TPI Codes of Practice:**<sup>14</sup> established by RECCo (a non-profit organisation set up to maintain and develop the Retail Energy Code, the set of rules for operating in the retail energy sector) in October 2023, this code aims to regulate the TPI market. The principles of the Code include transparency, fair treatment of customers, clear dispute resolution processes, and data protection standards. The current scope of the Code only covers energy brokers and not the wider TPI market. As of July 2024, 23 TPIs signed to this CoP.<sup>15</sup>
- **Price Comparison Websites (PCWs): The Confidence Code:**<sup>16</sup> accredited by Ofgem, this code applies to PCWs offering services to domestic customers. It includes rules regarding the display and calculation of prices and tariffs, complaint handling procedures, and independent annual audits.
- **Brokers: Utilities Intermediaries Association (UIA) Code of Practice:**<sup>17</sup> operated by the UIA, this code is designed for TPIs operating in the energy and water sectors. It maintains a register of accredited members, offers alternative dispute resolution, and mandates certain contractual disclosures.
- **Aggregators: Flex Assure:**<sup>18</sup> established by the Association for Decentralised Energy in November 2018, Flex Assure is a code of conduct scheme applicable to Demand Side Response (DSR) aggregators serving business customers. It sets minimum standards for DSR aggregators in areas such as sales and marketing, technical due diligence, and complaint procedures.
- **E.ON TPI Code of Practice:**<sup>19</sup> applied to all energy sales to business customers conducted by E.ON and its representatives, this code outlines

---

<sup>14</sup> <https://www.retailenergycode.co.uk/recco-publish-third-party-code-of-practice/>

<sup>15</sup> <https://recportal.co.uk/tpis>

<sup>16</sup> <https://www.ofgem.gov.uk/consumers/household-gas-and-electricity-guide/how-switch-energy-supplier-and-shop-better-deal/compare-gas-and-electricity-tariffs-ofgem-accredited-price-comparison-sites>

<sup>17</sup> <https://www.uia.org.uk/code-of-practice>

<sup>18</sup> <https://www.flexassure.org/about>

<sup>19</sup> <https://www.eonenergy.com/for-your-business/tpi-code-of-practice>



principle-based rules related to contractual information, customer interaction, and sales practices. Other suppliers may also have similar agreements in place to ensure acceptable standards of broker conduct.

Voluntary schemes such as these make valuable contributions to enhancing customer protection and promoting best practice in the absence of regulatory intervention. However, as participation in these schemes is voluntary, market-wide coverage and consistent protections for all customers cannot be guaranteed. Additionally, while code sanctions exist, such as expulsion, the lack of monitoring, enforcement powers, and financial penalties of a regulator may limit the effectiveness of these voluntary initiatives.

## Consumer protection regulations

TPIs are required to adhere to general consumer protection laws<sup>20</sup> when engaging with domestic customers. These laws safeguard consumers against unfair, misleading, or aggressive commercial practices. They also grant consumers the right to cancel contracts, access information about the trader and services purchased, and prohibit unfair contract terms. Ofgem has similar but reduced enforcement powers compared to the Competition and Markets Authority (CMA) to oversee specific consumer protection legislation.<sup>21</sup>

Additionally, Ofgem, along with other regulators, has authority to take limited actions under the BPMMR. However, business customers generally receive fewer protections under these laws. In an effort to enhance consumer protections, and following a consultation initiated on July 2021, the previous government decided to strengthen the powers of the CMA and other consumer law enforcers to address harmful business practices<sup>22</sup>. These powers included by tackling subscription traps, strengthening the law to better prevent posing of fake reviews online and strengthening payment protections for consumers.

## Load Controllers

With reference to Demand Side Response (DSR), at present organisations that provide smart services by remotely controlling their devices are known as load controllers<sup>23</sup>. DSR involves a user increasing, decreasing or shifting their electricity use – in response to a signal – to help balance Britain's electricity system<sup>24</sup>. On 16 April 2024, a consultation on proposals for a load control licence was published<sup>25</sup>. The consultation closed on 11 June 2024 and DESNZ is currently in the process of

---

<sup>20</sup> This includes the Consumer Protection from Unfair Trading Regulations 2008, Consumer Rights Act 2015, Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 and Consumer Rights (Payment Surcharges) Regulations 2012.

<sup>21</sup> Under Part 2 and Schedule 3 of the Consumer Rights Act 2015 and Part 8 of the Enterprise Act 2002

<sup>22</sup> <https://www.gov.uk/government/consultations/reforming-competition-and-consumer-policy>

<sup>23</sup> <https://www.gov.uk/government/publications/energy-security-bill-factsheets/energy-security-bill-factsheet-regulation-of-load-control-and-energy-smart-appliances>

<sup>24</sup> <https://www.nationalgrideso.com/industry-information/balancing-services/power-responsive/demand-side-response-dsr>

<sup>25</sup> <https://www.gov.uk/government/consultations/delivering-a-smart-and-secure-electricity-system-implementation>

analysing responses. Remotely controlled energy smart appliances (ESAs) will play an increasingly important role in flexibility on the electricity system and will support government's ambition for DSR.

Energy suppliers offering load control services as part of their wider consumer offerings are required to comply with the relevant SLCs.

Recent developments could open new opportunities for innovators who want to find new value in this flexibility from consumers, like Ofgem's approval of the Balancing and Settlement Code P415 modification, which allows access to wholesale markets for flexibility dispatched by Virtual Lead Parties<sup>26</sup>, and the government's ongoing Review of Electricity Market Arrangements (REMA) programme.

A response to the Smart Secure Energy System (SSES) consultation was published in Spring 2023<sup>27</sup>. This response confirmed the previous government's intention to introduce legal requirements on load control services to protect consumers and the electricity system. The latest consultation ran between 16 April and 21 June 2024<sup>28</sup>. The department is currently analysing responses and will publish an update in due course.

The proposed activities requiring a load control licence in the latest SSES consultation include the following:

- 1. Contracting with domestic or small non-domestic consumers for services including load control of certain ESAs for the purposes of DSR** – in this consultation, organisations undertaking this activity are called 'DSR Service Providers' (DSRSPs).
- 2. Load control of certain ESAs in domestic or small non-domestic settings for the purposes of DSR** - in this consultation, organisations undertaking this activity are called 'DSR Load Controllers'.
- 3. Load control of certain ESAs with aggregated maximum potential load of 300MW or above** – in this consultation, organisations undertaking this activity are called 'Large Load Controllers'.

## Key risks in the current TPI market

In August 2021, the previous government initiated a call for evidence on TPIs, fulfilling a commitment outlined in the December 2020 Energy White Paper to consult on regulating TPIs. This call for evidence marked the beginning of the evidence gathering process. The summary of responses<sup>29</sup> was published in July 2023. Input was received from 52 respondents, including large and small suppliers, industry groups, consumer organizations, and TPIs. As seen above, these findings of this

---

<sup>26</sup> <https://www.ofgem.gov.uk/decision/ofgem-decision-p415-facilitating-access-wholesale-markets-flexibility-dispatched-vlps>

<sup>27</sup> <https://www.gov.uk/government/consultations/delivering-a-smart-and-secure-electricity-system-the-interoperability-and-cyber-security-of-energy-smart-appliances-and-remote-load-control>

<sup>28</sup> <https://www.gov.uk/government/consultations/delivering-a-smart-and-secure-electricity-system-implementation>

<sup>29</sup> <https://www.gov.uk/government/calls-for-evidence/third-party-intermediaries-in-the-retail-energy-market-call-for-evidence>

Call for Evidence were largely confirmed by Ofgem Non-Domestic Market Review published last summer.

The reviews from different government bodies, and engagement with stakeholders show that the TPI market could be improved, particularly for non-domestic consumers. Key risks identified include:

1. **Asymmetry of information:** Currently, there is a lack of transparency in the information provided by TPIs, particularly concerning additional fees and the extent of coverage in the energy supply market, i.e. how many suppliers are TPIs showing contract offerings for when recommending certain tariffs. This opacity hampers consumers' ability to make informed decisions and comparisons, potentially resulting in suboptimal outcomes.
2. **Opaque contracting practices and mis-selling:** The market exhibits opaque contracting practices and instances of mis-selling, where TPIs may present unsuitable contracts based on their own commission interests rather than consumer needs. Such practices can lead to unexpected costs and adverse outcomes for consumers, undermining trust in the market.
3. **Lack of adequate access to dispute resolution:** Both domestic and non-domestic consumers face limited access to dispute resolution mechanisms when engaging with TPIs. This can prolong disputes, diminish consumer confidence, and impede market efficiency. While recent changes proposed by Ofgem in relation to some non-domestic consumers are welcomed, this only accounts for a specific section of the TPI market.
4. **Lack of support for vulnerable consumers:** TPIs often lack the capacity to identify and support vulnerable consumers, potentially resulting in adverse outcomes and consumer detriment. Vulnerable consumers may face exploitation or inadequate support due to language barriers or lack of expertise.
5. **Poor customer service:** Evidence suggests a prevalence of poor customer service in the TPI market, compounded by the absence of robust regulatory measures to enforce high standards. This can lead to dissatisfaction and complications for consumers.

Further details on market failures are outlined in **Annex D**.

2. Are there any further harms and risks stemming from TPI behaviours that you believe warrant our attention? Please provide examples and any relevant specific figures, if available.

## Rationale for Regulation

Addressing these issues is crucial to improve market functioning, protect consumer interests by building their trust in the retail energy market, and enabling them to play a bigger role in driving a decarbonised and clean energy fuelled economy. Although non-regulatory initiatives, such as various voluntary Codes of Practice, are useful steps, they do not represent an enduring solution to regulating TPIs. We have already received feedback from stakeholders that any options without enforcement capabilities will not deter the worst actors from continuing their practices. Regulation should mandate TPIs to provide transparent information on commissions, contracts, and fees, ensuring consumers can make informed decisions. Additionally, measures

to prevent mis-selling and improve dispute resolution mechanisms are necessary to safeguard consumer rights.

A comprehensive regulatory framework encompassing TPIs would fortify consumer protection and bolster trust, whilst also promoting competition. This is because a standardised regulatory landscape would offer stability within the market, preventing annual piecemeal changes whereby TPIs are constantly having to adjust their practices. Without wholesale reform, piecemeal efforts to enact positive change could create divergences and fragmentation within the TPI landscape. This is suboptimal as it creates confusion for consumers, suppliers and TPIs themselves. A holistic approach to TPI regulation that includes alignment with the load controller regulation, under the Energy Act 2023, would create a level playing field that would also be easier to follow for new TPIs entering the market.

Finally, with innovation being a cornerstone of our overarching vision for the future retail market, a new regulatory framework that encapsulates TPIs as a whole is the natural next step for future-proofing potential risks to consumers whilst also providing certainty to new TPIs who want to work in the retail energy sector.

