

Ofgem Confidence Code Review 2016

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ofgem

Agenda for the afternoon

Part 1: Whole of Market (WoM) removal (CMA Confidence Code remedy) 1.55pm – 3.00pm

Part 1a: Scene setting

Part 1b: High level discussion

Part 2: Areas of Code change currently being considered 3.15pm – 4.35pm

Part 1a: Scene setting

Competition and Markets Authority (CMA) Provisional Decision on Remedies (PDR): Confidence Code Remedy - WoM

*“We propose to recommend to Ofgem that it amends the Confidence Code to **remove the Whole of the Market Requirement from the Confidence code**, and to **require accredited PCWs to be transparent over the market coverage** provided to domestic customers (by, for instance, displaying a clear message explaining the results on display and clarifying that certain tariffs are not available through their site).”*

(CMA PDR, 10th March 2016, p. 24)

WoM removal: narrow V broad interpretation

*“We propose to recommend to Ofgem that it amends the Confidence Code to **remove the Whole of the Market Requirement from the Confidence code...**” (CMA PDR, 10th March 2016, p. 24)*

- **Narrow interpretation:** Requirements 5(F)-5(I) of the Confidence Code (ie reversal of filter requirements introduced in 2015); or
- **Broad interpretation:** Requirements 2(A)-2(C) and Requirements 5(F)-5(I) of the Confidence Code (ie WoM does not need to appear at any point on the site).
- We are considering **both** options until the final remedies document is published

Ofgem's response to the CMA's PDR

"We plan to implement this remedy and consult on consequential Confidence code changes ..." (Ofgem's response to CMA's PDR, 7th April 2016, p. 6)

Purpose of workshop

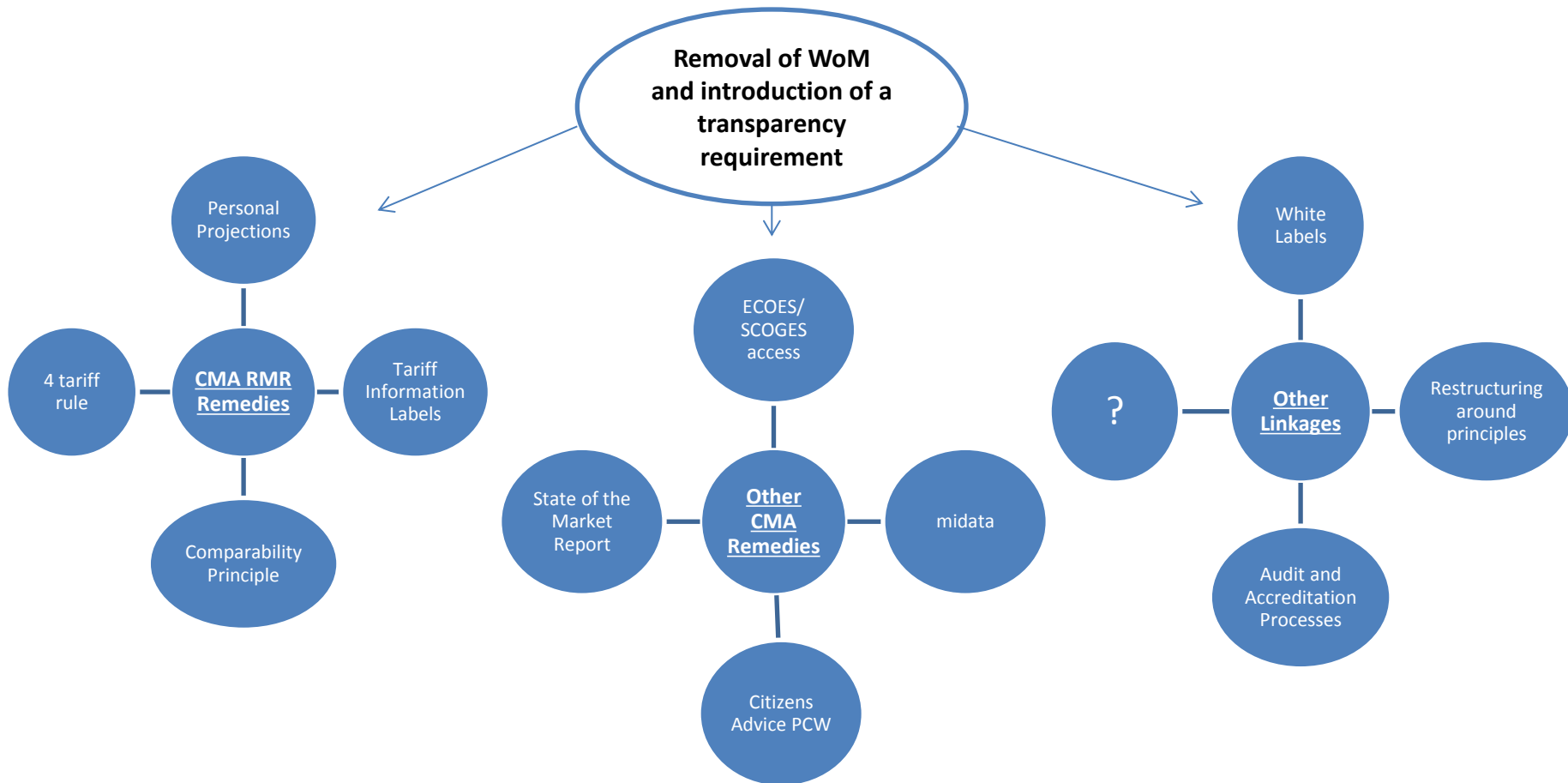
- To get the views of stakeholders, to help inform both the **content** and **timing** of our consultation(s) in this area.
- The agenda is split into two sections:
 - Part 1: high level/bigger picture discussion; and
 - Part 2: more detailed discussion around the impacts we have considered.

