

Confidence Code Review 2016

Consultation

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Overview:

Ofgem referred the energy market to the Competition and Markets Authority (CMA) in 2014, and on 24 June 2016 it published its final report. We welcome the CMA's final decisions and the comprehensive investigation that has taken place to reach them.

Certain remedies will directly or indirectly impact on Ofgem's Confidence Code, a voluntary code of practice for domestic price comparison services (referred to in this document as the Code).

In this document, we are consulting on possible changes to the Confidence Code relating to the CMA's recommendations.

We welcome your views on our proposals. This consultation closes on 28 September 2016 and responses should be sent to Confidencecode@ofgem.gov.uk.

Context

Ofgem's principal objective is to protect the interests of both existing and future energy consumers.

Third Party Intermediaries (such as price comparison websites) are increasingly helping domestic consumers to engage. For example, our 2016 consumer engagement survey¹ found that 51% of consumers who switched or compared in the last 12 months found out about their deal through an online price comparison website (up from 39% in 2014).

The CMA recognised this too, in its final report². Specifically it outlined their role in: raising consumer awareness of switching, reducing search costs, and exerting competitive pressure on suppliers³. Within the final remedies package⁴ the CMA has included remedies to improve price comparison websites' incentives to participate in the retail energy markets and help them offer consumers a better service.

Ofgem is committed to acting on the CMA's final recommendations. We are consulting on implementing initial changes to the Confidence Code.

¹ <https://www.ofgem.gov.uk/publications-and-updates/consumer-engagement-energy-market-retail-market-review-2016-survey-findings>

²

https://assets.publishing.service.gov.uk/media/576d3f15e5274a0da9000092/energy_market_final_report.pdf

³ CMA, Energy Market Investigation, Final Report, paragraph 13.262, <https://assets.publishing.service.gov.uk/media/5773de34e5274a0da3000113/final-report-energy-market-investigation.pdf>

⁴

https://assets.publishing.service.gov.uk/media/576d3f15e5274a0da9000092/energy_market_final_report.pdf

Associated documents

- Ofgem, 03/08/2016, "Helping consumers make informed choices – proposed changes to rules around tariff comparability and marketing"
<https://www.ofgem.gov.uk/publications-and-updates/helping-consumers-make-informed-choices-proposed-changes-rules-around-tariff-comparability-and-marketing>
- Competition and Markets Authority, June 2016, Final Report
<https://assets.publishing.service.gov.uk/media/5773de34e5274a0da3000113/final-report-energy-market-investigation.pdf>
- Ofgem, 25/05/2016, Stakeholder workshop slides and notes.
<https://www.ofgem.gov.uk/publications-and-updates/stakeholder-workshop-cma-rmr-and-whole-market-remedies-25052016>
- Ofgem, 23/5/2016, – open letter re. CMA's Whole of Market (WoM) statement.
https://www.ofgem.gov.uk/system/files/docs/2016/05/ccr16_site_letter_-_may_wom_final.pdf
- Ofgem, 14/04/2016, – open letter re. RMR
https://www.ofgem.gov.uk/system/files/docs/2016/04/supplier_letter-removal_of_simpler_rmr_rules_14.04_0.pdf
- Competition and Markets Authority, March 2016, Provisional Decision on Remedies.
<https://assets.publishing.service.gov.uk/media/5706757340f0b6038800003b/Provisional-decision-on-remedies-EMI.pdf>
- Ofgem, Confidence Code
https://www.ofgem.gov.uk/sites/default/files/docs/2015/03/confidence_code_-_code_of_practice_0.pdf

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Executive Summary

In its final report⁵, the CMA has included remedies aimed at enhancing the role of price comparison websites, and enabling them to deliver better outcomes for consumers through more effective competition.

Ofgem supports the CMA's final remedy package, and is committed to implementing it in a way that maximises benefits to consumers.