### Transparency

As mentioned above, there is a lack of price transparency within the TPI sector. This can make price comparison of energy contracts and tariff offerings difficult for the typical consumer. We would expect consumers to have greater autonomy and power if they understand the number of suppliers that a TPI such as a price-comparison website or an energy broker were showing when providing a quote. This could be the actual number of a percentage.

#### 3. What are the main challenges with improving price transparency?

### Protections for vulnerable consumers

Certain TPIs focused on the domestic sector, such as brokers, price comparison websites and auto-switching services may interact with and provide services to vulnerable consumers. The responses received to the July 2023 Call for Evidence on third-party intermediaries in the retail energy market highlighted areas where vulnerable consumers may face poor outcomes or even detriment as a result of their interactions with TPIs.

Unlike licensed suppliers, TPIs do not have a regulatory obligation placed upon them to identify customers in vulnerable circumstances. Failure to identify vulnerability status, e.g. eligibility for Priority Service Registers (PSRs), or for Warm Home Discount (WHD), could lead to customers missing out on support, or on financial relief (for example, where a customer could, potentially, be switched to a supplier that does not participate in WHD). In a more diverse and flexible future energy market, certain groups of vulnerable consumers (such as those with a medical reliance on heat) may face harm if directed towards particular product offerings or tariffs that do not meet their needs. There is ongoing work across energy suppliers, distribution network operators and water suppliers to enable data sharing where a customer has already informed one of those companies of their need for additional support via registration for their Priority Services Registers. The previous

government's November 2023 consultation 'Smarter regulation: strengthening the economic regulation of the energy, water and telecoms sectors' proposed that government will coordinate and work collaboratively with regulators, industry and devolved administrations to explore the creation of a single, multi-sector PSR. Part 1 of a response to this consultation was published in May 2024 as the publication: smarter regulation: delivering a regulatory environment for innovation, investment and growth<sup>30</sup>. Government could consider how TPIs might interact with a future phase of this work

In order to deliver positive outcomes for customers in vulnerable situations, TPIs with ongoing domestic customer engagement who maintain a database of customer information may need to proactively assess customer vulnerability and sustain their own, internal, up to date and accurate records relating to their circumstances.

4. Do TPIs currently identify consumers who are in vulnerable situations? If so, how do they do so?
5. Should the design principles for TPI regulation include a requirement to identify consumers in vulnerable situations? How could TPIs record and retain that information?

#### Complaints and access to redress

Responses to the July 2023 Call for Evidence on TPI regulation in the energy sector highlighted a lack of consistency in complaints handling processes across TPIs as well as unequal access to free, out-of-court Alternative Dispute Resolution (ADR) services between non-domestic customers (who can access these services) and domestic customers.

TPIs' own complaints management processes and the extent to which they offer customers support, either directly or through sign-posting means, was seen as variable. Despite some examples of good practice, such as agreed understanding between some TPIs and suppliers, these safeguards were deemed to be inconsistent across the industry.

The proposed design principles set out later in this document, include the requirement to maintain clear and accessible complaints processes. Similarly, reliance upon general consumer protection law, which requires pursuing a case through the courts, was widely considered to be an unrealistic mechanism to protect domestic consumers in most cases - this design principle includes the obligation to signpost customers to appropriate ADR services.

6. Should ADR services be expanded to domestic customers in line with existing provisions for non-domestic consumers?

---

<sup>30</sup> <https://www.gov.uk/government/publications/smarter-regulation-delivering-a-regulatory-environment-for-innovation-investment-and-growth>

## Regulatory examples in different sectors

### Financial Conduct Authority (FCA)

Price Comparison Websites, like Compare the Market, are authorised by the FCA for insurance products they compare. Insurance brokers also need to be authorised by the FCA. An insurance broker needs to submit an application that demonstrates it complies with the principles of business, relevant rules in the FCA handbook and meet all minimum standards.

In November 2018 the FCA published their final ‘approach to authorisation’<sup>31</sup> mission document. This sets out how they view authorisation as a preventative tool to prevent harm by ensuring that all regulated firms and individuals meet their minimum standards.

The FCA uses a specific authorisation regime to regulate the financial services market. Depending on the type of financial services that firms intend to provide, they may need to be registered rather than authorised by the FCA, which generally means they need to meet fewer regulatory requirements but can also place limits on the services they can provide<sup>32</sup>.

As part of the authorisation approach, the FCA also operates different levels of permissions that some firms will need to apply for. For example, consumer credit firms will need to apply for ‘limited permission’ or ‘full permission’ depending on the regulated activities that they intend to carry on<sup>33</sup>. Limited permission may restrict the regulated activities that a consumer credit firm is authorised to carry out, but may be suitable for the activity they intend to carry out and can involve a shorter application process with reduced information required to be provided to the FCA relative to a full permission application.

### Heat Networks authorisation regime

In 2018, the Competition and Markets Authority (CMA) completed its market study into heat networks and concluded that “a statutory framework should be set up that underpins the regulation of all heat networks”. The previous government consulted on Heat Networks: Building A Market Framework in 2020. At the time, there were no sector specific protections for heat network consumers, unlike for consumers of other utilities such as gas, electricity and water.

Measures are being introduced through the Energy Act 2023<sup>34</sup> to regulate the heat network market. Ofgem will be the regulator and will help to ensure consumers get a fair price and reliable supply of heat. It contains powers to introduce an authorisation regime so that organisations that supply heat through a heat network or operate a heat network can be effectively regulated. It provides for the introduction of authorisation conditions and other regulations to include provision for fair prices and

---

<sup>31</sup> <https://www.fca.org.uk/publications/corporate-documents/our-approach-authorisation>

<sup>32</sup> <https://www.fca.org.uk/publication/corporate/our-approach-authorisation-final-report-feedback-statement.pdf>

<sup>33</sup> <https://www.fca.org.uk/firms/authorisation/how-to-apply/consumer-credit/limited-permissions>

<sup>34</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1143674/Policy\\_Statement\\_Heat\\_Network\\_Market\\_Framework.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1143674/Policy_Statement_Heat_Network_Market_Framework.pdf)

transparent information for consumers, a high quality of service, and minimum technical standards and carbon limits.

The heat network authorisation regime will follow a 'specific' regime approach. Some activities will be defined as 'regulated' in regulations made by the Secretary of State. This will include supply of thermal energy through a heat network and operation of a heat network. Authorisation will be required to carry out these regulated activities. The regulator will grant this, with conditions. Via these conditions the regulator can ensure standards across the sector, including the enforcement of consumer protection rules, emission limits, and if needed, price controls.

Ofgem will monitor compliance and will be given powers under the Act to take enforcement action where heat networks are not meeting the required standards. The Act provides for the appointment of the Energy Ombudsman and Citizens Advice as the sector's Alternative Dispute Resolution Body and consumer advocacy body respectively through secondary legislation.

The previous government and Ofgem published a joint consultation on 4 August 2023<sup>35</sup> to inform secondary legislation and authorisation conditions. This consultation closed on 27 October 2023 and the response was published in April 2024.

7. Are there further regulatory examples from other sectors that we should be learning lessons from?

## Examples from other countries

### **Czech Republic – a formal regulation of TPIs**

In the Czech Republic, significant legislative changes have been made in the field of energy transition and energy regulation. These changes aim to align with the Renewable Energy Directive Recast (RED II) and address unfair business practices towards consumers.

The specific law regulating energy brokers and TPIs in the Czech Republic is known as Law No. 19/2023 Coll. It entered into force on 24 January 2023.<sup>36</sup>

Some key points regarding the regulation of energy brokers and TPIs in the Czech Republic include:<sup>37</sup>

- *Heightened Regulation of TPIs:* Energy brokers and TPIs are required to act fairly and professionally, prioritising consumers' rights and interests over their own. Broker contracts must comply with new requirements, and any contracts not revised by June 30, 2022, would automatically become void.
- *TPI Licence Requirement:* As of June 1, 2022, local energy brokers and TPIs must hold a broker licence issued by the Energy Regulatory Office. Existing energy brokers and those commencing activities before this deadline needed to obtain the licence by December 31, 2022. To obtain the licence, the TPI needs to prove necessary educational requirements and practical experience

---

<sup>35</sup> <https://www.gov.uk/government/consultations/heat-networks-regulation-consumer-protection>

<sup>36</sup> <https://www.roedl.com/insights/renewable-energy/2023/february/czech-republic-amendment-energy-and-building-act-accelerates-ee>

<sup>37</sup> <https://www.globalcompliancenews.com/2022/02/08/czech-republic-recent-key-legislative-changes-in-energy-transition-and-energy-regulation-26012022/>

in the energy sector. The licence will be limited to five years but will be extendable.

- *Extrajudicial redress for disputes with TPIs*: The Energy Regulatory Office will now hear disputes between TPIs and consumers and oversee that energy brokers comply with the law.
- *Consumer Protection*: The new legislation vests consumers with additional rights towards energy brokers. These include: consumers will be entitled to terminate a TPI contract immediately without recourse; a TPI's authorisation to enter into a contract with energy suppliers may not last more than 12 months; and the TPI will have an obligation to deliver to the consumer a written contract with the supplier without delay.

### **United States – TPIs' behaviours are overseen by state-run regulatory bodies**

Public Utility Commissions (PUCs) in the United States are regulatory bodies that oversee the rates and services of public utilities, such as electricity, gas, water, and telecommunications. Stemming from a need to establish stringent consumer protection safeguards, PUCs in 13 states (such as Illinois, Pennsylvania, and Texas) plus the District of Columbia establish, maintain and monitor strict licensing requirements for suppliers of retail electric service and natural gas supply. Agents, brokers and consultants are also considered Suppliers in the broad definitions of these state licensing requirements.

In order to attain PUC approval as a licensed broker and maintain “in good standing” status, Brokers must meet and adhere to many strict standards related to marketing practices, including consumer protection requirements. These requirements/practices include, but are not limited to: proof of financial stability; maintenance of surety bonds; formal notifications to utilities and designated news outlets; and timely submittal of annual reports, renewal applications, revenue forecasts, and gross operating revenue in accordance with the individual reporting requirements of each state.

### **Australia – a supplier-driven regulatory initiative**

EnergyAustralia, one of Australia's largest energy companies, has established a TPI Code of Conduct specifically for large business customers. This code is designed to ensure that TPIs act in a fair, honest, appropriate, and transparent manner when assisting large businesses with their energy needs.<sup>38</sup> The Code outlines four guiding principles that support TPIs in their decisions and behaviours during interactions with retail energy customers and EnergyAustralia:<sup>39</sup>

- *Acting in the Customer's Best Interests*: TPIs must offer products or services that are suitable for the customer's requirements after making appropriate inquiries. They should not recommend products based on the level of commission received.
- *Prohibition of Inducements*: TPIs must not give or receive inducements or incentives that would prioritize products generating higher commissions over those that best suit the customer's needs.

