

## RMR & Confidence Code Workshop

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On 25 May 2016, Ofgem held a workshop relating to the CMA's provisional recommendations surrounding the removal of certain RMR 'simpler choices' rules and the Whole of Market requirement in the Confidence Code for Price Comparison Websites. This note summarises the outputs of the workshop.

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Participants were invited to discuss their views on three broad areas:

- 1) Possible consequential amendments to the supply Licence in light of the CMA's provisional recommendations.
- 2) Possible new principle(s) around tariff comparability.
- 3) Possible changes to the Confidence Code.

The note below summarises the output from the table discussions.

### 1. Session 1 – Removal of aspects of RMR Simpler

- 1.1. Ofgem set out the Standard Licence Conditions (SLCs) relating to the 'simpler choices' component of the RMR rules that the CMA has provisionally recommended be removed: the ban on complex tariffs; the four tariff rule; the ban on certain discounts and reward points and bundled products; and the ban on tariffs exclusive to new/existing customers.
- 1.2. Removing the 'simpler choices' component of the RMR rules will have an impact on other licence conditions. Ofgem proposed consequential amendments where necessary to the licence conditions, including: definitions in SLC 1; language in SLC 22A; other parts of SLC 22B; SLC 22F.5 (bespoke heating system arrangements); 22B.7 (treatment of adjustments for payment methods); 22CB (transitional provisions for certain existing fixed term supply contracts); and 31D (white labels).
- 1.3. Owing to time constraints, proposed licence changes were not discussed in detail. Ofgem therefore requested that any stakeholder views on suggested licence changes be sent to [remedies@ofgem.gov.uk](mailto:remedies@ofgem.gov.uk).

### 2. Session 2 – Implications for RMR Clearer Tools

- 2.1. Ofgem highlighted that the proposed changes to RMR Simpler are likely to impact the Personal Projection (PP), Tariff Comparison Rate (TCR) and Cheapest Tariff Messaging (CTM). The Tariff Information Label (TIL) is also impacted as it will need to be modified to reflect these changes.
- 2.2. Ofgem's preferred approach at this stage is to (i) remove the PP, TCR and the CTM (as it currently exists), (ii) consider alternatives to the CTM as a prompt to engage, which are not dependent on a prescriptive methodology that is linked to the PP; (iii) amend the TIL, and; (iv) introduce a new principle(s).
- 2.3. Ofgem suggested that this mitigates the risk of the information tools being inaccurate or becoming increasingly irrelevant, and is aligned with the move to a more principle based approach to regulation. Ofgem noted links with the CMA's proposal of a

Randomised Control Trials (RCT) programme, which should help inform any replacement of the CTM as a prompt to engage.

### Initial Views

- 2.4. Generally, there was widespread support for Ofgem's proposals to remove the RMR Clearer information tools and replace them with principles. However, a number of stakeholders stressed the importance of customers being able to compare tariffs, and noted the risk of consumers feeling overwhelmed and finding it difficult to make a choice, which could in turn result in disengagement.
- 2.5. There was strong and almost universal support for the removal of the TCR. Stakeholders commented that it can in some circumstances be misleading as it is based on an average rather than personalised consumption data. Some noted that this was particularly the case for certain customer groups, such as those on prepayment meters. Attendees also questioned the extent to which consumers use the TCR.
- 2.6. There was also broad support for the removal of the PP, though a number of stakeholders noted the importance of consumers being able to compare tariffs on a consistent basis (across sites). Some argued that while the PP is flawed, it is better than having nothing in place.
- 2.7. There was some debate about whether there should be consistency in how suppliers calculate projected figures around tariff costs, with some stakeholders expressing concern that, in the absence of prescriptive rules, differing methods of calculation may lead to suppliers and PCWs providing inconsistent figures. Questions were also raised about how to account for non-price features and time-of-use offers. One suggestion was that principles should be aligned over suppliers and PCWs to ensure consistency and comparability.
- 2.8. Stakeholders generally agreed that the CTM has value as a prompt to engage, but noted that its benefits will diminish with the removal of the ban on exclusive tariffs. Some stakeholders said that the use of principles could help customers make this comparison without being too restrictive.
- 2.9. The TIL was considered to be a useful tool and there was support for its retention, but some stakeholders expressed the view that it is over-specified and too prescriptive in its current form.