Part 1b: High level discussion

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- Removal of WoM: interdependencies and links
- Code benefits and rationale
- Confidence Code restructure
- Summary of workshop questions - Part 1

Confidence Code & CMA Remedies: interdependencies and links



Qs: Have we missed any interdependencies? What are the risks to consumers of removing WoM before the other remedies are implemented? How are sites/suppliers likely to react following the removal of WoM?

Part 1b: High level discussion

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Removing WoM: Code benefits and rationale

- With WoM removal, we need to be clear on the benefits of the Code going forward.
- Accredited price comparison websites (PCWs) should be able to innovate for the benefit of consumers, and consumers need to be able to trust PCWs to engage in the market.

Qs: What are the benefits of the Code without WoM (for consumers, accredited sites and suppliers)? How do we strike the balance between allowing innovation and ensuring consumers trust accredited PCWs?

Removing WoM: Code restructure

To make the high level rationale for the Code clearer for all, we are considering restructuring the existing Code into 4 key principles*:

- Independence (from suppliers);
- Transparency (market coverage; commercial arrangements; tariff info; supplier ratings);
- Accuracy (tariff components match supplier figures; consistency in calculation methodologies within site);
- Consumer empowerment (complaints procedures, audits, non-price info eg WHD, energy efficiency).

Some of the changes being proposed to the Code create challenges for these principles.

** These principles are aligned with principles at European level.*

What do we mean by independent and impartial?

- To **promote consumer trust** by **avoiding bias and the perception of bias**.
- Could a site be **independent** if:
 - it is not a company linked to or associated with a supplier;
 - it doesn't receive any 'sustainable financial support'* from a supplier or company linked to a supplier; and
 - the site's management team do not occupy any other role, at a supplier, or company linked to the supplier.
- However, there could be a perception of bias and lack of **impartiality** if an accredited site is just listing a limited number of tariffs, in the absence of WoM.

Qs: 1. Would you consider a site to be independent if it met the points above?
2. Can impartiality be ensured by requiring sites to provide messaging on how commission arrangements affect the results on display? 3. Is anything else needed?

What do we mean by accuracy?