---

<sup>38</sup> <https://www.energyaustralia.com.au/industrial-and-commercial/help-support/brokers-and-consultants>

<sup>39</sup> <https://www.energyaustralia.com.au/sites/default/files/2020-04/EnergyAustralia%20C%26I%20TPI%20Code%20of%20Conduct.pdf>



- *Transparency*: The code requires TPIs to interpret and apply its principles in a way that aligns with the objective of giving customers confidence in their energy procurement process.
- *Commitment to the Code*: EnergyAustralia works only with TPIs who are committed to acting consistently with this Code of Conduct.

EnergyAustralia continually reviews the brokers they work with to ensure adherence to the Code of Conduct.

## Scope of TPIs in any regulatory option

During the previous TPI call for evidence<sup>40</sup>, DESNZ sought views on the most commonly used TPIs by both domestic and non-domestic customers. These included Price Comparison Websites (PCWs), auto-switching services, and bill-splitters in the domestic market, energy brokers and consultants in the non-domestic market, and load controllers across the energy system.

The scope of this consultation therefore focuses on these TPIs as being higher priority, as more research and reporting on these types of intermediaries have been conducted in recent years. These are the most likely candidates for inclusion in any regulatory option. However, we also wish to hear views from stakeholders on lesser explored or more novel forms of TPI.

### *Why are load controllers not included?*

As set out earlier in the consultation, there is an intention to regulate persons who carry out load control through powers within the Energy Act 2023. A more stringent licence regime is most appropriate for this type of TPI activity due to the greater harms that an organisation who can directly manage a customer's energy could cause if the correct checks and balances are not in place.

### *Why are the proposals to regulate multiple types of TPIs?*

Ofgem's recent Non-Domestic Market Review found how some non-domestic consumers were experiencing customer detriment when interacting with certain TPIs such as energy brokers. Ofgem made a recommendation to Government to consider implementing regulation of the TPI market. The previous call for evidence on TPIs also found a number of consumer harms as detailed above. This combination of harms has led us to seek views on introducing a regulatory framework for multiple TPIs. By including the breadth of the TPI landscape we hope to provide clarity and certainty to TPIs themselves and consumers.

By creating a consistent regulatory framework, we wish to strike the right balance between providing appropriate protections for consumers and fostering innovation in the TPI sectors. In any proposed changes to the TPI landscape, we aim to achieve three primary policy objectives:

- Improving consumer protections
- Increasing consumer trust in the retail energy market
- Future-proofing the regulatory landscape for new TPI innovators

To assess whether these objectives have been met by a regulatory option, we define these objectives in a specific, measurable, achievable, realistic, and time-limited (SMART) way. This is following best practice for appraisal of government policies, and described in further detail in **Annex D**.

---

<sup>40</sup> <https://www.gov.uk/government/calls-for-evidence/third-party-intermediaries-in-the-retail-energy-market-call-for-evidence>

Achieving these objectives would be limited if some TPIs were to be exempted from complying with the regulation, for instance small and microbusinesses. Our rationale for not proposing certain exemptions is explained in **Annex D**.

The below table sets out the list of TPIs currently considered higher and lower priority for inclusion in regulation, based on our most recent findings.

Type of TPI	Potential harms/cause of harms	In scope of current regulation?	In scope of this consultation?
<b>High priority - Firm choices for inclusion</b>			
<b>Energy brokers + consultants</b>	Sales malpractices, transparency (commission and supplier arrangements), customer service issues, suppliers being selected from limited panels and customers not informed of this	No - Indirect Ofgem behavioural impact on some TPIs through limited energy supplier rules	<b>Yes</b>
<b>Price Comparison Websites/Digital Comparison Tools</b>	Issues with identification of vulnerable consumers, suppliers being selected from limited panels and customer not informed of this	No	<b>Yes</b>
<b>Auto-switching</b>	Customers not directly linked to their supplier (issue in times of crisis), suppliers being selected from limited panels, inadequate weighting of non-financial concerns	No	<b>Yes</b>
<b>Bill splitters</b>	Lack of transparency, customer service issues	No (unless categorised as resellers, see below)	<b>Yes</b>
<b>Sub-brokering</b>	Lack of clear market information about true extent and nature of sub-broker related activity	No	<b>Yes</b>
<b>Lower priority - Expanded scope, seeking stakeholder views</b>			

<b>Resellers</b>	Customers not directly linked to their supplier and therefore unaware of cost of purchasing energy directly from supplier (lack of transparency)	Yes, Ofgem established maximum resale price provision for suppliers to follow <sup>41</sup> , although enforcement is via the courts	Yes, but more views required
<b>Independent advanced meter data agents</b>	Customer access to data, transparency regarding meter offerings	No	Yes
<b>Aggregators (for TPIs)<sup>42</sup></b>	Inclusion for consistency purposes and not working around proposed regulations	No	Yes, and more views welcomed
<b>Artificial Intelligence</b>	Data use and cyber security harms	No	Yes, but more views required
<b>Not in scope of this consultation</b>			
<b>Load controllers</b>		Yes, plans for a separate licence regime through the Energy Act 2023	No
<b>Aggregators (i.e suppliers or load controllers)</b>			No

8. What are your views on the types of TPIs included in the first section of the scope table?
9. Do you think any further types of TPIs should be explored? If yes, do these match with any of the expanded scope category and if they do not, why not?
10. Are the existing regulations for resellers currently set at the right level to prevent consumer harms?
11. Are energy suppliers aware which of their customers are resellers and, how many end-consumers the resellers serve?

<sup>41</sup> <https://www.ofgem.gov.uk/publications/resale-gas-and-electricity-guidance-maximum-resale-price-updated-october-2005>

<sup>42</sup> This could be a business that offers to a technology platform for sub-brokering practices

12. Do you have any views on how the number of TPIs within the market might change in the coming years?
13. How might the TPI market evolve in the next 5 years, particularly in the context of Market-wide Half Hourly Settlements, Net Zero ambitions and more innovative tariffs and low carbon technologies being introduced to the market?

## Policy options for TPI regulation

A majority of TPIs operate ethically and responsibly. It is key to recognise existing good practices, promote them amongst all TPIs and build new regulation on them. As seen above, TPIs contribute positively to energy markets by enhancing efficiency, providing access to diverse options, managing risk, offering specialised expertise, generating cost savings, and saving time and resources for businesses and household consumers alike. Their role is instrumental in facilitating smooth and effective transactions between energy market participants, ultimately driving innovation and growth in the energy sector.

A number of regulatory and non-regulatory options were considered when assessing the requirement for intervention in the energy TPI market. These are explored in detail in the sections below.

### Policy Objectives

As well as aligning with government's overall vision for the retail energy market, any regulatory framework for TPIs would need to display certain features, including the following critical success factors:

- **Achievability of adequate consumer protections** – ensuring fairness, equity and consumer empowerment in interactions with TPIs, enabling informed decision-making, in addition to protecting vulnerable consumers.
- **Enforceability** - able to credibly deter TPIs from contravening their regulatory requirements, prevent harm from occurring and provide a suitable remedy for customer harm if it does occur.
- **Strategic fit with other Government initiatives** - seeking to achieve a coherent approach to regulation of TPIs across sectors where possible.
- **Regulator and TPI capacity and capability** - being flexible, to accommodate both existing and future TPI business models whilst also being proportionate to the harm or risk of harm identified.
- **Innovation and competition** - not acting as a barrier to innovation and net zero or distorting competition; being reflective of the significant number and variety of TPIs operating in the market, including where differences exist across or within each type of TPI.

14. Do you agree with the list of policy objectives?

## Regulatory Options

We are consulting on the following shortlist of regulatory options, each of which is considered in detail below:

Option	Responsible entity	Scope	Accountability for TPIs' behaviours	Requirements for TPIs operating in the market
<b>“Do Nothing” Voluntary TPI Codes of Practice + existing Ofgem Licence conditions</b>	Various voluntary code providers + Ofgem	Non-domestic TPIs	Suppliers	Currently, signing to any TPI CoP is on a voluntary basis.  Regarding Ofgem’s suppliers licence conditions, suppliers are responsible to work only with those TPIs meeting certain criteria, failure to do so could result in financial penalties.
<b>General authorisation regime</b>	Government to deliver legislation  A regulator entity to oversee the regime	Domestic and non-domestic TPIs	TPIs	TPIs can carry out an activity as long as they meet a set of conditions. Enforcement activities could be carried out by the regulator if they identify that a TPI is not abiding by the conditions.
<b>Specific authorisation regime</b>	Government to deliver legislation  A regulator entity to oversee the regime	Domestic and non-domestic TPIs	TPIs	TPIs would need to obtain authorisation from the regulator <i>before</i> carrying out the regulated activity.

Other regulatory options not listed in the table above considered the establishment of a licence regime for TPIs. However, following a thorough assessment against selected critical success factors (see **Annex B**), we decided not to consider such options further. Further details of these options are contained in **Annex C**.

### 1. The “Do-nothing” option

The “Do-nothing” option means that the TPI landscape would be reliant on the current range of voluntary codes of practices, supplier licence conditions on

suppliers who work with certain non-domestic energy brokers in relation to a sub-set of non-domestic customers and general consumer protection measures. By “do-nothing” we mean this collection of current and disparate practices that exists and would continue to exist if no formal regulatory option was explored further.

### *The voluntary Codes of Practice (CoPs)*

To ensure fair practices and uphold ethical standards within the TPI realm, several voluntary codes of practice have been established. These standards underscore the importance of accountability in this sector. However, participation in these schemes is voluntary, which means market-wide coverage and consistent protections for all customers cannot be guaranteed. Additionally, while code sanctions exist, such as expulsion from the list of signatories, the lack of monitoring, enforcement powers, and financial penalties by a regulator may limit the effectiveness of these voluntary initiatives.

### *Ofgem supplier licence conditions*

Currently Ofgem has in place some protection measures for microbusinesses dealing with TPIs that could be extended to all other businesses. Presently, Ofgem requires suppliers to provide information in their contract terms on TPI costs included in the bills sent to their microbusiness consumers upon request, and mandates energy suppliers to ensure that the TPIs they collaborate with to supply energy with microbusiness consumers are registered with a Qualified Dispute Settlement Scheme (QDSS). Following Ofgem’s Non-Domestic Market Review statutory consultation, additional consumer protections for microbusinesses which apply when they interact with TPIs will be extended to small businesses later this year.<sup>43</sup> Ofgem will:

- **Expand broker fee transparency to all businesses.** This will apply to contracts signed on or from 1 October 2024, and suppliers must make this information available in the Principal Terms and upon request.
- **Expand TPI redress to small businesses.** This change will take effect later, in line with government’s proposed new Small Business customer definition entering legislation towards the end of 2024 and will help businesses achieve fair and suitable outcomes when working with brokers.

