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Domestic Retail Market Policy
Ofgem
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Dear Barry

Ofgem Confidence Code for switching sites

British Gas recognises the role of Third Party Intermediaries (TPIs) and believes they can be an effective means of engaging customers and encouraging switching. For this reason, the Confidence Code should be robust and ensure consumers are protected and well-informed, a point we have been pleased to see acknowledged by Ofgem's "Be An Energy Shopper" campaign¹. We welcome Ofgem setting out principles to underpin the Code and believe that principles of independence, reliability, accuracy and transparency should help generate consumer confidence. However, the current proposals do not address issues that may be of concern to consumers. In particular, we would highlight that:

- **TPIs should be held to high standards of fairness.** Energy suppliers are required by the Standards of Conduct, binding licence conditions², to treat customers fairly. The same standards should be applied to TPIs through the Confidence Code to ensure customer fairness is given due prominence across the industry.
- **TPIs should be more transparent about their fees and commissions.** To help consumers make informed decisions, TPIs should provide more information about their relationship with suppliers and any associated fees and commissions. Ofgem's Retail Market Review (RMR) was designed in part to improve the transparency of suppliers and their "representatives", including switching sites. Transparency could be improved for instance by TPIs stating the fee they will receive from the supplier or by changing the search result default to show a whole of market view, with customers provided with a message about commission if they want to see deals they can "switch to today".
- **The Confidence Code should be sufficiently broad to capture all sales conversations conducted by TPIs.** To ensure customer protections do not vary across different TPI sales channels, the Confidence Code should be extended to cover collective switching and switching site telephony discussions.
- **Customer and supplier data should be protected.** Maintaining the security of customer data is very important to retaining trust and the Confidence Code should help promote best practice to ensure that such data is safe. Similarly, supplier data should be presented accurately to consumers. We advocate that the Confidence Code makes clear to switching sites their consumer data protection obligations.

¹ <https://www.ofgem.gov.uk/publications-and-updates/comparison-sites-now-main-way-savvy-shoppers-switch>

² Standard Licence Condition 25C

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With initiatives like midata and the rollout of smart metering, it is imperative that there is sufficient rigour around the behaviours of TPIs to maintain consumer confidence. For instance, enabling TPIs to access customer data held by suppliers may improve the accuracy of customer quotes but also requires TPIs to operate to higher standards of transparency and reliability.

Finally, we remain concerned that Ofgem is allowing switching sites to offer cashback to customers despite the recent introduction of licence conditions prohibiting suppliers and “representatives” from doing so. We assume that it is not Ofgem’s policy intent to incentivise switching through a particular channel, e.g. switching sites, over another, e.g. supplier sites. If this is the intent, we would welcome evidence, for instance an impact assessment or customer research, demonstrating why such an intervention is justified and in the interest of consumers.

Our answers to the consultation questions are set out in Appendix A of this letter. If you have any questions about this response or would like to discuss in more detail, please contact Thomas Lowe (07769 548 906).

Yours sincerely

Sharon Johnson

Director of Regulatory Affairs

British Gas

Appendix A

Question 1: Do you agree with our summary of the current domestic TPI landscape? In light of recent developments in TPI services, are there other important factors we should be taking into account?

We broadly agree with Ofgem's summary of the current landscape for domestic TPIs. While we agree that switching sites are now an established part of the energy market and facilitate switching between suppliers and tariffs, further work is required to ensure that switching sites retain consumer confidence. For instance, greater transparency is required around the fees and commissions that switching sites receive. We also believe that, as switching sites handle large volumes of customer data, the Confidence Code should reinforce the importance of handling this data sensitively and securely. The current proposals should go further to address these points by:

- requiring switching sites to make sure each customer site is aware that commission will be paid for any switches completed through the site;
- requiring switching sites to provide a whole of market view as the default search result, with customers provided with a message about commission if they want to see deals they could "switch to today";
- including information in the Confidence Code on best practice data protection handling.

We also note that the European Commission and the Council of European Energy Regulators (CEER) plan to review switching site accreditation during 2015 and encourage Ofgem to consider any findings by CEER of good practice in other Member-States.

Finally, we recognise that Ofgem is undertaking a parallel review of TPIs in the non-domestic sector. Many of the points raised in this response, for instance our support for the principle of transparency, may also be relevant for non-domestic TPIs, though how such principles are applied may differ between the two sectors. We welcome Ofgem's continued work in the non-domestic sector and encourage Ofgem to provide domestic customers with at least the same level of protection as non-domestic customers.

