

Broker workshop

Session 1 - Issues and risks – Broker perspective

Scope

We wanted to check our understanding of risks and issues, gather information on any other concerns and gather feedback on what we heard from the Supplier session. In order to be as transparent as possible we shared the risks and issues we had discussed in the Supplier workshop. However, the focus of this session was the issues and risks we understood to be faced by brokers and gathering input on other challenges that we should consider. In the section below, we set out the key issues that RECCo had identified, and we provide a summary of the additional concerns that were raised by attendees.

Issues faced by brokers

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|---|---|---|---|
| 1. Risk of fewer supplier broker relationship | 2. Reduced competition and choice for customers | 3. Resource issues due to compliance burden | 4. Risk of reputational loss due to successful ADR complaint by consumer |
| 5. Risk contract being cancelled as a result of an ADR complaint | 6. Risk of reputational damage due to poor behaviours in the broker market | 7. Risk of more regulation and therefore regulatory burden | 8. Lack of consistent Supplier response to LOAs |
| 9. Supplier response to broker queries is too long | | | |

Session output

Attendees welcomed the open and transparent approach to looking at concerns of all parties. Overall, it was agreed that the issues and risks facing both Suppliers and Brokers was correctly identified by RECCo.

In addition, attendees were keen to highlight the importance of the role of brokers and aggregators in the energy market. They support SMEs with a range of issues, including encouraging switching, which supports healthy competition for consumers, stopping out-of-contract rates, providing access to credit, and supporting customers throughout the period of the contract. The discussions also provided the opportunity for attendees to highlight

challenges in the current market, and they were keen to discuss potential solutions that would bring about a level playing field.

We set out below the key points that were raised by attendees during the session.

Risk of fewer supplier-broker relationships

There were two key aspects to this discussion: the contraction in relationships and the access to supplier's price books.

- Most attendees agreed that the introduction of the recent ADR requirements, which led to an increase in broker audits, has had a negative impact on the number of supplier-broker relationships. Whilst it was noted that suppliers managed the increased administrative burden by reducing relationships, this did not necessarily assist competition in the market. It was also noted that reduced relationships were more likely to impact smaller organisations who were less likely to be retained by suppliers.
- This discussion also focused on the lack of a standardised approach to providing brokers with access to supplier's price book. Suppliers provide access differently and usually this does not match broker/aggregator systems which causes an additional layer of complication and costs which is passed on to consumers. Attendees would welcome greater openness and standardisation on access to price books by moving access to platforms rather than via individual files.

Supplier response to broker queries is too long

Attendees agreed that there is a discrepancy in the rate in which suppliers respond to enquiries. Many attendees were concerned that there is a lack of process standardisation across suppliers which can result in a poor consumer journey or outcome. Additional costs can be incurred and ultimately passed on to the consumer.

The lack of SLAs means that this can result in significant delays, and this is exacerbated where an aggregator is involved. Attendees accepted that this is due to Supplier resource constraints and maybe difficult to address even if SLAs are mandated.

Some attendees were concerned that in addition to delays, suppliers raise tactical objections that prevent customer switches. These can result in additional costs that are ultimately passed on to the end consumer.

Attendees would welcome standardisation or processes that would improve these issues.

Win back issues

It was widely agreed that win back was a growing area of concern where parties were seeing sharp practices. Some attendees noted that suppliers undercut each other but object if brokers engage in this way. Other attendees were concerned that customers are often left on out-of-contract rates until a change is triggered. Some noted that customers are contacted by supplier win back teams after they have signed new contracts. It was noted that if the supplier operates a win back, the broker is left out of pocket with no route of redress. Overall, attendees were keen to understand how this issue could be addressed.

Data

A number of data related issues were discussed. Key amongst these was access to data, which can be inconsistent and/or difficult to obtain. Some noted that access to enquiry services data has many requirements whilst others highlighted that other industry data provisions that are available are very costly. There was some debate around providing access to data that could be open, such as price books. Attendees debated making access conditional to attaining certain requirements and standards, where access could be removed if they were not maintained.

Attendees would welcome an approach that was consistent and data, such as pricing was more open and accessible.

Lack of supplier response to letter of authority (LOA)

Attendees were concerned that they are required to sign up too many variations of LOAs, as each Supplier has a separate LOA. These individual requirements add additional administrative burdens and delays. Most attendees agreed that there are key terms that can be standardised and would welcome the introduction of a standard LOA.