These measures, though helpful, are focused only on non-domestic TPIs and some rules remain limited to smaller segments of the market. There are therefore limitations to the scope that suppliers working directly with TPIs can have on TPI behaviour.

### *General consumer protection*

Consumer protection rules are crucial in safeguarding consumers against fraudulent activities and deceptive marketing practices when dealing with TPIs. These regulations require TPIs to comply with general consumer protection laws, ensuring fairness and transparency in their interactions with domestic customers. Fraud and criminal protections shield consumers from financial scams and unlawful activities

---

<sup>43</sup> <https://www.ofgem.gov.uk/publications/non-domestic-market-review-decision>



perpetrated by TPIs. Additionally, Business Protections Against Misleading Marketing Regulations and Consumer Protection from Unfair Trading Regulations play a pivotal role in curbing deceptive marketing tactics employed by TPIs. The Consumer Protection from Unfair Trading Regulations specifically target unfair commercial practices that could mislead or coerce consumers, providing recourse against misleading advertising and aggressive sales techniques by TPIs. Enforcement of these regulations is overseen by Ofgem and the CMA, with measures in place to address harmful business practices and misleading marketing. However, these regulations have limitations, particularly in providing adequate protections for business customers. Despite efforts to strengthen consumer protections, disparities between consumer and business rights persist. The current regulations aren't sufficient as Ofgem as the regulator need to apply to the courts for an order to stop breaches of certain consumer legislation. This can often be slower than is optimally required, hence why specific powers to regulate TPIs directly would be quicker and remove the need to involve the courts.

<b>Policy Objective</b>	<b>Commentary</b>
<b>Achievability of adequate consumer protections</b>	<p>There is currently a lack of adequate redress mechanisms for domestic consumers and businesses that are not classified as small or micro. The lack of credible enforcement mechanisms, as well as the existence of various CoPs provides a weak framework for achieving appropriate consumer protections in the energy TPI market.</p> <p>For the supply licence conditions, the requirement for suppliers to assess TPIs' adherence to consumer interests, coupled with the presence of an Alternative Dispute Resolution (ADR) Scheme, suggests a reasonable framework for achieving adequate consumer protections, however, this is again targeted predominately at a certain section of the non-domestic market, so consumer protections are limited.</p>
<b>Enforceability</b>	<p>The existing enforceable aspects of the 'do nothing' option are limited to non-domestic TPIs through licence conditions on suppliers. The existing CoPs (instead of a single uniform code) and the lack of significant enforcement actions available to regulators, means the effectiveness and credibility of enforcement efforts are significantly undermined in this scenario.</p>
<b>Strategic fit with other government initiatives</b>	<p>The option demonstrates limited flexibility for accommodating future TPIs, particularly as existing voluntary CoPs only apply to non-domestic energy brokers.</p> <p>Existing codes of practice for domestic consumers, combined with general consumer laws, do not go far enough in protecting consumers. Multiple voluntary codes also potentially limit alignment</p>

	with broader government initiatives aimed at fostering an inclusive energy market.
<b>Regulator and TPI capacity and capability</b>	While this option doesn't require direct regulator involvement, there are still some cost implications for TPIs to adhere to the various principles.
<b>Innovation and competition</b>	<p>There are two main considerations within this objective: does this option prevent innovation of TPIs in the market but also is this option fit for purpose for capturing TPI innovators in the future?</p> <p>On the first count, this option allows innovation to proliferate at its own pace as there is no overarching regulatory landscape, however, those TPIs who are not subject to specific regulation like load controllers would have more scope to innovate as they see fit.</p> <p>Which leads into the second count, a fractured regulatory landscape could lead to uneven forms of innovation in the TPI energy market, as some TPIs are captured by innovation, some have barriers placed on them around working with suppliers, some have voluntary codes and some have nothing at all.</p>

## 2. General Authorisation regime

A general authorisation regime would be a regulatory framework that allows entities to provide services to operate in a certain market without the need for specific, individual licences. Instead, all providers must comply with a set of general conditions which could apply universally. However, a designated regulator could take enforcement action against providers who did not comply with these general conditions. Specific regulatory conditions may also be applied to individual operators as required.

This would be designed to be lighter touch than a specific regime (see below), allowing TPIs to conduct activities as long as they meet a set of conditions and requirements outlined by the regulator.

The telecommunications industry often operates under a general authorisation framework, where providers are required to adhere to general conditions of entitlement that apply to all communications providers within the sector<sup>44</sup>.

An example set of principles could include the following requirements:

- Transparency and accuracy
- Treating customers fairly
- Clear route for dispute resolution

<sup>44</sup> <https://www.ofcom.org.uk/phones-telecoms-and-internet/information-for-industry/telecoms-competition-regulation/general-conditions-of-entitlement>

- Appropriate data protection arrangements
- Training, governance and compliance

While TPIs would be required to meet these requirements, no licence would be required. Enforcement activities would be initiated by the regulator upon receiving reports of non-compliance from relevant entities with standing, such as an Ombudsman or consumer organisation. While this option would take time to implement, as it would require primary legislation, it also holds potential for future-proofing regulatory measures.

<b>Policy Objective</b>	<b>Commentary</b>
<b>Achievability of adequate consumer protections</b>	<p>Under this option, one condition would likely be a requirement for TPIs to be registered with a single Alternative Dispute Resolution (ADR) body.</p> <p>Regulator oversight would also ensure that enforcement actions is possible where TPIs are not acting in the best interests of consumers. A reliance on stakeholders to report misbehaviour may pose challenges in detecting and addressing potential harms promptly, however this would be balanced by the regulator conducting semi-regular monitoring activities of their own, setting up clear channels to report misbehaviour.</p> <p>This option would cover both domestic and non-domestic TPIs, ensuring all consumers are protected.</p>
<b>Enforceability</b>	<p>Under this option, TPIs would be required to meet conditions in order to continue operating as a TPI. Consequently, the designated regulator would be able to take enforcement action should these conditions not be met. This ensures accountability and consumer protection.</p> <p>As TPIs will not need upfront authorisation to operate in the market, this option would balance providing an enforcement mechanism without stifling innovation and competition.</p>
<b>Strategic fit with other government initiatives</b>	<p>The general authorisation regime provides flexibility to adapt to a changing market, effectively addressing key policy objectives while accommodating a wide array of TPIs both presently and in the future. It does this through relying on a principles-based approach rather than being overtly prescriptive and exacting on the types of specific activities which TPIs can engage in.</p> <p>Its adaptability ensures alignment with broader government initiatives, fostering synergy and coherence across various policy frameworks and goals. This adaptability enhances the regime's capacity to evolve alongside changing business practices, priorities and emerging challenges, thereby integrating more easily within the larger policy</p>

	landscape.
<b>Regulator and TPI capacity and capability</b>	<p>This option imposes lower initial resource demands and impact on TPIs as they would not be required to formally register with a regulator and wait for their application to be approved before they can continue operating in the market.</p> <p>However, there will still be initial cost implications for the regulator through establishing a monitoring and compliance function. TPIs will also have some cost implications through familiarisation of the principles and any changes to their organisation in order to meet these principles, as well as payments to be part of an Alternative Dispute Resolution scheme. Ongoing monitoring and support will however still be necessary to ensure effective regulatory oversight and industry compliance, in addition to understanding any emerging risks or market developments. This requires ongoing resources and efforts from the regulator to maintain oversight and enforce regulatory standards effectively.</p>
<b>Innovation and competition</b>	<p>This option promotes innovation and competition by allowing all TPIs, regardless of type, to operate in the market. It does this by preventing delays in new entrants operating in the market as they are able to operate as long as they follow the general principles. It makes the regulatory framework easier for innovators to navigate as there would be a clear set of principles that needed to be adhered to. This option therefore meets the dual purposes of not preventing innovation of TPIs in the market and also capturing TPI innovators in the future.</p>

**A general authorisation regime is our preferred option.** We believe that a general authorisation regime would meet three main outcomes: appropriate enforcement capabilities, suitable levels of transparency, and the adoption of a regulatory framework that complements existing TPI regulations within and outside the energy sector. More detail on the potential design of this regime is set out below.

### 3. Specific Authorisation regime

A specific authorisation regime would require a TPI to obtain authorisation from the regulator **before** carrying out the regulated activity. In a similar way to a licence regime, a specific authorisation regime could include exemptions. We imagine a specific authorisation regime would differ from a general version by requiring some form of upfront registration with the regulatory authority, before the TPI could continue to operate in the energy market.

We would envisage this option working similar to existing specific authorisation regimes in other sectors, including the financial services market regulated by the Financial Conduct Authority (FCA) and the emerging heat networks market.

The FCA's approach to authorisation aims to prevent harm by ensuring compliance with minimum standards<sup>45</sup>. Depending on the services provided, firms may require either registration or authorisation, with differing levels of permissions available, such as limited or full permission, tailored to the activities they intend to carry out.

Similarly, in the heat networks sector, regulations are being introduced through the Energy Act 2023<sup>46</sup>, with Ofgem as the regulator. This specific authorisation regime will require organisations involved in heat network activities to meet defined standards and conditions, ensuring consumer protection, emission limits, and potentially price controls. Ofgem will oversee compliance and enforce standards, supported by the Energy Ombudsman and Citizens Advice as the sector's dispute resolution and consumer advocacy bodies, respectively. DESNZ and Ofgem ran a joint consultation last year to inform secondary legislation and authorisation conditions.<sup>47</sup>

While a specific authorisation regime would provide multiple benefits to consumers, the regulatory burden it imposes is bigger compared to a general regime that could address the same issues. Questions at the end of this section and earlier in this document seek further stakeholder views on consumer harms and the appropriate levels of intervention required to rectify these. We will take these into consideration to determine if a general authorisation regime is still our preferred option.

<b>Policy Objective</b>	<b>Commentary</b>
<b>Achievability of adequate consumer protections</b>	We would expect a requirement to be registered with an Alternative Dispute Resolution (ADR) mechanism to be a condition of authorisation, providing consumers with access to independent redress. It would also provide clear routes to enforcement actions against TPIs not acting in the best interests of consumers. The initial requirement for authorisation for all TPIs acts as a stronger deterrent for TPIs seeking to enter the market to act against consumer interests. It would also better ensure that a TPI that is required to cease trading as a result of poor activities would find it harder to operate again under a new name.
<b>Enforceability</b>	Comprehensive coverage of both domestic and non-domestic TPIs, coupled with enforcement actions such as authorisation suspension, enhances enforceability. With enforcement administered by the regulator, the option ensures accountability and compliance across the market. The requirement for all TPIs to be given authorisation to be able to operate may however present challenges in enforcement given how expansive and varied the energy TPI market is, and, therefore, the need for a large number of highly skilled enforcement personnel.