### What could be the impact and unintended consequences?

- 2.10. The primary concern of stakeholders was the potential difficulty for PCWs to consistently compare tariffs if the prescription of the RMR Clearer information tools is removed. For example, there was concern that different websites will be able to use different 'Personal Projections,' arriving at different figures and consumers won't understand why. This might mean that some consumers mistrust the sites and don't switch.
- 2.11. It was also said that a challenge associated with moving towards smart and dynamic tariffs is that some people will have accurate usage data and others will not. The challenge is then how to ensure consumers can compare tariffs and make informed decisions. Some attendees commented that more bundles and confusing tariffs may be an issue.
- 2.12. There was recognition of the need to future-proof as much as possible: the number of tariffs and variation will increase, becoming increasingly harder to police and for consumers to understand. One PCW suggested that the TIL is a success and could go

some way to addressing issues of communicating basic information (such as unit rate, standing charges and what other services cost) in order to simplify

### 3. Session 3 – Protecting consumers in a world of less prescription

- 3.1. Ofgem set out what it perceived to be the challenge in light of the CMA's provisional remedies and the changing landscape: continuing to offer effective consumer protection while promoting tariff innovation and competition.
- 3.2. Ofgem suggested that the **problems** we want to avoid might include (i) confusopoly, and (ii) consumers (particularly those in vulnerable situations) remaining on tariffs that do not reflect their interests.
- 3.3. We also set out what **consumer outcomes** we should be trying to achieve:

*Consumers are able to make an informed choice by understanding which of a supplier's tariffs is the cheapest based on their consumption profile and which offers other features of value to them*

- 3.4. Ofgem put forward some possible **preconditions** for this consumer outcome to be met: consumers must be able to (i) identify their tariff (achieved through the TIL); (ii) understand the principal terms of a suppliers' tariff (i.e. how charges apply); (iii) compare this with a suppliers' other tariffs.
- 3.5. We then asked the following questions:

Do you agree with our assessment of the **problems** that we want to avoid?

- 3.6. In relation to the **problems** we are trying to avoid, there was considerable discussion around 'confusopoly'. Some stakeholders viewed the number of tariffs as something that should be guarded against, whilst others argued that the proliferation of tariffs is not a concern on its own. Several suppliers commented that there are lots of tariffs available already, more than consumers will ever consider, and that the issue is more around the availability of tariff information.
- 3.7. There was strong support for the idea that consumers should not be left so confused that they don't engage with the market. However, there was also recognition that disengagement is not caused by confusion alone.
- 3.8. It was also highlighted that confusion and being on an 'unsuitable' tariff are separate issues. PCWs collectively suggested an education campaign, to allow customers to understand what the 'wrong tariff' is, clarity on why it is 'unsuitable,' and how they can take better actions when they switch in the future.
- 3.9. There was a consensus that tackling and reaching vulnerable consumers was a concern, but that Ofgem should not take a broad brush approach to vulnerability as they are not a homogenous group.

Do you agree with our assessment of the **consumer outcomes** that we want to achieve?

- 3.10. Many stakeholders felt that 'cheapest' is not necessarily the best indication of value for money, and there were strong views that we should not prioritise price over what consumers value most based on their needs (although this may include price).
- 3.11. It was also acknowledged that the definition of best value can be tricky. For instance, consumers with bundled tariffs may value, say, a freebie (iPad, clubcard

points etc.) higher than the actual value of what they could be purchased for separately.

3.12. Some attendees noted that the consumer outcome should be in relation to engaged customers or that consumers have made an informed choice. Some suggested rephrasing of the consumer outcome included:

- Consumers are able to make an informed choice by understanding which of a supplier's tariffs *offers best value including price and other features*
- Consumers are able to make an informed choice by understanding which of a supplier's tariffs *which tariff is best suited to them*
- Consumers are *engaged* to make an informed choice by understanding which of a supplier's tariffs is the cheapest based on their consumption profile and which offers other features of value to them

Do you agree with our assessment of the **preconditions** necessary for this outcome to be achieved?

3.13. In general, there was a consensus from stakeholders that the TIL works well to inform customers of the pertinent terms of a tariff, providing a base-level of information in a standardised format. The consistent format of the TIL aims to help consumers identify and compare their tariff with others available in the market, therefore going some way to meet the **preconditions**. Some attendees highlighted that the TIL should be more accessible, and needs to be expanded to include more elements, particularly in a world of multi-tier and more complex tariffs.

