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Consultation response: Domestic third party intermediaries: Confidence Code and wider issues

Dear Barry,

I am pleased to attach Energy UK's response to Ofgem's review of the Confidence Code.

If you have any questions, please do not hesitate to contact me on 020 7747 2963 or daisy.cross@energy-uk.org.uk

Yours sincerely

Daisy Cross
Policy and External Relations Executive

Domestic third party intermediaries: Confidence Code and wider issues

Energy UK response

2 October 2014

Energy UK is the trade association for the energy industry. Energy UK has over 80 companies as members that together cover the broad range of energy providers and supplies and include companies of all sizes working in all forms of gas and electricity supply and energy networks. Energy UK members generate more than 90% of UK electricity, provide light and heat to some 26 million homes and last year invested £10billion in the British economy.

Executive Summary

Energy UK welcomes the review of Ofgem's Confidence Code, which responds to some key concerns suppliers have about the domestic TPI market, and highlights principles of TPI engagement - independence, reliability, accuracy and transparency - with which we agree.

However, our pervading sense of the consultation is that Ofgem's first priority is to avoid compromising the TPI market, rather than to take appropriate action to prevent consumer detriment.

Government's legislation and regulation around consumer protection – and suppliers' efforts to ensure these are met – should not be undermined by allowing a two-tier regulatory system to develop. A level playing field should exist between TPIs and suppliers in the delivery of consumer protection, and the Confidence Code is an important tool in delivering equality here.

Ofgem states that it is developing a coherent regulatory approach to TPIs. Energy UK believes that cohesiveness should be equally applied to all market participants. As the Council of European Energy Regulators stated in a recent advice publication¹: 'consumers should have the same protections and rights when dealing with third party intermediaries as when dealing with traditional retailers, and be able to easily identify trustworthy third party intermediaries'.

Cashback

Energy UK notes that Ofgem will be undertaking consumer research to establish whether cashback can encourage consumer engagement without distorting choice. Energy UK requests that it is able to comment on the questions and methodology used.

¹ CEER Advice on Ensuring Market and Regulatory Arrangements help deliver Demand-Side Flexibility
http://www.ceer.eu/portal/page/portal/EER_HOME/EER_PUBLICATIONS/CEER_PAPERS/Electricity/Tab3/C14-SDE-40-03_CEER%20Advice%20on%20Demand-Side%20Flexibility_26-June-2014.pdf

In this regard it is Energy UK's position that if cashback offers are made by a switching site and do not cover all tariffs from all suppliers at an equal rate, consumer choices would inevitably be distorted. Under current proposals, switching sites would be allowed to offer incentives to attract customers to their channels that suppliers would not. This would result in an uneven playing field between suppliers and switching sites.

If a ban on switching sites offering cashback is an unintended consequence of RMR, Ofgem could consult on and provide evidence for any changes that are made.

The above points on cashback were made at Ofgem's recent workshop on cashback offers and bundled products, but not included in the minutes of the meeting. The points were not raised by Energy UK.

Responses to questions

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?

Energy UK broadly agrees with Ofgem's summary, but urges Ofgem to also consider data protection in its review, to reflect the large number of transactions which require sharing personal data between TPIs and suppliers and ensure the Confidence Code addresses data safety.

Energy UK notes that the consultation focuses on TPIs and their role specifically, rather than the broader commercial transaction that occurs between supplier, TPI, and customer.

One member suggests Ofgem explore the possibility of using Data Protection Application Programming Interface (API) to improve data protection. This would involve real-time data transfer between the switching site and the supplier, would reduce the risk caused by use of daily/weekly batch files, and could reduce the number of delays customers would face when switching.

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 statement? Why do you think these services should be excluded?

Energy UK suggests that Ofgem refers to the commercial element of a TPI's activity in its definition, as it is currently very broad - for instance it could be interpreted as including an individual who recommends a product or supplier to a friend. The current definition could also capture Citizens Advice.

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

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?

Energy UK agrees with Ofgem's principles for good intermediation, and hopes to see these upheld and implemented effectively. Energy UK notes that the principles align to some extent (but not completely) with Ofgem's Standards of Conduct; principles to which TPIs should be held.

Regarding telecommunications interactions, close scripting of calls and appropriate training of call handlers may be required to ensure the principles of the Code are fully embedded.

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?

Energy UK is satisfied with the priority areas set out in the consultation.

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?

Energy UK has no comment to add.

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?

Given the past issues around mis-selling by face-to-face agents, it is important that the issue is considered in Ofgem's review, and more widely.

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?