<sup>45</sup> <https://www.fca.org.uk/publications/corporate-documents/our-approach-authorisation>

<sup>46</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1143674/Policy\\_Statement\\_Heat\\_Network\\_Market\\_Framework.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1143674/Policy_Statement_Heat_Network_Market_Framework.pdf)

<sup>47</sup> <https://www.gov.uk/government/consultations/heat-networks-regulation-consumer-protection>

<p><b>Strategic fit with other government initiatives</b></p>	<p>At the outset, this option could be designed to align with other government initiatives such as the future of the retail market working better for consumers. However, the option itself has less flexibility to change when wider priorities may change.</p> <p>While this option offers a degree of adaptability, it may be less flexible compared to a general authorisation regime. This is primarily because of the stricter requirements imposed on TPIs when seeking authorisation under this regime. This is because of the nature of the obligations and responsibilities associated with authorisation. Under a specific authorisation regime, TPIs would be subject to more rigorous scrutiny and criteria during the initial authorisation process. This may involve demonstrating a deeper understanding of the policies and objectives that the regime aims to uphold. As a result, TPIs may encounter greater hurdles in meeting the requisite standards for authorisation. Furthermore, the specificity of the regime implies a narrower scope of activities or sectors covered, which can limit the versatility of TPIs operating within it.</p> <p>While this focused approach may enhance regulatory clarity and enforcement effectiveness within the designated areas, it could potentially constrain innovation and adaptability outside of those boundaries.</p>
<p><b>Regulator and TPI capacity and capability</b></p>	<p>This option will require the regulator to allocate additional resources, especially when compared to a general authorisation regime. This is due to the need for the regulator to verify the eligibility of TPIs to conduct their activities in the market before they could operate. In a specific authorisation regime, regulators typically impose more stringent requirements on TPIs. Therefore, the process of verifying TPI eligibility becomes more complex and resource intensive.</p> <p>Regulators may need to conduct thorough assessments of TPI applications, including reviewing financial documents, assessing technical capabilities, and evaluating compliance with regulatory standards. Furthermore, specialised expertise may be required within the regulator's staff to effectively evaluate the diverse range of TPI activities and associated risks. Given the large number and variety of TPIs, this could take a long time. This would likely involve hiring additional personnel or investing in training programs to enhance the capacity and capability of regulatory staff. Additionally, ongoing monitoring and supervision of TPIs may be necessary to ensure compliance with regulatory requirements and to address any emerging risks or market developments. This requires ongoing resources and efforts from the regulator to maintain oversight and enforce regulatory standards effectively. For instance, more upfront resources would be required to register all TPIs in the first place. More frequent monitoring may then also be required to ensure that a TPI is still following the rules of their registration.</p>

<b>Innovation and competition</b>	<p>This option presents challenges to innovation and competition by potentially creating barriers to entry for new market participants as they would be required to register before they can carry out their activities in the market. A small organisation, for instance, may find this overly burdensome which could impact their ability to function in the market.</p> <p>However, this option would still provide a consistent regulatory landscape that would allow innovators to understand the rules in place for them to operate.</p>
-----------------------------------	--

15. Do you support the government's proposition to directly regulate TPIs via a general authorisation regime? If not, what regulatory approach do you prefer, and what are the reasons behind your choice?
16. Are there particular considerations and/or exemptions for some types of SME TPIs which should be considered?
17. How might these proposals impact the size of the market or influence market consolidation?
18. What are the anticipated costs for TPIs to comply with the proposed regulatory measures, including any required changes to their operations, reporting requirements, and potential fees?
19. Are there any unintended consequences you envision as a result of these proposals? I.e. could a TPI work around regulation and enforcement through certain activities or practices.

## Future-proofing

Any new regulatory regime for TPIs in the energy sector should be flexible, allowing for adaptation to the evolving market conditions and technologies. A principles-based approach supported by a regulator conducting active checks of the market will help to ensure that the regulatory regime is sufficiently flexible to adapt to a changing landscape. Building in regular annual reporting periods will also ensure that the regulatory regime does not become outdated, allowing for changes to be implemented when necessary to meet emerging trends.

Given that innovation is pivotal to shaping the future of the retail energy market, it is crucial to establish a clear and comprehensive regulatory framework. This framework should define the scope to ensure it is fit for purpose, including provisions for potential new types of TPIs that might emerge. Our preferred regulatory approach aims to encompass all energy-related TPIs: those operating in the non-domestic space as energy brokers, those providing domestic services like Price-Comparison Websites, auto-switching services, and bill splitters, as well as emerging TPIs.

Any regulatory framework will need to be easily adaptable, including to anticipate and respond to innovation and the evolving competitive landscape. For example, business customers may face potential harm if energy brokers never considered smart tariffs. TPIs may not be incentivised to proactively encourage consideration of smart meters, and this lack of promotion could leave business customers uninformed about the advantages of smart meters and smart meter-enabled tariffs.

Additionally, the development and deployment of Artificial Intelligence (AI) within the energy system could transform how TPIs engage with customers and recommend products and services to them. Ofgem launched a Call for Input on the 4<sup>th</sup> of April 2024 seeking views on proposals about how AI should be used responsibly and safely in the energy sector to encourage more innovation. The Call for Input closed on 17<sup>th</sup> May. Any decision to regulate TPIs in the energy sector would mean that they could be subject to Government and regulators broader approach to AI regulation, alongside AI regulation relating to any other regulated sectors they may be operating in. Any regulatory framework will need to be sufficiently flexible to adapt to and accommodate enhanced use of AI by TPIs.

20. How should the regulatory framework for TPIs be future-proofed and conducive to fostering innovation?



## Design of a General Authorisation Regime

A general authorisation regime is the current preferred regulatory option. This section provides further detail on the potential design of such a regime. Although the main design principles should be followed by all TPIs operating in the energy market, it may be the case that not all aspects of each principle will be relevant to every TPI's business model or size. Any principles must find the correct balance between protecting consumers and not unduly creating barriers to market entry. This section is not intended to be exhaustive or definitive, but to provide an indication of what the potential design of a future general authorisation regime could look like. Should the government proceed with a general authorisation regime, we will carry out further engagement on the more detailed design of that framework.

### Design principles

Potential design principles for a general authorisation regime include:

- **Transparency and accuracy** – This principle could aim to empower customers to make informed purchasing decisions by ensuring transparency and accuracy throughout their interactions with TPIs. It could mandate that TPIs must clearly identify themselves as intermediaries, disclose their remuneration methods where appropriate and the extent of the market that they have searched, maintain accurate customer data, refrain from misrepresenting supplier contracts, and ensure that any referenced information is pertinent, accurate, and traceable. Furthermore, TPIs would be required to ensure that customers are fully aware of the legally binding nature of energy supply contracts before entering into them, such as what happens once the initial contract ends.
- **Treating customers fairly** – This principle would aim to promote fairness in the treatment of customers by TPIs, with the goal of increasing customer engagement and trust in the energy market. It would include provisions such as ensuring that TPIs recommend energy supply contracts suitable for customers based on provided information, clearly explaining contract terms and charges, verifying changes of occupancy before representation to suppliers, avoiding high-pressure selling tactics, obtaining and providing letters of authority consistently where this is applicable to a certain TPI relationship, and informing customers about potential contract termination fees. The contract suitability for different sets of customers would vary, that is why a principles-based approach would be most appropriate, so as not to be overly prescriptive, remain flexible and ensure any rules do not stifle innovation in contract offerings. These measures would collectively aim to enhance transparency, protect consumer interests, and foster a more trustworthy relationship between TPIs and customers.
- **Clear route for dispute resolution** - The principle would aim to establish a robust mechanism for customers to address complaints with their TPIs. It would mandate that the TPI maintains a readily accessible complaints procedure, aligning with the standards set up by the regulator or other recognised standards by an eventual Ombudsman service, and ensuring its availability both online and in hardcopy upon request. Customers would be able to register complaints through various channels, including phone, post,

and electronic formats, with electronic logs maintained for at least six years, documenting complaint details and resolutions. Furthermore, the TPI would be required to guide customers to the designated external dispute resolution services and other independent sources like Citizens Advice, ensuring transparency and accessibility in addressing complaints. The relevant Ombudsman service would be able to provide a range of actions from practical solutions (cancelling an arrangement that was established incorrectly, for example), providing a financial award to the consumer from the TPI, an apology to the consumer, recommendations to the TPI to improve and prevent the same issues from arising again.

- **Appropriate data protection arrangements** - This principle covers TPIs' duties surrounding existing and any future data protection regulations, including the Data Protection Act 2018 and Privacy and Electronic Communications Regulations, to instil confidence in customers regarding the handling of their data. This involves registering with the Information Commissioner's Office, maintaining an updated data protection policy, and implementing access controls to prevent unauthorised access to personal and other sensitive data, thereby fostering trust and assurance in the market. This could include alignment with Ofgem's recently published (Energy) Data Best Practice (DBP) guidance. DBP sets out requirements for licensees to promote a 'presumed open' approach to data assets across the energy system, subject to data protection and data security measures.
- **Training, governance and compliance** – This principle aims to ensure that TPIs and their representatives understand the requirements of any regulatory option and that appropriate compliance monitoring processes are in place. This involves several key components, including regular training for all relevant personnel, including staff, third parties, agents, or representatives, to ensure understanding and adherence to the regulatory option's requirements; responsibility on the TPI to enforce compliance among its personnel, retaining evidence such as telephone recordings when necessary; and implementation of effective compliance monitoring processes to assess sales and other activities, thereby upholding standards and ensuring accountability. Potential regulator enforcement activities are discussed below, but failure to comply with the principles could result in the regulator undertaking any of a number of activities such as imposing a financial penalty or obtaining a voluntary redress payment.
- **Consideration of net zero and energy efficiency (EE) targets** – This principle aims to ensure that TPIs comprehensively integrate consideration of net zero and EE targets into their operations, advice, and service offerings to support the transition to a low-carbon economy, where this is appropriate and most applicable to do so. To comply with this principle, TPIs must actively educate and inform their clients about the importance of net zero and EE, offering practical and expert advice and solutions to help them achieve these goals.

21. What do you think of these principles? Should any additional principles be considered and why?

22. Specifically, do you agree with the design principle titled “clear route for dispute resolution” which would require TPIs to maintain clear and accessible complaints processes and signpost customers to out-of-court dispute resolution providers?
23. Do you agree that TPIs, along with energy suppliers, should play a bigger role in raising awareness and educating consumers in GHG emissions reduction and energy efficiency practices?

### Role of the regulator

Under a General Authorisation regime, there would be a designated regulator with responsibility for enforcing compliance with the regime’s regulator principles.

The regulator would be responsible for regulating the TPI sector and monitoring TPIs’ compliance with the regulatory framework. The regulator would manage the authorisation regime, ensuring compliance with consumer protections, and managing audits, compliance, and enforcement activity where necessary.