3.14. Some stakeholders thought that customers should be made aware of anything that should be taken into account in a financial comparison, and should have an understanding of how a tariff works e.g. they may need to change their behaviour to get all the benefits from a particular tariff. This would help them understand the principle terms of a supplier's tariff, such as how charges apply, which would also go some way to meet the **preconditions**. One stakeholder felt that suppliers should understand what the customer actually wants and needs to make a decision on their energy, and noted that ongoing randomised control trials are important to keep up with changes.

3.15. Several attendees also raised the question of whether the first two preconditions were already covered by consumer law.

#### **4. Session 4 – From Outcomes to Principles**

4.1. This session aimed to establish what kind of principle(s) most effectively strikes the balance between protecting consumers and promoting tariff innovation / competition. Ofgem presented two stylised Options: the first, a single high-level principle; the second, a series of narrower principles.

##### Option 1:

*The licensee must ensure that Domestic Customers are empowered to make informed Tariff choices and compare value for money*

##### Option 2:

*Subject to X:*

1. "The licensee must provide each Domestic Customer with an appropriate explanation of how the Charges for the Supply of Gas would apply if he chose a particular Tariff, so that the Domestic Customer is able to make an informed Tariff choice (and must procure that its Representatives do the same)"

2. "If the licensee uses a Tariff containing any terms that are conditional on a Domestic Customer's consumption, behaviour or on the occurrence of an event or the passing of time, the licensee must alert each Domestic Customer to the relevant condition(s), so that he is able to make an informed Tariff choice (and must procure that its Representatives do the same)"

3. "The licensee must provide each Domestic Customer with appropriate information to enable him to compare its Tariffs, including by explaining their benefits, risks and suitability for different consumer profiles, (and must procure that its Representatives do the same)"

4. "The licensee must, during the sales and marketing process, alert each Domestic Customer to its other Tariffs which may be suitable for the Domestic Customer so that he is able to make an informed Tariff choice"

X: The licensee is not required to comply with paragraphs [1-4] if it can demonstrate that, acting reasonably, it was not appropriate in the circumstances for it to provide the relevant information to the Domestic Customer.

What are the relative risks and benefits of Options 1 and 2 for consumers?

4.2. Broadly, stakeholders were supportive that through principles we could look to place the onus on suppliers to 'appropriately engage' their customers, although stakeholders were divided on their preferences between Option 1 and 2.

4.3. . Some stakeholders preferred Option 1, saying that it is an opportunity to deliver in a way that is more applicable to consumers, and focuses on the consumer outcomes without the need for prescription.

4.4. Other stakeholders preferred Option 2 as it prevents consumer harm in the first place rather than having to develop precedents. They also argued that consumers are not worse off under Option 2 unless it stifles innovation.

4.5. The majority of participants seemed to think that option 1 is too broad but option 2 is too prescriptive. As such, there seemed to be broad support for some kind of hybrid, whereby a high level principle was supplemented with some (limited) prescription or guidance.

4.6. A summary of the risks and benefits to consumers proposed by stakeholders are outlined in Table 1.

**Table 1: Risks and Benefits of options to consumers**

Option 1		Option 2	
Benefits	Risks	Benefits	Risks
Opportunity to deliver in a way more suited to	Inconsistency of approaches will result in greater need for	The regulator is more assured that the consumer has made an	Suppliers tick boxes and don't deliver the spirit, or leads to suppliers looking

consumers	prescription	informed decision	for loopholes
Focuses on the consumer outcome by allowing flexibility	Suppliers treating customers differently with varying approaches could lead to confusion among consumers	Consumers are not worse off under Option 2 unless it stifles innovation	Doesn't allow for innovation/competition as Ofgem is still regulating the inputs
Gives suppliers the freedom to decide which tariffs they offer to consumers	Only targets engaged customers		Suppliers currently have to provide a lot of information that consumers don't care about
			Risk of missing something in the specifications of Option 2 if it does not keep up with the pace of regulation

What are the relative risks and benefits of Options 1 and 2 for suppliers?

4.7. Again, a wide range of views were expressed here. Some stakeholders were in favour of merging the two options somehow (e.g. Option 1 backed up by guidance at the option 2 level of detail) as option 1 alone is too ambiguous, but the risk is that suppliers may place too much reliance on the sub-principles. It is thought that this would allow for innovation and the guidance to respond to developments and be updated.

