



## Ctrl-Shift response to Ofgem consultation on domestic TPIs and the Confidence Code

1 October 2014

### Overview

Ctrl-Shift supports Ofgem in the goal of its TPI and Confidence Code work: to “encourage and equip consumers to engage and get the best deal on their energy”.

Ofgem is right to highlight the fast-changing TPI landscape. Ofgem has made a good summary of these changes [Question 1].

Ctrl-Shift’s research for Ofgem<sup>i</sup> and elsewhere shows the market for domestic TPIs has significant growth potential. It is rapidly evolving into a sophisticated market with a wide range of specialist suppliers and highly differentiated services.

- Ctrl-Shift estimate that the total market for Personal Information Management Services (similar to domestic TPIs) could reach £16.5 billion or around 1.2% of the economy.<sup>ii</sup> (Of course, energy is just one part of this market.)
- Ctrl-Shift’s research for Consumer Futures (before it was folded into Citizens Advice) finds many different directions of service innovation<sup>iii</sup>, for example:
  - Increasing degrees of ‘concierge’ or ‘power of attorney’ where services do things or act for and on behalf of the consumer.
  - Use of increasingly diverse sources of information to inform and enrich consumers’ decision-making processes e.g. input of detailed information about their behaviours or transaction histories, inclusion of peer and expert reviews, of external independent ratings for customer service, product quality and reliability, social responsibility etc.

Many of Ofgem’s proposals helpfully support this trend:

- Referencing other independent sources of information (Question 10)
- Reducing restrictions on business models (Question 11)
- Allowing further development of supplier ratings (Question 15)
- Broadening the scope of comparison to include other filters (e.g. green) (Question 16).

However, Ofgem’s analysis of the fast-changing TPI landscape is not reflected in some key elements of the document:

- The definition of TPIs is too narrow [Question 2], focused only on ‘energy supply’ rather than consumers overall relationship with the energy market/s. Getting ‘the best deal’ on energy isn’t only about finding the cheapest energy supplier. It may involve behaviour change and property change (e.g. insulation, draft proofing, alternative sources of energy supply etc). Consumers need advice and assistance on all of these things and TPIs are in a good position to provide this advice and assistance.
- Proposals for the reform of the Confidence Code are inconsistent, contradictory and unlikely to achieve the desired goal of increased consumer confidence and the



“facilitation of the development of the TPI sector as a whole”.

- There is a serious omission in the paper – its failure to address the increasingly important issue of uses (and potential abuses) of personal data by domestic TPIs (see below).

### Personal data

The paper has one mention of data protection in the context of industry information flows, but it does not mention TPI’s policies and practices when it comes to collecting, storing and using their customers’ data. There are many potential abuses on this front – e.g. TPIs sharing data about their customers with their suppliers. There are also many potential new services – e.g. doing more to analyse this data to help customers understand their behaviours better.

When consumers use a TPI they should ‘just know’ that the data they provide the TPI is safe and will only be used to provide the service they asked for – and that the service will not hide behind arcane and confusing small print to monetise this data without their knowledge or genuine permission. This is not just a matter for the ICO. There are terms and conditions and practices that remain legal but which nevertheless are exploitative and/or undermine trust.

The Confidence Code should also cover TPI’s uses of personal data.

## Comments in detail

### Definition of a TPI

Ofgem’s proposed definition of a TPI is “an intermediary between a domestic consumer and an energy supplier, providing advice and assistance to a consumer in relation to their energy supply.”

The term ‘energy supply’ is too narrow. As paras 2.4 to 2.10 show, the energy landscape is evolving. There is a big difference between a service that helps a consumer choose an energy supplier and one which helps a consumer reduce total energy bills and/or achieve other energy goals (such as ‘being green’, or ‘minimising hassle’).

To reduce total energy bills, consumers may need to consider their day-to-day behaviour and their property infrastructure (e.g. insulation, draft proofing, alternative sources of supply etc) as well as their energy supply/supplier. The trends identified by Ofgem point to TPIs offering advice and assistance on all of these matters. Ofgem’s policies and measures should take this into account.

Therefore, in answer to **Question 2** (‘Does the definition exclude services you would expect to be covered? If so, how might it be adjusted to accommodate them?’) the answer is Yes: it *does* exclude services we would expect to be covered. A proposed alternative wording is: “an intermediary between a domestic consumer and an energy **market** supplier, providing advice and assistance to a consumer in relation to their energy **costs and consumption**.”



## Independence and Transparency

The stated goals of Chapters 3 and 4 are contradictory. The goal of Chapter 4 (Transparency) is that “consumers can be confident that the sites are acting in an unbiased way”. But the stated goal of Chapter 3 (Independence) is that “consumers understand how a site’s commission arrangements influence the tariff results they see” – in other words, that they understand how commission arrangements *are* biasing the tariff results they see.

These two goals are contradictory. The proposed compromise between them outlined in paragraphs 4.8 – 4.10 is highly unlikely to succeed in building consumer confidence in TPIs.