If a general authorisation regime were implemented, other stakeholders, especially those who interact directly with consumer, would be able to highlight issues to the designated regulator sharing information on presumed compliance breaches.

### Potential Regulators

**Ofgem** – as the economic regulator of the gas and electricity markets in Great Britain, Ofgem has experience with some forms of TPIs such as brokers in the non-domestic space and soon the licence of load controllers.

**Non-energy regulator** – the Financial Conduct Authority regulates TPIs (e.g. price comparison websites, insurance brokers) operating in the insurance market and therefore has expertise, however, they do not have experience of the energy market.

**New regulatory body** – one approach could be to establish an entirely new regulator for TPIs. This could be disproportionate.

### Interaction with current rules

Any new regulatory option would be expected to replace current rules set out by voluntary Codes of Practices, so as to avoid a complex landscape with overlapping rules. We would work closely with the organisations responsible for the existing voluntary Codes of Practice to learn from their experiences of the code and incorporate best practices into any regulatory option. We would work in a similar manner with Ofgem with reference to the existing supplier licence conditions referring to non-domestic TPIs.

If TPIs were to be directly regulated, we anticipate that Ofgem would amend the licence conditions on gas and electricity suppliers to reflect the new regulatory landscape and establish new licence conditions, if needed.

## Monitoring and audit

To assist with an ongoing view of the market and individual TPI activity and compliance with authorisation conditions/principles, we would expect the regulator to put in place a monitoring programme. The information gathered would be used to gain an ongoing understanding of consumer experiences and the levels of associated compliance.

It is also likely that an auditing process will need to be implemented as part of regulation, though this is expected to be lighter touch than under a specific authorisation regime example. The audits would be carried out to ensure that TPIs are compliant with any conditions/principles.

To ensure enforcement activities are effective, we would expect the regulator to monitor TPI compliance with the authorisation regimes' rules and requirements. This could be done through: routinely collecting information from TPIs, working closely with consumer groups (e.g. Citizens Advice, Consumer Scotland), and the relevant Ombudsman services, conducting targeted consumer research and reviewing information from whistleblowers within the industry. As part of this process, we would legislate to ensure TPIs must provide accurate data to assist the regulator in this process.

## Compliance and enforcement

As is the case for energy suppliers and heat networks, individual consumer complaints should be addressed firstly by the TPI, with the option to then refer cases to an independent ombudsman service.

We believe there are benefits in requiring all authorised schemes for TPI disputes to provide access to the same ombudsman for consistency and clarity for the end consumer. It may also be necessary for the establishment of a statutory consumer advocacy role for TPIs. This would ensure that individual consumers had access to independent advice and support. Citizens Advice and Consumer Scotland would be best placed to provide these services as they currently do in the wider energy sector, however, further discussions with these bodies would need to be undertaken before this were confirmed. We have conducted initial cost-benefit analysis on this basis but will need to carry out more work in this area before legislating in such a manner.

On compliance, the regulator will need to work to ensure the proportionality of any regulation. Enforcement action may include issuing directions, making orders, or infringement decisions to bring an end to a breach; remedy the loss or harm caused by a breach; imposing financial penalties; or obtaining voluntary redress payments. It can also include accepting commitments or undertakings relating to future conduct or arrangements. Alternatively, the regulator may decide not to take further action.

If a TPI is found to consistently work against the designated principles and is in breach of its obligations, then enforcement action may need to be taken. Any enforcement regime would need to provide sufficient scope for regulators to tailor their enforcement activities based on the size of the breach, consumer detriment, etc. It is therefore unlikely that one form of enforcement measures would be appropriate for such varied actors.

24. Are there further design principles that should be explored as part of a general authorisation regime?
25. Are there types of enforcement activities within the energy sector or a similarly regulated sector that would be most appropriate for TPIs?
26. What are your views on a preferred regulator if a regulatory framework was established?
27. We would like to seek views on considerations and/or exemptions for some types of SME TPIs within the regulatory proposals.
28. What are the perceived impacts of the current preferred option on TPIs? This could include things such as initial familiarisation costs and ongoing costs.

### Legislation

For any authorisation regime, new primary legislation would be required to provide new powers to a regulator and set out the intention of the regime. Regarding additional consumer protection measures, if additional statutory functions were needed for consumer organisations to carry out operations involved in a new authorisation regime, then it is expected that in particular amendments to the Consumers Estate Agents and Redress Act (CEAR) and the Complaints Handling Standards (CHS) may be required.

## Consultation questions

1. **Since the launch of our Call for Evidence on TPIs in the retail energy market in August 2021, have you observed any significant developments in the TPI market that could inform potential regulatory decisions?**
2. **Are there any further harms and risks stemming from TPI behaviours that you believe warrant our attention? Please provide examples and any relevant specific figures, if available.**
3. **What are the main challenges with improving price transparency?**
4. **Do TPIs currently identify consumers who are in vulnerable situation? If so, how do they do so?**
5. **Should the design principles for TPI regulation include a requirement to identify consumers in vulnerable situations? How could TPIs record and retain that information?**
6. **Should ADR services be expanded to domestic customers in line with existing provisions for non-domestic consumers?**
7. **Are there further regulatory examples from other sectors that we should be learning lessons from?**
8. **What are your views on the types of TPIs included in the first section of the scope table?**
9. **Do you think any further types of TPIs should be explored? If yes, do these match with any of the expanded scope category and if they do not, why not?**
10. **Are there existing regulations for resellers currently set at the right level to prevent consumer harms?**
11. **Are energy suppliers aware which of their customers are resellers and, how many end-consumers the resellers serve?**
12. **Do you have any views on how the number of TPIs within the market might change in the coming years?**
13. **How might the TPI market evolve in the next 5 years, particularly in the context of Market-wide Half Hourly Settlements, Net Zero ambitions and more innovative tariffs and low carbon technologies being introduced to the market?**
14. **Do you agree with the list of policy objectives?**
15. **Do you support the government's proposition to directly regulate TPIs via a general authorisation regime? If not, what regulatory approach do you prefer, and what are the reasons behind your choice?**

16. **Are there particular considerations and/or exemptions for some types of SME TPIs which should be considered?**
17. **How might these proposals impact the size of the market or influence market consolidation?**
18. **What are the anticipated costs for TPIs to comply with the proposed regulatory measures, including any required changes to their operations, reporting requirements, and potential fees?**
19. **Are there any unintended consequences you envision as a result of these proposals? I.e. could a TPI work around regulation and enforcement through certain activities or practices.**
20. **How should the regulatory framework for TPIs be future-proofed and conducive to fostering innovation?**
21. **What do you think of these principles? Should any additional principles be considered and why?**
22. **Specifically, do you agree with the design principle titled “clear route for dispute resolution” which would require TPIs to maintain clear and accessible complaints processes and signpost customers to out-of-court dispute resolution providers?**
23. **Do you agree that TPIs, along with energy suppliers, should play a bigger role in raising awareness and educating consumers in GHG emissions reduction and energy efficiency practices?**
24. **Are there further design principles that should be explored as part of a general authorisation regime?**
25. **Are there types of enforcement activities within the energy sector or a similarly regulated sector that would be most appropriate for TPIs?**
26. **What are your views on a preferred regulator if a regulatory framework was established?**
27. **We would like to seek views on considerations and/or exemptions for some types of SME TPIs within the regulatory proposals.**
28. **What are the perceived impacts of the current preferred option on TPIs? This could include things such as initial familiarisation costs and ongoing costs.**

## Next steps

The purpose of this consultation is to gather views on options for regulating TPIs and the other regulatory frameworks to ensure they are clear, effective, and enhance the energy retail market experience for all consumers. This consultation will close at midnight on 15 November 2024. We will issue a government response in due course after the close of the consultation. If the government decides to pursue the proposal of introducing regulation of TPIs – including through our preferred option a general authorisation regime – our response will include details on how we propose to do this.



## Annex A: Glossary of terms

**Alternative dispute resolution** - A process that enables disputes between a customer and business to be settled by an independent mechanism outside the court system. In the context of the retail energy market, they are generally free for the customer to use.

**Auto-switching service (or auto-switchers)** – A type of TPI that automatically switches customers to a new tariff or supplier on their behalf according to price or other criteria based on customer preferences.

**Bill-splitting service (or bill-splitters)** – A type of TPI that offers to consolidate a number of household utility bills, including energy supply, into a single bill and split this across multiple bill-payers, such as tenants in shared accommodation.

**Brokerage service (or brokers)** – A type of TPI that supports business customers with their energy procurement, such as comparing and recommending tariffs from a range of suppliers or negotiating contracts on a business customer's behalf. Brokerage services may also be offered by consultants, who offer additional services, such as market intelligence or energy efficiency audits.

**Load controllers** – For the purposes of this consultation, we use this term to indicate what Part 9 of the Energy Act 2023 refers to as “Energy Smart Appliances and Load Control Signals and persons carrying out load control”. Load controllers are a type of TPI that controls customers' energy usage remotely via communication networks, and can enable customers to earn revenue or reduce costs by changing how or when the customer uses energy.

**Price comparison websites (PCWs)** – Digital platforms that aggregate and display a range of products or services for customers to compare, and allows customers to input search criteria or personal details to tailor the results. Some PCWs may also offer phone-based or in-person comparison services.

**Resellers** – Refers to anyone resupplying gas or electricity to a customer which has already been purchased from a licensed (or authorised) supplier.

**Third-party intermediaries (TPIs)** – Organisations that sit between the regulated entities in the energy system and customers. TPIs help customers to engage in the market by providing a variety of products and services linked to energy supply, such as advice on switching or support with energy procurement.

# Annex B: Regulatory options assessment against the critical success factors

Critical success factors (CSFs) represent the fundamental attributes that any successful proposal must attain to deliver its intended objectives. The following CSFs serve as key attributes which a successful intervention in the energy TPI market will have:

## **1. Achievability of adequate consumer protections**

- a. Does this option enable adequate provisions for transparency and accountability, preventing deceptive practices and fostering consumer trust?
- b. Does the option adequately ensure fairness, equity, and consumer empowerment in interactions with TPIs, enabling informed decision-making regarding energy products and services?
- c. Does the option include implementation of effective mechanisms for resolving disputes, addressing grievances, and protecting vulnerable consumer groups, supported by enforcement measures against TPIs violating regulations?

## **2. Enforceability**

- a. Can the option credibly deter TPIs from contravening their regulatory requirements, prevent, or provide a suitable remedy for, customer harm?
- b. Is the option reflective of the significant number and variety of TPIs operating in the market, including where differences exist across or within each type of TPI?
- c. Will the regulator have sufficient enforcement powers to act if breaches of the regulatory requirements are identified?