Question 2: Does the definition exclude services you would expect to be covered? If so, how might it be adjusted to accommodate them?

Question 3: Would this definition include services you wouldn't expect in light of our TPI vision? Why do you think these services should be excluded?

The definition of TPIs proposed by Ofgem is very broad and, in its current form, could even cover the advice provided by consumer organisations such as Citizens Advice. To prevent confusion, we suggest that the definition specifically covers "commercial" firms operating in the market. The definition might also be improved by making clear that switching sites offer a "service", rather than the more limited activities of "advice and assistance". Taking these two suggestions, we propose the following definition: "A **commercial** intermediary between a domestic consumer and an energy supplier, providing advice, assistance and **services** to a consumer in relation to their energy supply".

Ofgem may also want to consider whether the proposed revisions to the scope of the Confidence Code will remain fit for purpose and relevant in the future. For instance, new service providers may develop in a world with midata and smart metering and the Confidence Code should be capable of keeping up with such developments.

If switching sites are considered to be providing advice to consumers on the best deal for them, this could mean they are captured by Financial Conduct Authority (FCA) rules on financial advice. We encourage Ofgem to seek clarification from the FCA on this point, perhaps through the UK Regulators Network.

Question 4: Do you agree that domestic intermediaries should provide an independent, transparent, accurate and reliable service to their customers?

Yes, we agree that principles of independence, transparency, accuracy and reliability are important for intermediation in general and for domestic switching sites in the energy sector in particular.

While we agree with the principles set out by Ofgem, we are unconvinced that the changes proposed to the Confidence Code are sufficiently ambitious to deliver on these principles. For instance, the principles of “independence” and “transparency” require that consumers are made aware that the service “may be funded through commission” but Ofgem do not propose to require switching sites to inform the customer of this during the comparison process. We address this point further in our response to Question 9.

We believe Ofgem should consider an additional principle for their broader regulation of the energy market, namely that customers should be entitled to consistent treatment and protection regardless of the mechanism through which they choose to shop for their energy.

Question 5: Are you aware of potential challenges for particular types of TPI models in embedding any of the principles? How might these challenges be addressed?

No comment

Question 6: We have identified information exchange and face-to-face services as priority areas for our consideration. Are there other areas you think we should be focusing on in the near future?

As well as extending the Confidence Code to cover telephony, Ofgem should provide guidance on when a switching site acts as a “representative” of a supplier and when it acts autonomously of the supplier. Such guidance would improve regulatory certainty for both suppliers and switching sites.

Question 7: Are you aware of barriers to effective information exchange between suppliers and TPIs which impact on services to consumers? If so, how might these barriers be addressed?

No, we are not aware of any barriers to effective information exchange and believe that suppliers and TPIs effectively share data about tariffs. We would welcome further detail from Ofgem on the industry data that TPIs believe they should have access to.

To improve information exchange between suppliers and TPIs, Ofgem may want to consider whether TPIs should be encouraged to adopt an API (application programming interface). This involves data being transferred from switching site to supplier instantaneously and would thus improve the customer journey and help facilitate faster and more accurate switching. We believe that such an approach is popular among switching sites offering car insurance, not least because the sites’ independence is maintained.

Question 8: What further steps do you think we should take to facilitate face-to-face services, particularly to support engagement with more vulnerable or harder-to-reach consumer groups?

We do not believe that it is appropriate for commercial entities such as switching sites to provide face-to-face services. British Gas stopped door-to-door sales in 2011 in response to customer feedback. We were also aware of concerns about commission-incentivised sales practices and whether consumers secured the best deals from these sales discussions. To ensure compliance with our obligations, including SLC 25, to control our processes, and to protect our brand, British Gas does not seek to reengage in door-to-door sales, whether directly or via a representative. A switching site engaging in face-to-face selling of our tariffs would pose a similar risk to British Gas. We do not believe suppliers should be forced to take on more compliance risk than they are comfortable with and think it would be inappropriate for switching sites to sell tariffs through door-to-door sales.

Impartial and non-commercial organisations such as Citizens Advice would be better placed to provide consumers with information about their tariff options, particularly those who are vulnerable or on low incomes. With their experience of running the Energy Best Deal campaign and Energy Saving Week, Citizens Advice is well-placed to take on this role.

Question 9: What are your views on our proposal to increase the transparency of sites’ commission arrangements with suppliers and the impact this has on the results a consumer will see?