4.8. A summary of the risks and benefits to suppliers proposed by stakeholders are outlined in Table 2

**Table 2: Risks and Benefits of options to suppliers**

Option 1		Option 2	
Benefits	Risks	Benefits	Risks
Offers more flexibility in delivering outcomes to consumers	Risk and responsibility is on the supplier as it involves a change in mind-set, innovating and creating own processes.	Easier for suppliers to demonstrate compliance	From a regulatory perspective, suppliers are concerned with meeting the input requirements and don't have to worry about customer outcome (e.g. tick-box approach)
Onus is on suppliers to undertake customer research, asking questions	Enforcement would require suppliers demonstrating that they		

to make sure they are confident that customers know what they've signed up for, training staff etc	have considered impacts and potential unintended consequences
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Option 1 is an enabler of innovation but there is a risk that suppliers don't do enough to meet the principle.

### What evidence would be needed to demonstrate compliance with each option?

4.9. Attendees suggested that the following could be required to demonstrate compliance with Option 1:

- Evidence of customer satisfaction, research to show customers understand materials, due diligence, tests and trials etc.
- Evidence you've taken all reasonable steps to minimise unintended consequences
- TPIs should have the same rules so that suppliers are protected
- Incentivise best practice using awards
- 'Mystery shopping'
- Consumer feedback
- Audits, cross-checking and NPS metrics would evidence compliance.

4.10. In this discussion, stakeholders commented that it is hard to demonstrate compliance with Option 1 as it is hard to prove that a customer has understood information. It also varies with tariff type, for instance it is easier with a 'vanilla' tariff by providing the TIL. However, if a tariff is more complex, compliance may involve consumer research. One stakeholder questioned how much of making an informed choice is about having access to a PCW.

4.11. It was also noted that principles may limit the usefulness of data, and that bilateral discussions between Ofgem and supplier, as well as guidance would contribute to this. One attendee commented that not everyone complains, and so there is likely to be a group of dissatisfied customers that don't complain or switch, and suppliers miss data on these consumers.

## **5. Session 5– Confidence Code High Level Discussion**

5.1. Ofgem discussed the CMA's provisional remedy to remove the Whole of Market Requirement from the Confidence code, and its plan to implement this remedy and consult on consequential Confidence code changes.

5.2. Ofgem suggested the following interdependencies and links between CMA Remedies, and the removal of WoM and introduction of a transparency requirement:

CMA RMR Remedies	Other CMA Remedies	Other Linkages
Personal Projections	ECOES/SCOGES access	White Labels
4 tariff rule	State of the Market Report	Restructuring around principles
Comparability principle	Citizens Advice PCW	Audit and Accreditation Processes
Tariff Information Labels	midata	

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?

5.3. Other interdependencies flagged by attendees are the move to smart metering, and the move to half-hourly settlement which may affect the tariffs displayed by PCWs.

5.4. There was not really any discussion around the risks to consumers of removing WoM before the other remedies. Instead the discussions centre around views on the pros/cons of WoM being removed at all.

**5.5.Challenges with WoM:**

5.5.1. Some attendees commented that new entrants pose a challenge to PCWs under WoM , as they are relatively unknown and have no commercial agreement in place, then PCWs can have difficulty in getting details of their tariffs.

5.5.2. Some thought that with the WoM requirement, suppliers could flood PCW sites with similarly priced offers and hide other tariffs. andPCWs said that until they are able to choose which suppliers they show, better value deals might be hidden from customers. On the other hand, another attendee said that there is a potential for the bigger suppliers to crowd out their smaller counterparts.

5.5.3. One participant suggested that the consumer experience under WoM is not positive because it does nto allow consumers to switch to all the tariffs in front of them.

**5.6.Challenges with WoM removal:**

5.6.1. Others said that without WoM, there could be an impact on competition in the market: if no PCW wants to work with a new entrant, this could create a barrier to entry. However, one attendee argued that this risk is mitigated if Citizens Advice shows whole of market

5.6.2. One supplier said that it is important for consumers to know that there is more than one PCW available, and that their default might not be covering the whole of market.

**5.7.How will sites/suppliers react to WoM removal:**



- 5.7.1. There was broad agreement that the removal of WoM may result in more commercial agreements and exclusive deals, introducing more competition in the market, meaning suppliers and sites work better together.
- 5.7.2. There was a general agreement from stakeholders that the removal of WoM would allow for innovation, for example, PCWs specialising in niche markets. Sites could have deals with suppliers, leading to differentiation of PCWs. At the moment there is no ability to differentiate, which leads to consumer detriment.
- 5.7.3. There was some concern that smaller suppliers would not be able to compete with larger suppliers with respect to marketing and acquisition costs.