## **3. Strategic fit with other relevant government initiatives**

- a. Does the option meet key policy objectives and provide a holistic fit and synergy with other initiatives, such as the regulation of load controllers as part of the Energy Act 2023, and various industry led voluntary CoPs?
- b. Is the option flexible enough to accommodate both existing and future TPI business models?

## **4. Regulator and TPI capacity and capability**

- a. How well does the option match the ability of regulators and the government to deliver the required monitoring and enforcement?
- b. Are resourcing and administrative costs proportionate and not prohibitive?
- c. Is the regulation proportionate to the harm or risk of harm identified?

## **5. Potential Value for Money**

- a. Do the expected benefits justify the expected costs incurred by the regulator, TPIs and relevant stakeholders?

**6. Innovation and competition**

- a. Does the option ensure mitigations are put in place to prevent intervention acting as a barrier to innovation or competition?
- b. Is the option fit for purpose to capture TPI innovators in the future, thus, reducing the need for further regulation?
- c. If barriers to innovation/competition are identified, will the regulatory regime be suitably responsive to address them?

## Annex C: Regulatory approaches not part of the government's options shortlist

Following a thorough assessment against selected critical success factors (see **Annex B**), regulatory options not included in the government's options shortlist consist in the expansion of Ofgem licence conditions for suppliers and the establishment of a licence regime for TPIs.

### *A new licence regime*

Under this approach, a TPI would require a licence from the regulator to operate, unless they qualify for exemptions. Failure to comply with licence conditions may result in enforcement action and potential revocation of the license by the regulator.

Implementing a new licensing model would demand significant time and resources from both the Government and the regulator. The Secretary of State could enable TPI activities to be licensable through secondary legislation (under section 56A of the Electricity Act 1989), contingent upon Ofgem submitting an application for this purpose. Several steps must be taken by Ofgem before initiating such an application. However, this option may consume a comparable amount of time to a primary legislative approach due to its complexity.

Considering the substantial number of TPIs currently active in the market, estimated to be at least 2,000 by Ofgem in the non-domestic market alone, this option would impose significant resource burdens on both the regulator and the TPIs themselves. TPIs would need to undergo an application process before gaining access to and operating within the market.

<b>Policy Objective</b>	<b>Commentary</b>
<b>Achievability of adequate consumer protections</b>	<p>The option provides a strong framework for ensuring consumer protections, with clearly defined principles of transparency, accountability, fairness, equity, and consumer empowerment, all directed at TPIs.</p> <p>Measurement mechanisms for these principles are publicly accessible, and the presence of an Alternative Dispute Resolution (ADR) mechanism further enhances consumer protections.</p>
<b>Enforceability</b>	<p>The option encompasses both domestic and non-domestic TPIs, ensuring comprehensive regulatory coverage.</p> <p>Enforcement actions, including licence suspension, administered by the regulator, contribute to robust enforcement mechanisms.</p>
<b>Strategic fit with other government initiative</b>	<p>This option demonstrates strong alignment with the regulation of load controllers and maintains flexibility. This option is however likely to be less adaptable compared to authorisation.</p> <p>The licensing model, while more time and resource intensive to establish, ensures robust regulatory oversight through a joint venture involving the Secretary of State and the relevant regulator. However, the lengthy statutory process required for licensing changes, including the need for secondary legislation may hinder agility in response to an evolving market.</p>
<b>Regulator and TPI capacity and capability</b>	<p>Preliminary assessment indicates that implementing this option would demand significant resources, implying potential challenges in capacity and capability both for the regulator and TPIs.</p>
<b>Innovation and competition</b>	<p>The option encompasses both domestic and non-domestic TPIs, fostering greater flexibility and competition in the market.</p> <p>This broader scope allows for increased innovation and competition compared to options limited to supplier license conditions.</p> <p>This option however presents challenges to innovation and competition by potentially creating barriers to entry for new market participants with the requirement to licence all incumbents and entering TPIs.</p>

## Annex D: Further analytical considerations

The rationale for regulatory intervention in the TPI market is driven by a combination of market failures and deficiencies which contribute to adverse outcomes for consumers and overall reduced confidence and trust in the energy TPI market. Below is a description of each of these, all of which are identified and discussed in the “Key risks in the current TPI market” section previously.

### Asymmetry of information:

In the energy TPI market, there is currently a lack of information transparency, particularly with regards to commissions or service fees and how many energy suppliers TPIs cover with their services. In some cases, this may undermine consumers’ best interests, particularly given the importance of TPIs canvassing as much of the energy supplier market as possible, enhancing the likelihood of meeting diverse consumer needs in the energy market. There is no formal regulatory requirement for TPIs to disclose commissions received or disclose how many energy suppliers they work with. Many consumers are therefore unaware of the extra costs of using these services as well as how much of the energy supply market is being covered with an energy TPI service.

Ofgem are implementing changes to come into force by 2024 that will mandate that all suppliers who work with Third Parties must disclose to customers the commission the TPI will receive on each contract. This will apply to all Third-Party service fees. However, these changes are approached through the regulated supplier rather than the TPI themselves. Our proposals would go further by placing any commission transparency rules directly on the TPI rather than working through the supplier. The regulation would also go further on transparency and ensure that consumers know how much of the market is being searched when they received a quote on a Price Comparison Website, for instance.

In a Cornwall Insights and Citizens Advice report<sup>48</sup>, where over 100 TPIs were surveyed, 7 stated that they worked with 26-30 suppliers, compared with the overwhelming majority (80+) that stated they worked with 10 suppliers or fewer. This discrepancy raises concerns about a potential market failure in the form of imperfect competition in the non-domestic energy retail market, particularly with SME suppliers. This behaviour limits the suppliers that are available to potential customers, meaning some suppliers have greater market access.

Imperfect competition refers to a market where firms may have some degree of market power, allowing them to influence prices and outcomes, which in this case, is at the detriment of the consumer. For TPIs, this market power manifests in their pivotal role as the primary conduit through which SME energy suppliers acquire business. TPIs are crucial for the survival and growth of SME suppliers. This dynamic can lead to a scenario where suppliers offer incentives for TPIs, or TPIs

---

<sup>48</sup> The Role of Third Party Intermediaries (TPIs) in the GB SME and Microbusiness Energy Supply Sector, <https://www.citizensadvice.org.uk/policy/publications/the-role-of-third-party-intermediaries-tpis-in-the-gb-sme-and-microbusiness-energy-supply-sector/>

leverage their influence to negotiate higher commissions. TPIs may therefore only work with SME suppliers based on commission rates offered, rather than the competitiveness of the suppliers' offerings.

This selective behaviour has the potential to distort competition within the SME energy supplier market, particularly disadvantaging new entrants who may struggle to offer competitive commission rates. Consequently, consumers may find themselves deprived of access to a diverse array of suppliers, limiting their ability to secure optimal deals.

The discrepancy in information held by TPIs and consumers hinders consumers' ability to make informed choices and makes comparisons challenging. This can lead to suboptimal decision-making for consumers and businesses alike, who may be unaware of the limitations of TPI services. In the domestic market for example, Citizens Advice estimate that customers using auto-switching companies are spending up to £70 more than if they had searched themselves<sup>49</sup>.

Regulation is needed to ensure TPIs are required to provide accurate information on payments, commissions, contract lengths and exit fees. Although it may not be practical for TPIs to offer switches in every eventuality and mark ups may be necessary to cover the cost of service, the regulation should ensure this is disclosed to the consumer so they can make a fully informed decision.

#### Limited ability to resolve complaints:

Consumers who engage with TPIs currently have limited ability to resolve complaints. This can lead to prolonged disputes, reducing market efficiency and negatively impacting consumer confidence and trust in the market.

In domestic disputes with a TPI which can't be resolved between the customer and the TPI, the only route to redress is through the courts under consumer law. This can be a burdensome, expensive, and off-putting option for customers to seek dispute resolution, particularly for vulnerable customers. This is an inappropriate way to protect most domestic consumers, as highlighted when the CMA found that in 2017, 1.1 million people opened complaints about non-energy and energy price comparison sites in the absence of a clear complaints process<sup>50</sup>.

In our call for evidence, there was widespread support for domestic consumers having access to a free, independent, out-of-court Alternative Dispute Resolution (ADR) process. Further, a Citizens Advice survey that found that over 75% of customers think they should be able to obtain advice about making complaints to TPIs or be able to seek alternative dispute resolution if they need<sup>51</sup>.

---

<sup>49</sup> Stuck in the middle - How to improve protections for people using energy third party intermediaries - Citizens Advice, [https://www.citizensadvice.org.uk/Global/CitizensAdvice/Energy/TPIs%20report%20-%20FINAL%20\(1\).pdf](https://www.citizensadvice.org.uk/Global/CitizensAdvice/Energy/TPIs%20report%20-%20FINAL%20(1).pdf)

<sup>50</sup> Digital Comparison Tools Market Study, <https://www.gov.uk/cma-cases/digital-comparison-tools-market-study#final-report>

<sup>51</sup> Stuck in the middle - How to improve protections for people using energy third party intermediaries - Citizens Advice, [https://www.citizensadvice.org.uk/Global/CitizensAdvice/Energy/TPIs%20report%20-%20FINAL%20\(1\).pdf](https://www.citizensadvice.org.uk/Global/CitizensAdvice/Energy/TPIs%20report%20-%20FINAL%20(1).pdf)

A clear resolution route for all types of TPI interactions is required to provide much needed additional protections for consumers engaging with the energy supply market.

#### Lack of support for vulnerable consumers:

TPIs can play a crucial role in facilitating consumer engagement with the energy supply market, offering valuable assistance in navigating the complexities of the domestic market. There are however concerns regarding their ability to adequately identify and support vulnerable consumers, ensuring equitable access to important services.

Energy suppliers are required to identify consumers in vulnerable circumstances and offer support. TPIs are however outside the scope of sectoral regulation and don't face any similar obligations. This can lead to adverse outcomes and potential consumer detriment as TPIs are unable to identify vulnerability status for initiatives such as the Priority Service Register (PSR), and Warm Home Discount (WHD).

Auto-switching companies also currently pose a risk for those who are vulnerable. Citizens Advice has highlighted instances where a bill had increased for a disabled consumer on the PSR, but no one had organised for a meter reading to be taken, even when their previous supplier read them. Citizens Advice also highlighted some cases where brokers exploited consumers based on language barriers or lack of relevant knowledge. These consumers were unaware of what they were agreeing to, due to poor communication. Consequently, they unknowingly entered legally binding contracts<sup>52</sup>.

Regulation should ensure that TPIs are encouraged to identify vulnerable consumers, adjusting their services accordingly and highlighting available schemes such as the PSR, WHD and other third-party support.

#### Poor customer service:

In the TPI market, evidence from Citizens Advice suggests that there is a prevalence of poor customer service, which is compounded by the absence of robust regulatory measures to enforce uniformly high standards across all TPIs. According to a Citizens Advice report, between 15-35% of auto-switches resulted in consumers being moved to suppliers with customer service ratings below 3 out of 5 stars<sup>53</sup>.