Remedies that impact Ofgem's Confidence Code

One of the CMA's remedies is focused directly on Ofgem's Confidence Code (the Code). This remedy is a recommendation for Ofgem to:

*"remove the Whole of the Market Requirement in the Confidence Code and introduce a requirement for PCWs⁶ accredited under the Confidence Code to be transparent over the market coverage they provide to energy customers."*⁷

The CMA has also recommended we remove⁸ a number of measures we introduced as part of our Retail Market Review (RMR). This will affect the Code, as it directly references two of the tools introduced under RMR⁹ and we will need to change it to ensure that our regulations remain consistent and coherent.

This is a complex remedy and has a number of implications for the operation of the Confidence Code. In order to address these and mitigate any potential risks, for example to our ability to audit compliance with the Code, our view is that we should not move straight to consulting on full removal of the Whole of Market (WoM) requirement at this stage.

We are proposing an intermediate step as this will allow us to realise significant consumer benefits as quickly as possible, whilst considering the mitigation of risks and uncertainties involved in full implementation of the remedy. We propose to remove some of the changes we made to strengthen the WoM requirement in the 2015 Code Review¹⁰ (specifically changes around the requirements on default views, filter choice, filter wording/testing and listing of exclusive site/supplier deals). We also propose to make consequential amendments to the Code around Personal Projection, to ensure consistency with the overall CMA package of remedies. Details are in Chapter 2 and Chapter 3.

If we proceed with this approach, we could then consult on whether to remove the WoM requirement in full, with consequential amendments, at a later date.

The changes proposed in this approach would allow price comparison sites increased flexibility on how they display tariffs. This would give them an increased incentive to innovate

⁵ https://assets.publishing.service.gov.uk/media/576d3f15e5274a0da9000092/energy_market_final_report.pdf

⁶ Price comparison websites

⁷ CMA, Energy Market Investigation, Final Report, Summary, paragraph 239 (p56), <https://assets.publishing.service.gov.uk/media/5773de34e5274a0da3000113/final-report-energy-market-investigation.pdf>

⁸ The RMR Remedy, defined in the glossary.

⁹ Personal Projection and Tariff Information Label.

¹⁰ See glossary.

and potentially work with suppliers on a wide choice of good value tariffs and exclusive deals for consumers¹¹.

Our policy proposals

This document contains a number of policy proposals, which we are seeking your views on. These include:

- A proposal to make changes to the Code around the Code requirements on default views, filter choice, filter wording/testing and listing of exclusive site/supplier deals (details in Chapter 2). This will allow accredited sites to show a Partial View¹² by default, allowing them to show only those tariffs the consumer can apply to switch to or enter into contracts for, via the site. This should facilitate more innovation and flexibility, and enhance the effectiveness of the CMA's RMR Remedy.
- A proposal to replace the Personal Projection methodology with a number of pre-2015 Code requirements around the treatment of discounts in the calculation of estimated annual costs (details in Chapter 3). The removal of the use of the prescriptive Personal Projection methodology is proposed to ensure consistency with the proposal to remove the equivalent requirement from the supply licence¹³ following the CMA's RMR Remedy.
- A proposal to retain the Tariff Information Label (TIL) requirement, but change its current format to make it consistent with the RMR Remedy¹⁴ (details in Chapter 3).

We believe that our policy proposals will ensure that there is a consistent and coherent regulatory environment, which is focused on quickly implementing the CMA's package of remedies in a way that maximises benefits to consumers, while mitigating risks of any unintended consequences.

Next steps

We welcome your views on all of our proposals. This consultation will be open for 8 weeks and will end on 28 September 2016. Please respond using the contact details on the front page. We will publish a summary of responses and details of any further work later this year.

¹¹ This is set out in further detail in Chapter 2.

¹² Defined in glossary.

¹³ <https://www.ofgem.gov.uk/publications-and-updates/helping-consumers-make-informed-choices-proposed-changes-rules-around-tariff-comparability-and-marketing>

1. Introduction

Background to the Confidence Code

1.1. Third Party Intermediaries (such as price comparison websites) are increasingly helping domestic consumers to engage. For example, our 2016 consumer engagement survey¹⁵ found that 51% of consumers who switched or compared in the last 12 months found out about their deal through an online price comparison website (up from 39% in 2014).