Upfront commissions

Some attendees highlighted concerns caused by the use of upfront commissions. Views differed around the use and benefits of these, and some attendees were concerned that they can drive poor broker behaviour. Possible solutions were debated, including, a potential ban, making suppliers and aggregators manage commissions better and using clawback options. Whilst others recognised the importance of these in supporting different business models which are vital to a competitive market.

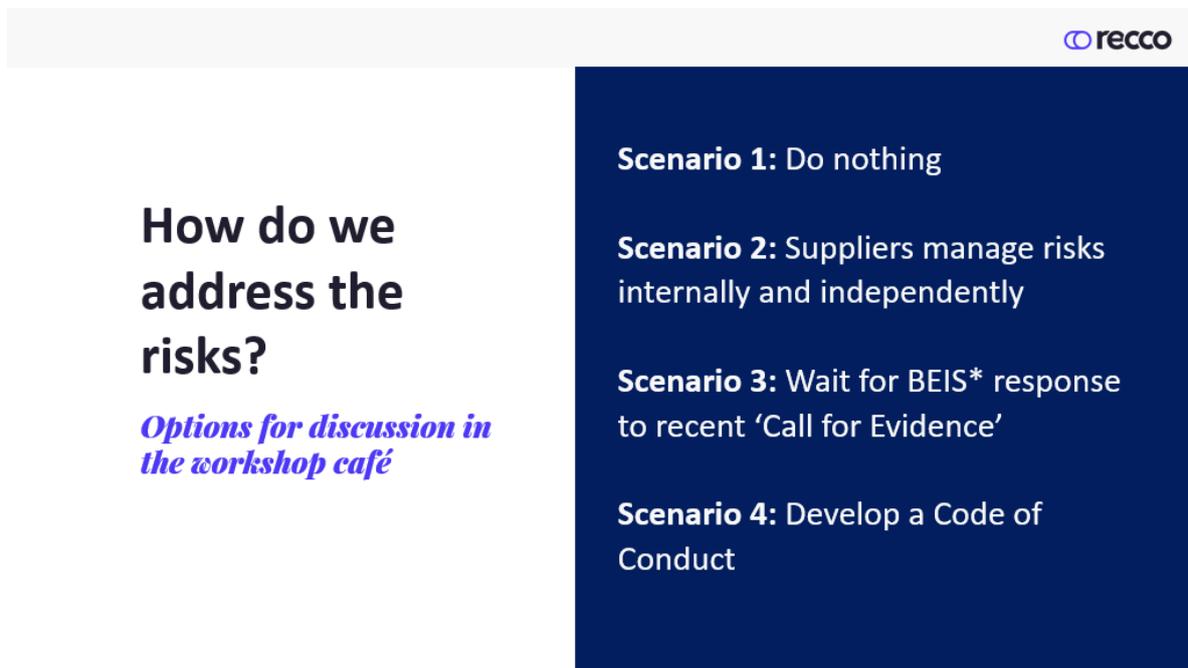
Contracts

There was some discussion on how contracts are accepted and, in particular, the use of verbal contracts. Some attendees were concerned that the use of verbal contracts could lead to issues and poor consumer outcomes. Other attendees recognised that for some consumers, for a range of reasons, verbal contracts were appropriate. There was some discussion around the approach taken by Ofcom in prohibiting verbal contracts. It was accepted that such prohibition would lie with government or the regulator. Attendees agreed that there should be minimum requirements that ensure consumer protection where verbal contracts are used. Some attendees also suggested that there should be a standardised approach to contract acceptance.

Session 2- Workshop Café

The second session of the day was focused on the workshop café, where attendees were asked to address a particular question, provide insights and potential solutions before moving on to the next issue.

We used this session to ask the following questions:



How do we address the risks?
Options for discussion in the workshop café

Scenario 1: Do nothing

Scenario 2: Suppliers manage risks internally and independently

Scenario 3: Wait for BEIS* response to recent 'Call for Evidence'

Scenario 4: Develop a Code of Conduct

We set out below the key points raised by attendees.

1. Do nothing

Scope

In this session we wanted to determine whether it would be an appropriate approach to 'do nothing' and to understand whether attendees agreed, and if so, why.