We don’t agree with the assertion in 4.8 that “Making sites display a whole of market comparison as a default would remove incentives for suppliers to offer commission to sites.” No evidence or justification is provided for this assertion. The underlying assumption seems to be that the only reason suppliers offer commission to sites is to bias the workings of the market – to gain an advantage over their competitors that they could not gain if consumers had a comprehensive, impartial view of the tariffs on offer. This is not necessarily the case.

First, the over-riding goal of the Confidence Code should be to create an environment where consumers can make better energy related decisions easier, quicker and with confidence. For this to happen, domestic TPIs need to provide a whole market view. By making this requirement, Ofgem will help shift the focus of competition – amongst both TPIs and energy suppliers – away from the competition around the biasing effects of commission payments to competition around the things that Ofgem, and consumers, really care about: quality, price, service of *both* the energy supply *and* the TPI.

In the case of TPIs, the critical determinant of ‘quality’ is whether the service genuinely helps the consumer make a better decision. If it fails to present complete, impartial information about tariffs available on the market it is *not* helping consumers make a better decision and therefore *not* providing a quality service.

Second, it should be remembered that, faced with having to start the whole process of a price comparison again at a different site, many consumers will still go with the options they are presented with, even if they do not provide the absolute lowest price: the mere fact of ‘greying out’ is an influence on consumer decision-making.

Third, and more importantly, economically speaking, the reason suppliers pay intermediaries ‘commission’ is that they are *paying for a service*. In this case, a service that helps them reduce their costs of reaching and acquiring new customers. TPIs can help suppliers do this without having to bias the information they present customers.

For example, if all sites are required to present complete market information in an impartial way, with non-participating suppliers greyed out, then, if the non-greyed tariff is higher than the greyed tariff, both the TPI and the energy supplier to provide consumers with good reasons to choose the higher priced tariff. This could encompass a wide range of factors. For example, using the TPI’s services could facilitate a completely hassle free switch. Or the price



could be higher, but the service may also have higher ratings for customer service or social responsibility that influence the consumer to choose the higher priced option. These examples highlight *dimensions of competition* other than just price including convenience, customer service, brand/reputation, social responsibility and ethics etc.

Failing that, if the consumer does opt for the cheaper, greyed, tariff then Ofgem is achieving its goal of encouraging competition in the market.

Ofgem's acceptance that "a site's commission arrangements influence the tariff results consumers see" – and then requiring 'transparency' around this fact – could be seen as akin to a food industry regulator accepting that food ingredients may be adulterated or of sub-standard quality, but then requiring the supplier to be 'transparent' about this adulteration in some way. The only difference is that in this case it is information that is being adulterated or of sub-standard quality. Ofgem should be setting a basic standard of quality – a floor below which the market cannot go: e.g. 'you are not allowed to sell food that has adulterated/sub-standard ingredients' / 'you have to show impartial, full market information' – and then encouraging competition to *improve* on this standard.

For these reasons we do *not* agree that Ofgem's proposed formula of independence, transparency, accuracy and reliability is adequate [Question 4]. Domestic TPIs should provide **comprehensive, impartial**, transparent, accurate and reliable services **which fully protect and respect users' personal data** (see above point).

In promoting comprehensive impartial services, it should be remembered that ideally, Ofgem should be encouraging price competition in both the energy supply market *and* the TPI market. TPIs should not be in a position where the commission levels they charge are 'protected' in some way.

Linked to this is the exploration of alternative revenue streams that reduce TPIs' dependence on commission [Question 11] – and the potentially biasing effects of commission payments.

Domestic TPIs should be able to:

- Accept advertising, so long as the advertising/editorial dividing line is kept to, scrupulously. If TPIs are providing broader levels of advice about energy consumption and ways to reduce energy bills overall, there is a potentially big market of energy market advertisers who would like to reach their audiences.
- Earn money from market research and customer insight, so long as it does not compromise users' personal data (e.g. using aggregated, statistical data).
- Offer 'freemium' services, where additional fees are paid for added value services such as energy consumption advice or 'green makeovers'.
- Experiment with new forms of commission model – for example, where the consumer pays a flat rate fee for the service which is offset by supplier commissions.



## Summary

Ofgem is making an important step in the right direction in a) recognizing the fast evolving nature of the domestic TPI market and b) wanting to facilitate the evolution of this market.

In the context of price comparison services, it's not possible to compromise on the requirement for comprehensive, impartial total market view and ensure consumer confidence.

Ultimately what consumers need and want in the energy sector is the ability to make better decisions quickly, easily and with confidence. This includes but is not restricted to energy supply price comparisons. The issue facing price comparison sites, Ofgem and (to a lesser extent) energy suppliers is whether and how existing price comparison or other services can or should evolve towards broader decision support.

Ofgem's revisions of the Confidence Code needs to fully factor in these considerations.

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<sup>i</sup> [The Changing Consumer Empowerment Landscape](#)

<sup>ii</sup> [The Evolving Market for Personal Information Management Services](#)

<sup>iii</sup> [The Rise of the Consumer Empowering Intermediary](#)