1.2. The CMA believes that TPIs are an important means by which effective competition can develop in the domestic retail market. In its final report¹⁶, it outlined three remedies aimed at enhancing the incentives and ability of sites to participate in the domestic retail energy market and enabling sites to offer consumers a better service: the WoM Remedy¹⁷; the ECOES/DES remedy and the Midata remedy (the majority of this consultation is concerned with the first of these remedies, whilst Chapter 4 contains more details around the other two remedies).

1.3. We are also keen to see TPIs innovating and providing useful services to consumers. Recognising the important role played by price comparison sites, Ofgem took over the Confidence Code, a voluntary code of practice for domestic energy PCWs, from Consumer Focus in 2013.

1.4. The Code aims to help consumers to feel confident that they are receiving an independent, transparent, accurate and reliable service when using an accredited site which displays the Ofgem Confidence Code logo. There are currently 12 price comparison websites accredited under the Code.¹⁸ The Code sets out minimum requirements that an accredited price comparison website for domestic gas and electricity consumers must meet in order to be, and remain, accredited by Ofgem. We monitor compliance with this voluntary Code via an auditing programme, and the ultimate sanction for non-compliance is removing accreditation (as documented under the application agreement between Ofgem and the accredited price comparison websites).

1.5. Our last Confidence Code Review concluded in March 2015 (2015 Code Review)¹⁹. As part of this, we consulted on changes²⁰ to strengthen the protections that the Code provides consumers.

¹⁵ <https://www.ofgem.gov.uk/publications-and-updates/consumer-engagement-energy-market-retail-market-review-2016-survey-findings>

¹⁶ CMA, Energy Market Investigation, Final Report, paragraph 13.264, <https://assets.publishing.service.gov.uk/media/5773de34e5274a0da3000113/final-report-energy-market-investigation.pdf>

¹⁷ See glossary.

¹⁸ <https://www.ofgem.gov.uk/information-consumers/domestic-consumers/switching-your-energy-supplier/confidence-code>

¹⁹ Policy Decision Document:

https://www.ofgem.gov.uk/sites/default/files/docs/2015/01/confidence_code_review_-_january_2015_policy_decision_0.pdf

Current Confidence Code:

https://www.ofgem.gov.uk/sites/default/files/docs/2015/03/confidence_code_-_code_of_practice_0.pdf

²⁰ https://www.ofgem.gov.uk/sites/default/files/docs/2015/01/confidence_code_review_-_proposed_drafting_to_reflect_jan_2015_policy_changes.pdf

1.6. In particular, the 2015 Code Review strengthened the existing whole of market (WoM) requirement²¹ by ensuring accredited price comparison websites had to display all tariffs in the market unless consumers made an *informed and active choice* to see a restricted list, and the messaging used to describe this choice had to be clear and intelligible. Before the review, we were concerned that some price comparison websites were not clearly informing consumers of the market view they were seeing (eg leading consumers to believe that they could only switch to tariffs for a limited time only, or that the only tariffs available to them were those that could be switched to through that site).

1.7. In addition, the 2015 Code Review also brought the Code up to date by referring to tools such as the Tariff Information Label (TIL)²² and Personal Projection²³ that were introduced as part of the Retail Market Review (RMR) in 2013²⁴.

Competition and Markets Authority energy market investigation

1.8. Ofgem referred the energy market to the CMA in 2014, and on 24 June 2016 the CMA published its final report, setting out its decision on remedies²⁵. We welcome its final decisions and the comprehensive investigation that has taken place to reach them.

1.9. Certain remedies will directly or indirectly affect the Code. This consultation focuses on two specific remedies²⁶.

1. WoM Remedy: The removal of the WoM requirement set out in the Confidence Code.
2. RMR Remedy: The CMA's recommendation for Ofgem to remove certain standard licence conditions (SLCs) concerning the 'simpler choices' component of the RMR rules and to make any consequential SLC amendments. As part of our implementation of this remedy, we are also consulting on affected aspects of the 'clearer information' component of the RMR rules, including the tariff information label and the Personal Projection. This remedy indirectly affects the Code.