- Unit rates/standing charges etc... should be same as from the supplier directly (subject to discounts etc...).
- Consistent estimated tariff cost methodology applied within-site for all suppliers listed.
- Guidance around treatment of discounts and other tariff complexities.

Qs: How should we define accuracy and how should this be audited? Is consistency important?

Part 1b: High level discussion

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Summary of workshop questions – Part 1 (25min discussion/ 15min feedback)

Table Nos.	Questions	Duration
1 - 4	<p>Interdependencies and links:</p> <ul style="list-style-type: none"> • Have we missed any interdependencies? • What are the risks to consumers of removing WoM before the other remedies are implemented? • How are sites/suppliers likely to react following the removal of WoM? 	15 mins
5 - 8	<p>Code rationale:</p> <ul style="list-style-type: none"> • What are the benefits of the Code without WoM (for consumers, accredited sites and suppliers)? • How do we strike the balance between allowing innovation and ensuring consumers trust accredited PCWs? 	
1 - 4	<p>Independence and impartiality:</p> <ul style="list-style-type: none"> • Would you consider a site to be independent if it met the points raised on slide 15? • Can impartiality be ensured by requiring sites to provide messaging on how commission arrangements affect the results on display? • Is anything else needed? 	10 mins
5-8	<p>Accuracy and consistency:</p> <ul style="list-style-type: none"> • How should we define accuracy and how should this be audited? • Is consistency important? 	
All	Feedback session	15 mins

Part 2: Areas of Code change currently being considered

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- New transparency (over market coverage) requirement
- Personal projection and Tariff Information Label (TIL)
- Inclusion of aspects of Remedy 3 tariff comparability principle
- White labels
- Audit and accreditation
- Options and timings
- Summary of workshop questions - Part 2

New transparency (over market coverage) requirement

“...to require accredited PCWs to be transparent over the market coverage provided to domestic customers (by, for instance, displaying a clear message explaining the results on display and clarifying that certain tariffs are not available through their site).” (CMA PDR, 10th March 2016, p. 24)

How could this be achieved?

Option	Detail
Option 1	Messaging which could include (amongst other things): what suppliers are listed and whether all the tariffs that are available directly from that supplier are listed on the site, and what payment types are listed on the site.
Option 2	Require sites to show what % coverage they show, compared to the Citizens Advices WoM listing.
Option 3	Ofgem ranking of accredited sites by 'comprehensibility'.

Qs: Which option(s) do you prefer? What benefits/risks do you think are associated with each option? Are there other ways of implementing this requirement?

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Personal Projection and TIL

- As outlined in this morning's session, the consequential impacts from the RMR's simpler choices' removal remedy could potentially result in removal of personal projection and an amended TIL – both of these are used within the Code

Looking forward...

- **Personal projection:**
 - The personal projection references could be removed and the pre-2015 Confidence Code content which lists factors sites should include and exclude in their calculations (ie certain discounts) could be re-instated.
 - NEW: Potential to introduce an additional requirement to ensure that sites apply the same methodology across all suppliers within their site (ensure consistency within site).
- **TIL:** the Confidence Code could be unchanged, with sites required to display any amended TIL format.

Personal projection: pre-2015 Confidence Code content

“...The factors that a Service Provider uses to base its calculations on should not include:

- **introductory sign up offers, one-time discounts/special offers or other promotion discounts** that last for less than the duration for the tariff;
- **discounts** that depend on the **consumer behaving in a certain way** ie those discounts which are not paid automatically;
- **discounts** that apply **to other services** (eg telephony) that a supplier may add to a product offering;
- **non-price offers**;
- **discounts** that may be offered by the Service Provider for **new applications**;
- for a comparison period of 12 months: **any discount paid after the first 12 months** of a customer’s supply start date or after any subsequent 12 month period.

...the factors that a Service Provider uses to base its calculations on should include:

- **recurring discounts that are paid automatically**: for paying by a certain method (eg monthly Direct Debit); dual fuel discounts; online discount; compulsory paperless billing discounts; fixed charges (e.g. a fixed monthly membership fee).”