Transparency is vital to consumer trust in the energy market and we are concerned that Ofgem is showing insufficient ambition to improve switching sites’ commission transparency. The current Confidence Code requires switching sites to provide a list of the suppliers they hold a commission

agreement with and for this to be “displayed prominently on, or be accessible from, the price comparison results pages”. We note that some switching sites make this information easier to find than others.

While we continue to support the proposal for sites to provide a list of the suppliers with whom they have a commission agreement, we believe Ofgem should go further. It is in the customer interest for sites to make clear that a commission arrangement exists and how commission will affect the comparison process before the results page is displayed. This could be achieved by sites explaining on their homepage how commercial arrangements with suppliers will alter the results page or by the site telling the customer how much their fee will be for a particular sale.

Question 10: Do you agree that sites should direct consumers to the sources of independent advice identified? Are there other sources you would suggest?

Yes, we agree that switching sites should direct consumers to websites of the Energy Saving Trust, the Energy Company Obligation and the government’s energy grants calculator. Sites should also signpost to Citizens Advice and other redress arrangements. It is important that consumers are made aware of important information during the comparison process and, for instance, vulnerable customers should be made aware of the Priority Services Register.

It is important for consumers to understand whether their chosen supplier can provide energy efficiency improvements under government schemes such as the Energy Company Obligation (ECO) or offer the Green Deal. To ensure sites meet Ofgem’s transparency objective, the Confidence Code should require sites to explain during the comparison process whether a supplier can offer such schemes.

Question 11: Do current requirements (within the Code or more widely) or supplier practices put unnecessary restrictions on sites’ business models? If so, what changes could be made to allow greater flexibility?

We are not aware of any inappropriate restrictions on switching sites’ business models and believe that any restrictions result from rules designed to protect consumers.

We recognise that the Confidence Code does not allow switching sites to advertise supplier products on their website. While this restriction potentially limits options for sites to obtain revenue, it also supports the sites’ appearance of independence. However, as a number of switching sites already send emails directly to customers promoting tariffs with certain suppliers, Ofgem may want to consider whether the current rules on advertising remain fit for purpose.

Question 12: Should there be a central repository of information for prepayment customers? Who should fill this role? And in what way could sites facilitate the provision of this information to consumers?

While we recognise the importance of engaging with prepayment customers, it is unclear what a central repository of information would achieve, how it would improve engagement and how the accuracy of the data would be maintained. If such a repository was established, it would need to be maintained by an independent third party. With the development of smart meters capable of remote mode switch, the repository would also need to be very sophisticated and be able to record whether the meter was in credit or prepayment mode. This could change very frequently and dynamically. We would welcome further discussions with Ofgem on this idea.

We also note that a number of suppliers, including British Gas recently agreed to improve the switching process for pre-payment customers by making it easier for them to switch via the Debt Assignment Protocol (DAP). To ensure these customers are aware of their ability to switch, switching sites could provide more information about the DAP.

Question 13: What timeframe would you propose for implementing our proposals in relation to site independence?

Improvements to the Confidence Code should be made as soon as reasonably practicable.

Question 14: Do you agree with our proposal to increase consumer awareness of the availability of whole of market comparisons? Are there better alternatives?

We do not believe that Ofgem's proposals on the availability of whole of market comparisons are adequate. Consumers should be fully aware as to whether they are receiving a limited or whole of market comparison. It would be more transparent for switching sites to provide a whole of market comparison as a default, with consumers able to choose to see a subset of tariffs to which they could "switch today". As per our response to question 9, switching sites could further increase transparency by explaining to those customers choosing to see tariffs they could "switch today" that the site will receive a fee for tariffs shown. It is unlikely that this change of default would significantly influence a supplier's decision to pay commission and we expect that switching sites would find ways to encourage consumers to choose the "switch today" option.

Question 15: Do you agree with our proposal to allow sites to compile their own supplier ratings? Are there factors other than those set out that sites should consider when formulating their ratings methodology?

If switching sites are allowed to rate suppliers, it is important that the ratings used are accurate, truthful and evidence-based. If ratings are based entirely on unweighted customer surveys, this could lead to an unrepresentative view of supplier service levels. We believe that ratings should cover quality of service, price competitiveness, variety of tariff offerings and variety of products, as well as commitment to government schemes such as ECO. Service ratings which focus on price or customer service alone would not adequately capture the range of services, including payment options and meter types, offered by some suppliers.

Question 16: Do you think there is benefit in exploring further the criteria for filtering or categorising green and environmental tariffs on comparison sites? Do you have suggestions for the best way to define these criteria?

We note that Ofgem recently published a statutory consultation proposing new licence conditions for green and environmental tariffs. It would be appropriate for Ofgem to consider the interaction between their work on these tariffs and the Confidence Code.