Energy UK asks Ofgem to ensure that TPIs always present a whole-of-market comparison when they generate a results page.

Sites should be required to provide a list of suppliers that provide commission, and a statement informing the customer that commission will be charged by these suppliers.

The default search result should be the "whole of market" result and consumers should have to make an active decision to isolate "tariffs you could switch to today", with a clear explanation of what this means.

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

Energy UK supports such signposting. Another appropriate source would be the Citizens Advice website.

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?

Energy UK has no comment to make regarding the business models of price comparison sites, but would be interested to see Ofgem's conclusions here.

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?

Nine suppliers have recently agreed to take steps to improve the switching process for pre-payment customers by making it quicker and easier for them to switch via the Debt Assignment Protocol where they have a debt of £500 or less. Switching sites should be required to provide common information on the switching process for prepayment customers, including the Debt Assignment Protocol.

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

Energy UK broadly agrees with Ofgem's proposals here. Please see our response to Question 9.

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?

Energy UK supports Ofgem's proposal to allow sites to compile ratings, as long as they are evidence-based and accurate, with a clear explanation of their methodology. The ratings systems of accredited sites should also be approved by Ofgem. Members note the importance of ratings being kept up-to-date to ensure customers see a fair reflection of the current service being provided.

Some comparison sites provide editorial comment about suppliers alongside displays of the supplier's tariffs, which is acceptable where sites have received appropriate feedback which is consistent and substantiated, objective and approved by Ofgem.

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?

Energy UK would support such analysis, but views any decisions around tariff comparisons and categorisation of green tariffs as a matter for TPIs, assuming the approach is consistent with the principles of clarity, transparency and fairness discussed in this response.

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

Energy UK agrees with Ofgem's proposals to use the Personal Projection for this purpose. Ofgem originally created the Personal Projection – along with the Tariff Information Label (TIL) and Tariff Comparison Rate (TCR) tools - for the purposes of consistency, and they need to be used consistently across the channels through which customers seek deals in order to be effective.

Any one customer should see the same results each time they compare to avoid damaging confidence in the price comparison process.

Energy UK seeks clarity from Ofgem on whether it plans to agree a common formula to derive Personal Projections, and notes that any common formula would need to be kept under review, particularly considering the upcoming smart meter roll-out.

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?

Energy UK agrees that sites should include a TIL for each tariff that they display. This should be on the main results page, or be viewed by clicking a button next to the tariff. Energy UK suggests that a brief explanation of how the TIL is useful to the customer might encourage customers to use this facility.

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?

Energy UK believes that there should be consistency of tariff cost results, but that further discussion is needed for customers to see the same results across all channels.

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?

Energy UK agrees with Ofgem's proposals. Suppliers have in the past experienced difficulties associated with the broad scope of the Consumers, Estate Agents and Redress Act definition of a complaint - which requires them to record any 'expression of dissatisfaction'. Energy UK notes that TPIs and switching sites may experience similar issues around the broadness of this definition.

Energy UK seeks to understand whether TPIs will be expected to publish their complaints data, and whether TPI customers will have access to a statutory redress scheme.

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?

Energy UK supports Ofgem's proposals here, but asks Ofgem to clarify at what stage of the customer journey the WHD information should be flagged – at the initial results page, or after they have progressed to a later stage.

Customers should be made aware that, in some instances, they may lose their Warm Home Discount when they switch supplier, which could be worth more than the amount they save from switching to a cheaper deal.

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

Energy UK supports this idea, and looks forward to hearing more details around this proposal.

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

Energy UK would support Ofgem's proposals, as long as the provider of the tariff calculator is an accredited site. We would not support proposals which would allow a non-accredited site to become accredited while using the tariff calculator of another non-accredited site.

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

Energy UK notes that mobile devices and apps should ensure they present all of the required information in a clear and logical way to the customer, bearing in mind it will be displayed on a relatively small screen.

Question 27B: Do you have suggestions as to how best to increase awareness of the Code among consumers?

A kite mark or symbol may be an effective way of illustrating the site's accreditation and may drive customers to find out more information about the Confidence Code. Energy UK notes that this suggestion would require some vigilance to prevent non-accredited sites from using the logo.

Question 28: Do you agree that we should appoint a single auditor and pass through the costs to sites? Are there better alternatives for achieving this?

Energy UK has no comment to add.

Question 29: Do you agree with the proposed changes to the Code audit, enforcement and compliance, and change processes?

We feel it would be sensible to include suppliers' perspectives in further decisions around governance. Suppliers should also have sight of the outcomes of any audits undertaken.