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?

- 5.8. Ofgem highlighted that with WoM removal, we need to be clear on the benefits of the Code. We suggested that 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.
- 5.9. Some stakeholders suggested that with Code accredited sites, consumers can expect impartiality, trust in calculations, assurance that the site is acting in the interest of consumers and protections against 'cowboy' practices.
- 5.10. Others re-iterated the principles outlined in the slides: independence; transparency; accuracy and consumer empowerment.
- 5.11. In relation to striking the balance between innovation and consumer trust, it was also broadly agreed that to achieve this sites should be transparent about their coverage, and some suggested this should also include disclosure about premiums and commission paid.
- 5.12. Would you consider a site to be **independent** if it met the points outlined in the presentation slide? Ofgem proposed that by independent and impartial, we mean "*to promote consumer trust by avoiding bias and the perception of bias.*" Ofgem asked if a site could be considered independent if it met the following criteria:
- 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;
  - the site's management team do not occupy any other role, at a supplier, or company linked to the supplier.
- 5.13. One supplier commented that the 'management team' should extend to non-execs too. Another supplier suggested that any financial support (other than commission) should be used rather than 'sustainable.'
- 5.14. One suggested that clarity was needed over the definition of 'sustainable financial support'
- 5.15. There was some discussion on whether PCWs were truly independent and impartial, given they are commercial entities that get paid to promote suppliers. Citizens Advice was considered impartial but customers are unable to switch suppliers through their website.

5.16. It was suggested that the Confidence Code content is not the driver behind a site's desire to be independent, instead the site's own business model drives this decision.

5.17. Can **impartiality** be ensured by requiring sites to provide messaging on how commission arrangements affect the results on display? Is anything else needed?

5.18. Stakeholders broadly agreed that without WoM it needs to be clear to the consumer what information is displayed and why: messaging and transparency is key, and Confidence Code guidance may play a role in this.

5.19. Another stakeholder said that PCWs should ensure they are impartial within their comparisons, rather than within the market as a whole.

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

5.20. Ofgem suggested the following as examples of definitions for 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.

5.21. It was suggested that PCW information should match supplier website information as a minimum (although it was unclear if this suggestion was in relation to the tariff components such as standing charge, unit rate etc or if it was in relation to an annualised comparison figure) .

5.22. There was general agreement that data should be up to date and the same methodology is used within a site, and the consumer should have some understanding of how a figure is reached.

5.23. Some suggested that accuracy is when the same input gives the same output across a range of PCWs.

5.24. One PCW suggested that accuracy required having the Personal Projection or similar methodology to allow for a fair and accurate comparison.

## **6. Session 6– Areas of Code currently being considered for change**

Transparency over market coverage: Which option(s) (from the slide) do you prefer? What **benefits/risks** do you think are **associated with each option**? Are there other ways of implementing this requirement?

6.1. Ofgem proposed three different Options to require accredited PCWs to be transparent over the market coverage provided to domestic customers.

*Option 1* involves messaging which could include what suppliers are listed or what payment types are listed on this site.

*Option 2* requires sites to show what proportion of market coverage they show, compared to the Citizens Advice WoM listing.

*Option 3* involves an Ofgem ranking of accredited sites by 'comprehensibility'.

- 6.2. There was no particular support for Option 3 from any of the stakeholders.
- 6.3. Option 2 was supported by some stakeholders, but it was acknowledged that there could be practical challenges over whether this market coverage would be a percentage of suppliers or percentage of tariffs; if you don't cover one supplier who has a large number of tariffs then you could end up with a low market coverage.
- 6.4. Some attendees thought a hybrid of Option 1 and 2 might be appropriate, such as a message (e.g. this site has 180 tariffs from 32 suppliers and an explanation of why the others are not covered) or providing additional information explaining the data behind the numbers. It was agreed that the language needs to be clear, and that there should be a central site (e.g. Citizens Advice) which you base the comparison on.

If Personal Projection is removed, 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?