WoM Remedy

1.10. In its final report, the CMA recommended that "*Ofgem remove the Whole of the Market Requirement from the Confidence Code and requires 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).*"²⁷

²¹ See glossary.

²² We introduced requirements for accredited sites to include a TIL for each of the tariffs displayed on their site, both current and new ones, accessible either on or from the main results page.

²³ We introduced requirements for accredited sites to use the Personal Projection methodology to calculate the costs of a tariff in all circumstances, ie for all suppliers, and for all tariffs, both current and new.

²⁴ https://www.ofgem.gov.uk/sites/default/files/docs/decisions/the_retail_market_review_-_implementation_of_simpler_tariff_choices_and_clearer_information.pdf

²⁵ https://assets.publishing.service.gov.uk/media/576d3f15e5274a0da9000092/energy_market_final_report.pdf

²⁶ With the exception of the description of 'other initiatives' within the Chapter 5.

²⁷ CMA, Energy Market Investigation, Final Report, paragraph 13.278, <https://assets.publishing.service.gov.uk/media/5773de34e5274a0da3000113/final-report-energy->

1.11. The aim of this remedy is to help sites promote competition to the benefits of domestic consumers. More specifically:

"(a) it will promote the incentive accredited PCWs have to invest in services in the domestic retail energy markets and to promote the use of these services, helping to increase domestic customer engagement;

(b) it will enhance the effectiveness of the remedy to remove certain aspects of the simpler choices component of the RMR rules as it will facilitate the negotiation of exclusive deals by accredited PCWs; and

(c) it will allow PCWs to manage any attempts by suppliers to game to their advantage the removal of the relevant aspects of the simpler choices component of the RMR rules (in particular, the constraints on the number of tariffs a supplier can offer) by releasing many similar priced tariffs in order to crowd out competitors on PCW results pages."²⁸

RMR Remedy

1.12. In its final report²⁹, the CMA outlined that certain SLCs relating to the 'simpler choices' component of the RMR rules should be removed. The CMA outlined that the current rules were limiting suppliers' ability to innovate, and softened competition between price comparison websites. It proposed removing the SLCs concerning the ban on complex tariffs, the four-tariff rule, the ban on certain discounts, bundled products and certain reward points, and the simplification of cash discounts. The CMA also proposed that we make any consequential SLC amendments³⁰, in light of the restrictions being recommended under the RMR Remedy.

1.13. This remedy has an indirect impact on the Code because:

- a) As stated by the CMA³¹, the Code's WoM requirement risks reducing the effectiveness of the removal of the relevant aspects of the simpler choices component of the RMR rules, by reducing the ability and incentive on the part of suppliers and accredited sites to negotiate exclusive deals available via particular sites.

[market-investigation.pdf](#)

²⁸ CMA, Energy Market Investigation, Final Report, paragraph 13.279
<https://assets.publishing.service.gov.uk/media/5773de34e5274a0da3000113/final-report-energy-market-investigation.pdf>

²⁹ CMA, Energy Market Investigation, Final Report, Summary, paragraph 214 (p50)
<https://assets.publishing.service.gov.uk/media/5773de34e5274a0da3000113/final-report-energy-market-investigation.pdf>

³⁰ CMA, Energy Market Investigation, Final Report, paragraph 20.26
<https://assets.publishing.service.gov.uk/media/5773de34e5274a0da3000113/final-report-energy-market-investigation.pdf>

³¹ CMA, Energy Market Investigation, Final Report, paragraph 13.277
<https://assets.publishing.service.gov.uk/media/5773de34e5274a0da3000113/final-report-energy-market-investigation.pdf>

- b) The consequential SLC amendments identified during our analysis of the RMR Remedy include changes in relation to two of the RMR clearer tools, ie Personal Projection and TIL³². The Code currently requires sites to use both of these.

Code change process and stakeholder engagement

1.14. Since the CMA's provisional decision on remedies was published in April 2016, we have been considering the impacts the remedies would have on the Confidence Code. Our immediate focus has been on the WoM Remedy and RMR Remedy (a summary of the links to other remedies is in **Chapter 4**).