Outcome

Overall, attendees agreed that given the scale of issues and risks faced by both Suppliers and Brokers, it would not be appropriate to take the 'do nothing' approach. It was noted that whilst the current approach allows for innovation and competition, it is also causing poor behaviours that can lead to heavier regulations being imposed on the TPI market. By making changes and improvements, TPIs could improve the market and whilst playing a key role in the development of the approach taken.

Pros

- Self-regulate
- Gets rid of buyer beware at the top of the market
- Easy

- Does it need fixing?
- Cost associated with regulation
- Does not stifle innovation and allows competition
- Low cost short-term
- The market may solve itself
- Supplier flexibility

Cons

- Bad press
- Claims companies/legal action
- Heavier enforcement of regulations by government who have no understanding of TPIs
- Old school practices will remain
- Reducing competition
- Suppliers could stack regulation in their favour
- No standardisation
- Market is not currently working
- Reduction in the ability to digitise and access data
- Bad relationships and bad press
- Industry shutdown or stringent regulation from above
- Reduces long-term cost
- Slows innovation due to uncertainty

2. Suppliers manage risks internally and independently

Scope

In this session we asked whether it would be appropriate to allow Suppliers to manage risks without additional regulation or governance. We wanted to understand the impact this would have on TPIs and how successful they considered this option to be.

Outcome

Overall, attendees agreed that for a number of reasons, this approach was limited in being able to manage the risks and issues identified. Concerns around Supplier resourcing capabilities, the lack of standardisation across the market, risk of conflicts and lack of a level playing field were cited as potential issues in adopting this option.

Pros

- Potentially cheaper than membership of a code
- Multiple audits may uncover problems you did not know you had
- Identification of better working practice

Cons

- Multiple different audits and requirements

- Conflict of interest
- Does not address supplier malpractice
- Cost increase/resource issue
- Conflict – suppliers are competitors to the broker, may have different “values”
- No standardisation
- Suppliers not subject to audit themselves
- Turning a blind eye to favourite brokers
- Disparity
- Look after yourself only not the market
- Too prescriptive
- Creates a barrier to entry
- Risk of being reactive, not proactive
- Path of least resistance
- No trust in suppliers

3. Wait for BEIS response to recent call for evidence

Scope

In this session we wanted to understand if there was merit in waiting for an outcome to the call for evidence that had been raised by BEIS in December 2021, given that they will have gathered a wealth of knowledge on the issues. We further wanted to understand if this was not the preferred option, what issues lead to this conclusion.

Outcome

Overall, attendees agreed that whilst the call for evidence would help the DESNZ (replacement of BEIS) determine potential legislative interventions, the delay and uncertainty of such a proposals would be detrimental addressing the risks in the meantime.

Pros

- Are aware of/looking at issues
- Could legislate where Ofgem / RECCo cannot
- Time to engage pending decision
- Could deal with prescription/setting standards via legislation
- Should be neutral
- Could refer the market to be regulated by a financial regulator

Cons

- Delay
- Prolonged uncertainty
- Do they understand the market participants and roles?
- Review was conducted in 2021 when market was different

- Cannot act on price, may be limiting competition – Verbal contracts
- Actions that improve issues sit with Ofgem rather than BEIS
- Supplier bias – most respondents will have been suppliers
- Will never happen

4. Develop a code of practice (CoP)

Scope

In this session we wanted to understand that if the development of a CoP would address the risks and issues identified and if attendees would support the adoption of this approach.

Outcome

Overall, attendees agreed that this was a positive step and has the potential to address the risks and issues identified. There was some debate on the implementation and whether this should be voluntary or mandated. Most attendees agreed that mandating a CoP would ensure maximum compliance and create a level playing field.

Pros

- Takes out of political cycle
- Cost efficiencies of a single audit regime
- More ownership
- Certainty of process
- Certainty of service
- Speed of implementation (as compared to waiting for legislation)
- May better meet needs of TPIs as well as suppliers
- Demonstrate compliance = more trust
- Extended protection beyond micro businesses
- Facilitates automation
- Address current bad press
- Mandatory = level playing field
- Could improve transparency and sharing of data
- De-risk investment

Cons

- Regulate the activity not ‘the role’
- Cost
- Could be superseded if not effective and recognised by Ofgem
- Cost of solution may be disproportionate to the problem
- Not workable if not mandatory
- Concern of anti-competition