- 6.5. Some participants suggested that the same methodology needs to be applied across sites if consistency is to be assured.
- 6.6. There was general agreement that the key principles of the pre-2015 content could be useful, with one PCW suggesting that these elements help PCWs deal with potential supplier gaming.
- 6.7. A suggestion was made that it would be good to have the ability to 'lose' the requirements (e.g. be able to show prices after applying all the discounts)
- 6.8. Some of the challenges the pre-2015 content needs to address are:
- How to deal with offers with a duration less than one year;
  - Some stakeholders thought the TDCVs used by Ofgem are not a good representation for many customers, PPM customers in particular.

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

- 6.9. Ofgem suggested that 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.
- 6.10. Some stakeholders suggested that there would be no need to include it in the Code as the principle of comparability is inherent in business models anyway, or if it's already included somewhere else.
- 6.11. Some said that it would be redundant to have this principle in relation to PCWs, especially given their contractual arrangements with suppliers, who will be covered by the principle. Similarly, suppliers might not want to work with ones that are misleading or miss-selling.
- 6.12. Some attendees were supportive of including aspects of any new SLC comparability principle within the Code.

If White Label sites could be Code accredited, what would be the **benefits/drawbacks to consumers?**

- 6.13. Ofgem said that 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. We want to understand the drawbacks of such an approach, and sought stakeholder views.

Different views were expressed:

- 6.14. Some attendees said it would dilute the Confidence Code brand, whilst other said it would bolster it because it would increase the visibility of the brand as more consumers have visibility of it.
- 6.15. One participant said that if consumers feel it is beneficial and improves trust then it is a good thing
- 6.16. One attendee said that accreditation could stifle innovation as white labels could offer services that benefit consumers but don't meet the criteria of the code.
- 6.17. One PCW suggested the concept of a second tier stamp of approval for white label sites.
- 6.18. There was some suggestion that existing white labels don't have an interest in signing up to the code, and the inclusion would not make a huge impact to consumers. Whilst one WL said they would probably apply for accreditation.

How could we ensure **consistency** across sites? How could we ensure that sites **appoint suitably qualified auditors**? How could we ensure that the **audit costs are reasonable and not prohibitive** to new entrants?

- 6.19. Ofgem set out that the main changes being considered are for (i) sites to fund and procure their own audit services; (ii) audits to be completed by external and independent auditors; (iii) considering the benefits of aligning legacy sites with a new fit for purpose application agreement to reflect the Code and process changes.
- 6.20. We also highlighted potential areas of no change as (i) Ofgem still conducts monitoring/compliance checks; (ii) Ofgem continues to take the audit reports into account in its decisions around accreditation and compliance.
- 6.21. There was agreement that Ofgem needs to set the audit standards clearly. Different options were suggested in relation to who and how the audit function should be performed:
  - Given clear requirements are provided by Ofgem, any qualified auditor could provide the function to individual PCWs;
  - Some stakeholders felt it would be difficult for external firms to do the audit, so there could be a principle to require PCWs to self-assess and demonstrate how they comply with the Code;
  - Some stakeholders were in favour of one organisation providing the audit function and extend the function to be a continuous 'health check' rather than an annual exercise, and costs should be kept proportionate to companies (e.g. new entrants).
  - There was a discussion around flexibility over sharing auditors and not stipulating Big Four accounting firms. It was felt that as long as certain criteria were met then it would be fine for sites to appoint their own auditors e.g. they must be independent, a member of a professional body etc.
  - There was a suggestion that PCWs should choose from an Ofgem approved list of auditors.

- It was suggested that the requirement to pay for an audit was not a significant barrier to entry if the cost was not unreasonable.
- A stakeholder suggested that white labels could have a different audit process, as they are not responsible for the technical performance of their search engine.

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?

6.22. Ofgem raised a number of considerations for timing that should be acknowledged 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.

6.23. Stakeholders were split on the timings of changes. Some attendees thought consistency was important, for example tackling both issues in tandem or immediate action to remove WoM parallel with RMR changes. Others disagreed and were concerned that changing too much simultaneously could result in loss of control, and that this reform would not make a big difference as customers can already de-select whole of market on PCWs anyway.

## 7. Session 7– Stakeholder Engagement

7.1. Ofgem is seeking stakeholder views on the best way to engage during the implementation of the remedies. Ofgem requests that stakeholders complete the following survey which asks for areas of interest and preferred methods of communication.

7.2. The link for the stakeholder survey is: <https://www.surveymonkey.co.uk/r/2KFGW98>. Please complete the survey by **Wednesday 22nd June 2016**.

7.3. The point of contact for stakeholder queries is [remedies@ofgem.gov.uk](mailto:remedies@ofgem.gov.uk).