1.15. In order to amend the Code, its 'Change process'³³ requires us to "send recommendations [on future changes] to Service Providers to get their views, and ask for suppliers' views if required (depending on the issue)". In accordance with this provision and to better aid our understanding ahead of policy development, we are using this consultation to seek stakeholder views. Given the potential for this change to impact multiple stakeholder groups, we will be consulting widely on the changes to the Code.

1.16. In our response³⁴ to the CMA's provisional decision, we outlined that 'we plan to implement this (WoM) remedy and consult on other consequential Confidence Code changes in parallel with the removal of RMR 'simpler rules.' Removing the WoM requirement, would result in various changes to the Code; including the requirements on filtering and the inclusion of all tariffs, suppliers and payment types. Consequential changes to other associated documents would also be required and an alternative accreditation and auditing methodology would need to be developed'.

1.17. On 25 May 2016 we held an industry workshop (our 'May 2016 workshop') on the WoM Remedy and RMR Remedy.³⁵ We presented a summary of our analysis on the Code impacts of the WoM Remedy and RMR Remedy. We held discussion sessions where (among other things), we asked for stakeholder views on various aspects of these remedies. The views expressed at the May 2016 workshop were considered in drafting this consultation.

Scope and timings of Confidence Code Review 2016

1.18. As a result of our analysis, we consider the following as fundamental to our decision on scope and timing of our work on this:

- a) RMR Remedy: indirect changes to the Code required as a result of our analysis of the RMR Remedy implementation, should be implemented at the same time as the SLC changes being made in relation to that remedy.
- b) WoM Remedy: removing the WoM requirement is a big change to the Confidence Code as this has been a fundamental part of it for many years. This could

³² <https://www.ofgem.gov.uk/publications-and-updates/helping-consumers-make-informed-choices-proposed-changes-rules-around-tariff-comparability-and-marketing>

³³ Ofgem Confidence Code, Appendix 1, page 14

https://www.ofgem.gov.uk/sites/default/files/docs/2015/03/confidence_code_-_code_of_practice_0.pdf

³⁴ <https://assets.publishing.service.gov.uk/media/571748c840f0b642e8000012/ofgem-response-to-pdr.pdf>

³⁵ <https://www.ofgem.gov.uk/publications-and-updates/stakeholder-workshop-cma-rmr-and-whole-market-remedies-25052016>

potentially have far-reaching implications for price comparison websites, suppliers and consumers and will certainly require changes to the way in which Ofgem currently administers the Code, including audit.

1.19. Removal of the WoM requirement is a complex remedy and has a number of implications for the operation of the Confidence Code. In order to address these and mitigate any potential risks, for example to our ability to audit compliance with the Code, our view is that we should not move straight to consulting on full removal of the WoM requirement at this stage.

1.20. We are proposing an intermediate step as this will allow us to realise significant consumer benefits as quickly as possible, whilst considering the mitigation of the risks and uncertainties involved in full implementation of the remedy. We propose to remove some of the changes we made to strengthen the WoM requirement in the 2015 Code Review³⁶ (specifically changes around the requirements on default views, filter choice, filter wording/testing and listing of exclusive site/supplier deals). We also propose to make consequential amendments to the Code around Personal Projection, to ensure consistency with the overall CMA package of remedies. Details are in Chapter 2 and Chapter 3.

1.21. The changes proposed in this approach would allow price comparison sites increased flexibility on how they display tariffs. This would give them an increased incentive to innovate and potentially work with suppliers on a wide choice of good value tariffs and exclusive deals for consumers.

1.22. If we proceed with this approach, we could then consult on whether to remove the WoM requirement in full, with consequential amendments, at a later date.

³⁶ https://www.ofgem.gov.uk/sites/default/files/docs/2015/01/confidence_code_review_-_january_2015_policy_decision_0.pdf

2. Whole of market proposals on changes to the Confidence Code

Chapter Summary

This chapter outlines our proposals with regard to the Whole of Market requirement in the Code.

We are proposing the removal of some of the changes we made to strengthen the WoM requirement in the 2015 Code review and the impact of the RMR Remedy on the use of Personal Projection within the Code (within this consultation).

