



ACS Submission: Draft Principles for Voluntary TPI Codes of Conduct

ACS (the Association of Convenience Stores) welcomes the opportunity to respond to Ofwat's consultation on draft principles for voluntary TPI Codes of Conduct. ACS represents 33,500 local shops across the country including the Co-op, One Stop, Spar, Costcutter and thousands of independent retailers.

ACS welcomes proposals to implement a voluntary code of conduct for third party intermediaries. We recognise that TPIs can often provide a valuable service to retailers who are time constrained. However, the understanding and use of third party intermediaries remains varied through the convenience sector, and many retailers are not aware of the cost implications associated with dealing with TPIs. A code of conduct which makes clear the process of engaging with TPIs would be useful for businesses.

We believe that it is essential that Ofwat has the power to hold TPIs accountable for bad practice in the marketplace. We believe that a single, enforceable code of conduct linked to a marketing licensing condition in conjunction with use of the Business Protection from Misleading Marketing Regulations to take action directly against TPIs who mis-sell to business consumers is the most effective way to ensure better outcomes for consumers.

We encourage Ofwat to continue engaging with business representation organisations during the opening and development of the water market. Please see below for our response to the relevant consultation questions:

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Q1. Do you have any views on the updated version Letter of Authority?

The revised template for TPI letter of authority fulfils its purpose as a template letter of authority to be written by the customer to their chosen TPI. We encourage Ofwat to consult on any future revisions to the template letter.

Q2. Are there lessons from existing TPI codes of conduct in other sectors that we have not considered and should be reflected in our proposed code principles?

We agree that the water TPI code of conduct should have principles specific to TPIs with the themes listed in the consultation document.

In our submission to Ofgem's Retail Market Review consultation in 2011, we made a number of recommendations on how Ofgem could regulate TPIs. We raised concerns that our members were facing large volumes of calls every day from TPI cold calling, often aggressively. These calls continued despite retailers signing up for Telephone Preference Service. Therefore, we called for action to curb the volume of calls, and for Ofgem to explore further around Code of Practice requirements to record all phone calls from TPIs. This would help tackle mis-selling as well as unwanted calls.

The understanding and use of TPI varies throughout the convenience store sector. As such, it is likely when convenience retailers are using TPIs, that they are not aware of the full cost implications. Ofwat should consider, that as part of the proposed principle for “TPIs shall be fair, transparent and honest”, that TPIs should have to disclose fees, any commission they receive, and that they do not call themselves a free service if they are charging commission.

We had previously recommended to Ofgem that they should seek enforcement powers to ensure that TPIs are made accountable for their actions in the market. We extend this recommendation to Ofwat. It makes sense from both an enforcement and consumer perspective, that the organisation with the enforcement powers is also the regulator.

Q3. Do you have any comments on our proposed principles for TPI voluntary codes of conduct?

We welcome the proposed principles, particularly, the principles which set out that TPIs should not offer products unnecessary complex or confusing, shall not sell a customer a product or service that they do not fully understand or that is inappropriate for their needs and circumstances, and TPIs shall cancel any mis-sold contracts without penalties. However, ACS calls for further clarity on how Ofwat will uphold these principles. For example, how will they determine when a TPI has mis-sold a contract? Or when they have offered products that are unnecessarily complex? While the TPI code of conduct for water will play an important role to protect customers, Ofwat must ensure that they can monitor the TPI market by identifying and addressing any issues that may arise regarding non-compliance of the code.

As stipulated above, we have previously had concerns with TPIs in the gas and electricity market with large volumes of calls being made to convenience retailers, as well as aggressive behaviour by TPI sales representatives. These issues have not been addressed in the proposed principles for voluntary industry TPI code of conduct. We suggest that the TPI code of conduct include an additional principle, such as “when communicating with NHH customers, TPIs must respect the customer’s right to say no. For example, if a customer requests that the TPI does not call them back, the TPI should respect the customer’s request”.

Q4. Do you agree with our recommended option to help address TPI issues?

We suggest that Ofwat consider Option 2. We have previously called on Ofgem to regulate the TPI marketplace through a robust code of practice underpinned by a licence condition on suppliers to only work with TPIs which are accredited to the code. We believe that this is the most effective way to regulate the TPI marketplace.

One of the most significant issues with information gathering about the TPI market is that there are few barriers to entry and very small businesses can set themselves up as TPIs. By requiring suppliers through a licence condition to only enter agreements with TPIs who have signed up to the code, the unregulated and largely hidden subsector of the TPI market will be removed as they will have to sign up to a set of standards to gain any business from suppliers.

For more information on this submission, please contact Julie Byers, ACS Public Affairs Executive at Julie.Byers@acs.org.uk or call 01252 515001.