Qs: Would a return to the pre-2015 Code content drive consistency across sites? Is the content still relevant?

Is an additional requirement around consistency within sites appropriate?

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Possible new Remedy 3 principle(s): potential inclusion within the Code

- If there is to be a new SLC principle(s) relating to empowering consumers to make informed tariff choices and the ability of consumers to compare tariffs then this is also at the core of what accredited sites should be doing.
- **If relevant and able to be applied to sites, then we could consider including aspects within the Code.**

Q: Can you think of any reason(s) not to include principles similar to a possible new Remedy 3 principle(s) in the Code?

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White label inclusion

- Ofgem supportive of WoM removal. But still important for consumers to be able to see a WoM comparison, should they want to. CMA are also supportive.
- The Citizens Advice service goes some way to plug this gap; they intend to provide full market coverage and the default is set to show all tariffs to consumers.
- If white labels were accredited to the Code, more consumers could benefit from the Code's protections. Established brands could become accredited, bolstering the visibility of the Code amongst consumers. This could include the Citizens Advice service.
- We want to understand the drawbacks of such an approach.

Q: If white label sites could be Code accredited, what would be the benefits/drawbacks to consumers?

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Audit & Accreditation: The rationale for change and proposed approach

- **Why potential change?**
 - The current comparative approach to auditing sites relies on every site showing WoM and was not designed to cope with a non-WoM environment.
 - Although the Code states sites will bear the costs of audit, Ofgem has borne this cost to date. If the processes have to change then we are considering requiring sites to fund their own audits.
- **Main changes being considered?**
 - Sites fund and procure their own audit services.
 - Audits completed by external and independent auditors.
 - Considering the benefits of aligning legacy sites with a new fit for purpose application agreement to reflect the Code and process changes.
- **Potential area of no change**
 - Ofgem still conducts monitoring/compliance checks.
 - Ofgem continues to take the audit reports into account in its decisions around accreditation & compliance.

Draft principles being considered for a revised audit approach

- The audits should not be disproportionately costly so as to deter new entrants.
- The audit approach should incentivise sites to get 'Code Ready' before applying.
- Ofgem should set clear Terms of Reference and require that sites appoint competent and independent auditors.
- The audit process should not be overly burdensome.
- Ofgem should ensure that the audit process is subject to robust breach/non-compliance processes.
- The new audit framework should be scalable.

Challenges

- Re-design could present challenges some of which include considerations around consistency, quality and cost.

Qs: 1. How could we ensure consistency across sites?
2. How could we ensure that sites appoint suitably qualified auditors?
3. How could we ensure that the audit costs are reasonable and not prohibitive to new entrants?

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Code reform options and timings

- There are a number of options and considerations for timing that Ofgem should consider in meeting the CMA's recommendation.
- At different stages Ofgem could consult either **separately to, or in combination with**, the WoM removal and new transparency (over market coverage) requirement, on:
 - Personal projection and TIL, audit and accreditation, white labels, a new comparability principle, and the Code restructuring.
- If the CMA final report includes a **'broad' interpretation of WoM** – we could consider a **staged approach** to removal ie reversal of 2015 'filter strengthening' first and then the full WoM requirement at a later stage.

Qs: What needs to happen, at a minimum, this year? How quickly would you like us to proceed? What are the risks/benefits of taking a staged approach?