The chapter starts by outlining the background to the Whole of Market requirement. It then describes our proposed approach, and the specific policy proposals that we are consulting on. These include amendments to requirements around the partial default view, filter choice, and filter wording/testing.

Questions in this chapter

Question 1: Do you agree that we should implement the proposed removal of some of the changes we made to strengthen the WoM requirement in the 2015 Code review? If not, please:

- explain why
- suggest and explain any alternative proposals

Question 2: With reference to Table 2, do you agree with our rationale, and proposed policy changes around the **partial default view**? If not, please:

- explain why
- suggest and explain any alternative proposals

Question 3: With reference to Table 2, do you agree with our rationale, and proposed policy changes around the WoM **filter choice**? If not, please:

- explain why
- suggest and explain any alternative proposals

Question 4: With reference to Table 2, do you agree with our rationale, and proposed policy changes around the WoM **filter wording/testing**? If not, please:

- explain why
- suggest and explain any alternative proposals

Question 5: Do you agree that sites should test the prominence, clarity and intelligibility of their messaging with consumers and that Ofgem should monitor this? If not, please:

- explain why
- suggest and explain any alternative proposals

Question 6: With reference to Table 3, do you agree that the proposed Code wording reflects our proposals? If not, please:

- explain why
- suggest and explain any alternative proposals

Background

2.1. The Confidence Code has required accredited price comparison websites to display a WoM comparison since Ofgem took over the administration of the Code from Consumer Focus. This ensures that sites are held to a higher standard than unaccredited sites, as they

make a WoM comparison available (regardless of their commission arrangements). Requirements 2(A) – 2(C) of the current Confidence Code require accredited PCWs to:

'...use all reasonable endeavours to include price comparisons for all available domestic tariffs, where applicable for all available payment types, for licensed suppliers (including for any agents, affiliates, and brands operating under the licence of a supplier), for gas, electricity and dual fuel (excluding social tariffs, tariffs which the supplier has requested the Service Provider to remove from its Price Comparison Service, or tariffs which are available only to consumers in a specified region, to consumers that are not within that specified region).' (Requirement 2(A))

'...use all reasonable endeavours to include information on Historic Tariffs for the purposes of comparison if a consumer's current tariff is a Historic Tariff.' (Requirement 2(B))

'...notify Ofgem in the event of being asked by an energy supplier to remove a tariff from its Price Comparison Service, which to the best of that Service Provider's knowledge is still available to consumers.' (Requirement 2(C))

2.2. Before 1 April 2015, the Confidence Code allowed price comparison websites to configure their results page to display, as a default, only those tariffs that a consumer can switch to through their price comparison website and not the whole of the market including tariffs for which sites received no commission. They could do this provided a WoM view was quickly and easily available from the results page and that there was a clear statement explaining that only a subset of tariffs is shown on the results page.

Issues prior to 2015

2.3. During 2014, some external stakeholders suggested that consumers couldn't easily compare the entire market through price comparison websites. Our own monitoring and auditing showed that these sites interpreted existing Code requirements differently, and the way that some explained default results and filters could be improved. Misleading wording was used by some price comparison websites on the results page, specifically, wording which:

- did not clearly inform the consumer that they were seeing a results page displaying a partial view of the market;
- did not clearly inform the consumer that a WoM comparison was available; and
- misled the consumer to believe that they were only able to switch to tariffs for a limited time only, or that the only tariffs available to them were those that could be switched to through that site.

Code changes made in 2015

2.4. We consider that price comparison websites should be transparent in the information and advice they provide, so that consumers can be confident that these sites are acting in an unbiased way and that consumers are not being misled. Our 2015 Code Review made changes to strengthen the requirements around WoM display. These included:

- to require that consumers see a WoM comparison unless they make an active and informed choice to see a smaller number of tariffs. This was by introducing new rules into the Code that sites must adhere to when presenting information to consumers about the availability of partial and WoM comparisons, and the view that they are

seeing. We introduced requirements to make sure messaging was clear at key stages in the consumer journey, namely the input and results stages (Requirement 5(F));