Question 17: What timeframe would you propose for implementing our proposals in relation to site transparency?

Improvements to the Confidence Code should be made as soon as reasonably practicable.

Question 18: Do you agree with our proposal for sites to use the Personal Projection methodology when calculating the cost of a tariff?

Yes, we agree that switching sites should use the Personal Projection methodology. Such an approach will help to ensure that consumers receive consistent and comparable messaging across the energy industry. Ofgem may wish to review the similarity of the results produced by switching sites in response to the consumer providing information about their annual consumption or spend. It may be appropriate for Ofgem to consider whether the same inputs generate consistent and comparable outputs.

Question 19: Do you agree with our proposal to require sites to display a Tariff Information Label for each of the tariffs on their site?

Yes, we agree with Ofgem's proposal for switching sites to display the Tariff Information Label. As this contains important and highly relevant information, this should be readily available, e.g. displayed on the main results page.

We are aware that some switching sites have produced variations on the Tariff Information Label, such as creating a Personal Comparison Rate and merging gas and electricity labels into a single dual fuel label. We would welcome guidance from Ofgem on whether such variation is consistent with the prescriptive licence obligations.

Question 20: Should we seek to ensure consistency of tariff cost results across the industry? Or should we allow room for suppliers and TPIs to differentiate by adopting their own methodologies?

While we recognise the benefits that consistency of tariff cost results might bring, we are concerned that creating a single methodology could prevent suppliers and switching sites from innovating and creating more accurate ways to calculate such costs. We would welcome further dialogue with Ofgem on this point.

Question 21: What timeframe would you propose for implementing our proposals in relation to site accuracy?

Improvements to the Confidence Code should be made as soon as reasonably practicable.

Question 22: Do you agree that we should introduce principles from the complaints handling standards into the Code? Are these the right principles to introduce?

Yes, we agree that complaint handling principles should be consistent across the energy sector. At present, a customer with a grievance against a switching site has limited options, especially if the switching site refuses to offer redress. Consumer rights would be bolstered if customers unhappy with a switching site experience could seek redress through Citizens Advice or the Ombudsman Services: Energy.

Question 23: Do you support our proposal to introduce messaging and links to Warm Home Discount information as a requirement of the Code? Do you have specific views regarding where and how this information should be presented to consumers?

Yes, we support this proposal. The Warm Home Discount (WHD) is of significant value and may affect a customer's switching decision, so whether a supplier offers the WHD should be prominent in search results. Switching sites should help customers understand whether they may be for the WHD.

Question 24: Do you agree that we should set up a working group to discuss site accessibility guidelines?

No comment.

Question 25: What timeframe would you propose for implementing our proposals in relation to site reliability?

Improvements to the Confidence Code should be made as soon as reasonably practicable.

Question 26: Do you agree with our proposals to allow a broader range of comparison sites to become accredited under the Code?

The Confidence Code has proven to be successful in part because energywatch and Consumer Focus set a high bar for accreditation, with switching sites responsible for managing supplier data accurately. If Ofgem pursue the proposal to extend accreditation to sites which are not responsible for supplier data management, we agree that both sites should be accredited to the Confidence Code.

More broadly, managing and maintaining sensitive customer data in a robust and auditable fashion is an important component of building customer trust. While we understand why Ofgem want to widen participation in this sector, we are concerned that the current Confidence Code does not specifically address protection of customer data, which could lead to the emergence of data protection issues and undermine confidence in the Code. We recommend that this situation is addressed through the current review.

Question 27: What challenges and benefits do you envisage if we were to expand the Code to cover mobile apps? And follow-up prompt services?

We have no problem in principle with the Confidence Code being extended to cover mobile apps. While there may be less space for apps to display tariffs and tariff information, any search results should provide customers with a clear choice of tariffs.

Question 28: Do you have suggestions as to how best to increase awareness of the Code among consumers?

Customer awareness of the Code could be improved by requiring switching sites to provide information about the Code to consumers before the comparison search takes place. This message could highlight that the site is accredited by Ofgem under the Confidence Code and explain that the switching site has commercial arrangements with some suppliers which may affect the ease of accessing some tariffs.

Question 29: Do you agree that we should appoint a single auditor and pass through the costs to sites? Are there better alternatives for achieving this?

Yes. We agree that the single auditor approach is the right one.

Question 30: Do you agree with the proposed changes to the Code audit, enforcement and compliance, and change processes?

Yes, on the basis that the changes make the audit, enforcement and compliance more rigorous.