Part 2: Areas of Code change currently being considered

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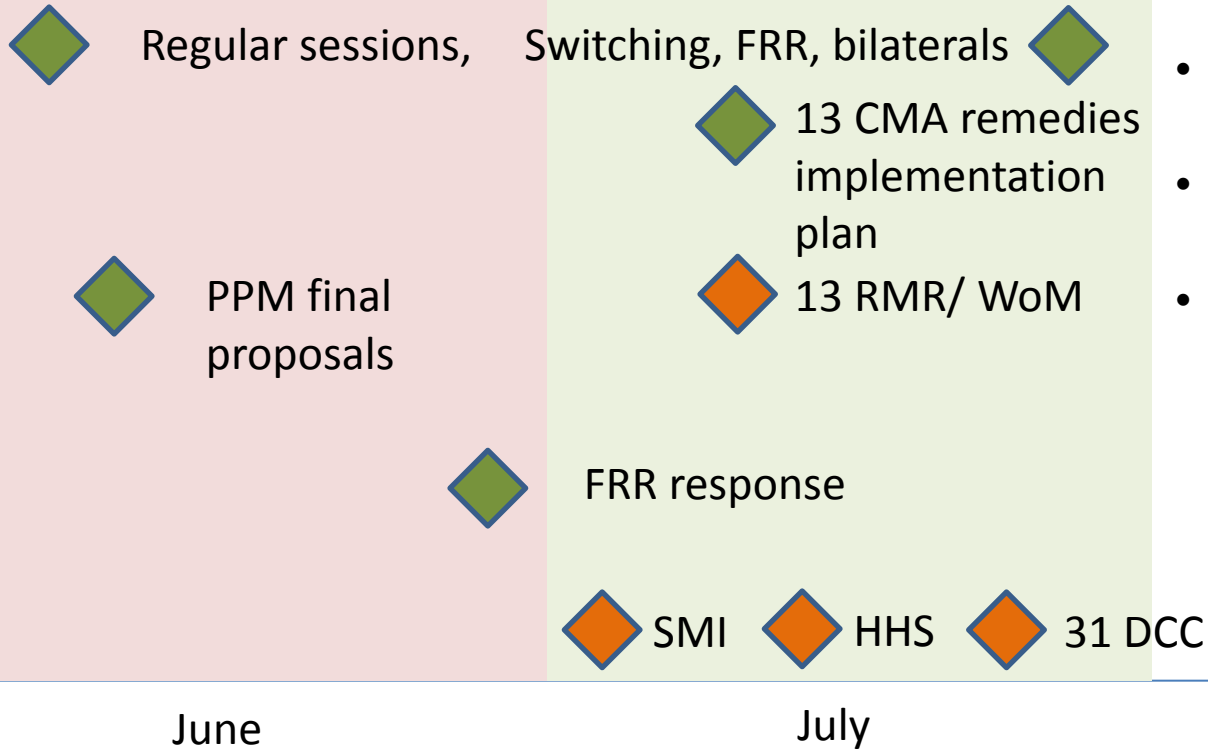
Summary of workshop questions – Part 2 (40min discussion/ 20min feedback)

Table Nos.	Questions	Duration
1 - 4	Transparency over market coverage requirement: <ul style="list-style-type: none"> Which option(s) do you prefer? What benefits/risks do you think are associated with each option? Are there other ways of implementing this requirement? 	10 mins
	Personal Projection: <ul style="list-style-type: none"> Would a return to the pre-2015 Code content drive consistency across sites? Is the content still relevant? Is additional requirement around consistency appropriate? 	10 mins
	Remedy 3 principle: <ul style="list-style-type: none"> Can you think of any reason(s) not to include principles similar to new Remedy 3 principle? 	10mins
5 - 8	White labels: <ul style="list-style-type: none"> If white label sites could be Code accredited, what would be the benefits/drawbacks to consumers? 	10 mins
	Audit/accreditation: <ul style="list-style-type: none"> How can we ensure consistency across sites? How do we prevent the appointment of inappropriate auditors? How could we ensure that the audit costs are reasonable and not prohibitive to new entrants? 	20 mins
All	Timing: <ul style="list-style-type: none"> What needs to happen, at a minimum, this year? 	10 mins
All	Feedback session	20 mins

Stakeholder Engagement


Stakeholder engagement

Current schedule



To be scheduled

- Independent suppliers' forum
- Workshops re financial reporting remedy
- Workshops re PPM remedies

 Consultation  Other

Stakeholder engagement

Seeking your views on the best way to engage with you during the implementation of the remedies

Survey will be issued with the meeting notes asking for areas of interest, preferred methods of communication.

Single point for stakeholder queries (non-remedy specific): **remedies@ofgem.gov.uk**

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