High quality customer service is equally important to consumers alongside pricing. Poor customer service not only affects consumer satisfaction but can also add undue stress and complications, particularly when transitioning to suppliers with subpar service records or those that subsequently fail.

Addressing the issues outlined above through improved transparency and robust complaints handling mechanisms is crucial to mitigate market failures and safeguard

---

<sup>52</sup> Anonymised case studies provided by Citizens Advice

<sup>53</sup> Stuck in the middle - How to improve protections for people using energy third party intermediaries - Citizens Advice, [https://www.citizensadvice.org.uk/Global/CitizensAdvice/Energy/TPIs%20report%20-%20FINAL%20\(1\).pdf](https://www.citizensadvice.org.uk/Global/CitizensAdvice/Energy/TPIs%20report%20-%20FINAL%20(1).pdf)



consumer interests. The need for regulatory intervention is self-evident with the identified market failures outlined above. It is crucial these are addressed by improving market transparency, discouraging TPI misconduct and expanding dispute resolution mechanisms available to market participants. Furthermore, enhancing consumer protection through regulation and market oversight will ensure that consumers, particularly vulnerable ones, are adequately supported and protected against malpractice. A comprehensive regulatory framework encompassing TPIs would not only fortify consumer protection but also bolster trust in the energy retail market.

### **SMART objectives for intervention**

As discussed earlier, our goal is to ensure that the scope of TPI regulation is appropriately defined, striking the right balance between providing protections for consumers and fostering innovation in the TPI sectors. In any proposed changes to the TPI landscape, we aim to achieve three primary policy objectives:

- Improving consumer protections;
- Increasing consumer trust in the retail energy market; and
- Future proofing the regulatory landscape for new TPI innovators.

Below we outline how our primary policy objectives can be described in a specific, measurable, achievable, realistic, and time-limited way:

#### Specific:

The regulation of the TPI market needs to support a well-functioning retail energy market that works better for consumers. We, as the relevant department, are responsible for this and will need to determine which regulator is most appropriate to support these endeavours in the future.

*Improving consumer protections* – We achieve this by clearly outlining a comprehensive set of conditions and standards all TPIs must adhere to, including mandating the fair treatment of consumers, possessing a clear route for dispute resolution, and implementing appropriate compliance processes.

*Increasing consumer trust in the retail market* – We achieve this by promoting transparency and accountability of TPIs, including mandating that TPIs are transparent with their commissions, contracts, pricing, and product information. By improving consumer protections, we are also improving consumer trust and engagement in the market as a secondary result.

*Future-proofing the Regulatory Landscape for New TPI Innovators* – This will be achieved through the eventual legal language within the regulation. The text will be framed in a way that is open enough to capture current TPIs and new entrants.

#### Measurable:

*Expanding consumer protections* – To enhance consumer protections, we aim to broaden the accessibility of existing redress mechanisms. At present, only

microbusinesses have access to redress for issues with energy brokers, with small business to follow suit soon. Extending regulations to encompass additional types of TPIs would expand redress options to encompass domestic customers, thereby improving consumer confidence and accountability within the market. We will look to determine the extent to which additional customers are now covered by consumer protections such as access to redress mechanisms.

*Increasing consumer trust in the retail energy market* – We will conduct various round-table discussions and working groups both before and after any regulatory intervention to gauge industry sentiment and consumer perspectives. We will collaborate with consumer groups and leverage relevant Ofgem surveys. We could also seek to develop or adapt surveys to assess market sentiment over time. By actively engaging stakeholders and monitoring consumer sentiments, we aim to foster a culture of transparency and trust within the retail energy sector and TPI market.

*Future proofing the regulatory landscape for new TPI innovators* – The success of this objective will be measured by the ability of any regulatory intervention to capture a new type of TPI that hasn't been planned for or does not currently operate in the market. By establishing all-encompassing and adaptable principles and standards for TPIs, we aim to future-proof the regulatory landscape, facilitating innovation while ensuring consumer protection remains paramount.

#### Achievable:

As there is currently no set deadline for reforming the TPI sector, we possess the flexibility to determine an appropriate timeline for implementation. This flexibility enables us to allocate the necessary resources within Government and regulatory bodies to ensure the success of our proposed regulatory reforms. We will prioritise ensuring the proportionality of regulation across all options, drawing upon successful authorisation models utilised in other sectors such as heat networks and the financial industry.

We can also learn from precedents in other sectors, such as the financial market, where the Financial Conduct Authority (FCA) has successfully regulated TPIs who operate in specific financial areas such as insurance. These experiences provide valuable lessons to support our regulatory intervention. Additionally, we have recent precedent in setting up a new authorisation regime for Heat Networks within the energy regulator Ofgem. Given the substantially larger number of actors compared to energy TPIs this regime's successful implementation provides confidence in our own proposals and offers further insights that we can apply to our own plans<sup>54</sup>.

#### Relevant:

Regulating TPIs is an important step in the ongoing efforts to reform the retail energy market, which has been widely recognised as needing targeted improvements. While

---

<sup>54</sup> <https://www.heattrust.org/about-heat-networks#:~:text=These%20covered%2014%2C000%20heat%20networks%2C%20of%20which%2085%25%20were%20communal>

recent efforts have aimed to stabilise the market and support consumers, there is a critical need for longer-term reforms. With market conditions now relatively stable, there is an opportunity for the government and Ofgem to continue making significant strides in addressing these issues.

As part of the wider retail market reform, the Department has taken different measures, ranging from gathering and strengthening evidence on the barriers to innovation in the energy market, on domestic consumers on non-domestic contracts, on the future of default tariffs in late November 2023, to consulting on expanding the Energy Ombudsman's services from microbusinesses to also include small businesses and, with a second consultation on the review of electricity market arrangements (REMA)<sup>55</sup>.

By regulating TPIs, this will support the wider aim in the retail energy market to improve trust and consumer protections, in line with the overarching goal of broader retail market reform spearheaded by the Department. Furthermore, with innovation being key to the future retail market, a new regulatory framework encompassing TPIs is a logical step to mitigate risks to consumers while providing clarity for new entrants.

Whilst many TPIs adhere to best practice guidelines, it is important that we address those that do not sign up and follow voluntary codes, as they cause issues for consumers and erode trust in the retail energy market. Regulating TPIs will provide clarity to TPIs and assist energy suppliers, as currently some forms of regulatory responsibility are placed on them to then ensure that the TPIs they work with are up to standard. This regulatory clarity will not only assure consumers of the adherence to standards but also streamline enforcement practices in case of malpractice, thus reinforcing consumer confidence and market integrity.

#### Time-limited:

If TPI regulation should be taken forward, depending on the outcomes of the consultation, a regulatory framework for TPIs could be ready by Spring 2025 to be included in a potential Energy Independence Bill.

Outside of our set-out objectives, there will be quantitative examples of success, such as consumers saving money in the long run by not being mis-sold or pressured into taking sub-optimal deals. There will also be qualitative benefits including improved customer service, and assurance of consumer protections.

We propose initiating a post-implementation review of the new regime twelve months after its final implementation. To facilitate this, we will develop a comprehensive monitoring and evaluation plan. Longer term, we envision establishing a regular review cycle for any TPI authorisation regime, potentially every 2-3 years. This periodic review will ensure that the regime continues to fulfil its core objectives, especially in relation to capturing new and innovative players in the market.

---

<sup>55</sup> <https://www.gov.uk/government/publications/delivering-a-better-energy-retail-market/delivering-a-better-energy-retail-market-a-vision-for-the-future-and-package-of-targeted-reforms-html>

## **Impact on small and microbusinesses**

The effectiveness of the options under consideration hinges greatly on the inclusion of small and microbusinesses within the regulatory framework. The largest TPI market is for energy brokers in the non-domestic energy retail market, with around 2,000 energy brokers currently operating. Because the TPI market is currently unregulated, it is incredibly challenging to determine how many fall in the category of a small or microbusiness. Through engagement with the RECCo, as well as other relevant stakeholders, we understand there are a few large energy broker TPIs operating, with the rest and majority of the market made up of smaller businesses or sole traders that only manage a few energy contracts for a specific business, sector, or site. As a result, we assume that, if small and micro-businesses were exempted from this regulation, our proposals for intervention would fail to meet the intended outcome of improving TPI practices and consumer outcomes in the market. This is because a significant proportion of the market would be exempt from regulation, since the majority of TPIs in the non-domestic market could be defined as a small or micro-business.

Furthermore, exempting small or micro-business TPIs may create perverse incentives for larger TPIs to engage in sub-brokering with smaller TPIs and sole traders to avoid regulatory scrutiny. This practice, already occurring in some instances, could allow larger TPIs to circumvent regulations by utilising smaller TPIs that fall outside the scope of regulation. We will be gathering feedback from stakeholders in our upcoming consultation on the types of TPIs that should be included in the scope of any regulation. At this stage, we believe sub-brokering practices should also be included in regulation.

We also expect the benefit of our options to small and micro-businesses who use energy brokers is likely to be far greater than any regulatory burden on non-compliant small TPIs. This is because many small and micro-businesses rely on brokers to secure their energy needs as they are too small to negotiate directly with a supplier and, as evidence has shown, in the absence of sufficient regulation, many small businesses have been subject to energy broker misconduct and mis-sold energy contracts. Furthermore, the burden of our proposed form of regulation is assumed to be low for TPIs that are compliant with best practice, so small and micro-businesses that are subject to the regulation, and adhering to it, should not be adversely disadvantaged by the regulation relative to larger TPIs.

## **Estimated cost to the regulator**

As part of our impact assessment for regulating TPIs, we calculate an expected cost to the regulator and consumer champion organisations from proposed options for intervention. Based on current estimates for regulatory practices and costs, we expected our preferred regulatory option – a general authorisation regime, to have a cost between £3 - 6m per year<sup>56</sup>. This is a preliminary figure and subject to change as we gain more quantitative evidence.

---

<sup>56</sup> This is in 2025 real terms, discounted and based on a yearly average of the set-up and on-going costs across a 10-year appraisal period. The lower and upper bounds are based on uncertainty ranges.

We are in the process of estimating the net annual cost to businesses (TPIs), which will become clearer once the full scope of regulatory activities is confirmed following this consultation. We welcome views on how our proposals may impact TPIs, particularly with regards to resourcing and costs of regulation, as in Question 28 in this consultation.

This consultation is available from: <https://gov.uk/government/consultations/consultation-on-regulating-third-party-intermediaries-tpis-in-the-retail-energy-market>

If you need a version of this document in a more accessible format, please email [alt.formats@energysecurity.gov.uk](mailto:alt.formats@energysecurity.gov.uk). Please tell us what format you need. It will help us if you say what assistive technology you use.