- at the user input stage, where PCWs do not automatically show all tariffs on the market, a Partial View was no longer allowed as a default. Sites must require consumers to actively choose between a whole or partial view. Messaging should be clear and intelligible so that consumers understand what portion of the market they are seeing on the results page (Requirements 5(Gi-iii));
- if a consumer has selected to receive a partial market view, they must be able to quickly and easily access a WoM view from the results page. Messaging should be clear and intelligible and in a prominent position, explaining that the customer is seeing a partial market view, and a WoM view is available (Requirements 5(Hi-ii)); and
- to require sites to test their messaging with consumers and make their methodology, sample size and results of this testing available to Ofgem (Requirement 5(I)).

Developments since the 2015 changes

2.5. Since the amendment to Requirement 5 in April 2015, which required price comparison websites to display a WoM as a default (referred to as 'the strengthening of the WoM requirement') accredited sites have highlighted to us that being required to show all tariffs as a default, regardless of whether or not they receive commission for a switch, was damaging their individual business models.

2.6. Analysis by the CMA indicated a reduction in the number of fulfillable³⁷ tariffs in the top 10 (cheapest tariffs) since the strengthening of the WoM requirement in 2015. The analysis also found evidence to show that the number of acquisitions of consumers via sites (as a proportion of total acquisitions) had fallen³⁸. It indicated that if this trend were to continue it could undermine the incentives on sites to participate in the energy market³⁹.

2.7. Simultaneously, the CMA looked into how its proposed remedy to remove aspects of the simpler choices component of the RMR rules (RMR Remedy) could be impacted by the existence of the WoM requirement. In particular it considers that⁴⁰:

- a) the WoM requirement risks reducing the effectiveness of the RMR Remedy⁴¹, by reducing the ability and incentive on both suppliers and accredited sites to negotiate exclusive deals available via particular sites.

³⁷ See glossary.

³⁸ CMA, Energy Market Investigation, Final Report, paragraph 13.272, <https://assets.publishing.service.gov.uk/media/5773de34e5274a0da3000113/final-report-energy-market-investigation.pdf>

³⁹ CMA, Energy Market Investigation, Final Report, paragraph 13.273-13.276, <https://assets.publishing.service.gov.uk/media/5773de34e5274a0da3000113/final-report-energy-market-investigation.pdf>

⁴⁰ CMA, Energy Market Investigation, Final Report, paragraph 13.277, <https://assets.publishing.service.gov.uk/media/5773de34e5274a0da3000113/final-report-energy-market-investigation.pdf>

⁴¹ Specifically the removal of the four-tariff rule.

- b) suppliers could also game the removal of aspects of the simpler choices component of the RMR rules by releasing many similar-priced tariffs to crowd out competitors showing on accredited sites (which could also be confusing for consumers).
- c) the WoM requirement could become impractical with an increased number of tariffs offered in particular where sites agree different tariff levels and commissions with energy suppliers.

2.8. Therefore, the CMA's final report recommended that Ofgem '*remove the Whole of Market Requirement from the Confidence Code and requires accredited [sites] 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 sites)*'⁴²

The proposed approach

2.9. Removing the WoM requirement is a big change to the Confidence Code as this has been a fundamental part of it for many years. This could potentially have far-reaching implications for price comparison websites, suppliers and consumers and will certainly require changes to the way in which Ofgem currently administers the Code, including audit. The current audit and accreditation process relies on being able to compare results across price comparison websites (a comparative audit approach). In the absence of WoM being displayed across sites, this audit approach would no longer be viable as there would be no guarantee that all sites would list all tariffs at any point in their consumer journey. The redesign of the audit and accreditation processes, the supporting approach to compliance, and the related contractual arrangements would be a significant task.

2.10. We are therefore proposing to take an intermediate step, of consulting on the removal of some of the changes we made to strengthen the WoM requirement in the 2015 Code review⁴³ and the impact of the RMR Remedy on the use of Personal Projection within the Code (within this consultation).

2.11. The overall aim of the CMA's remedy is to help ensure that the potential for price comparison websites to promote competition for the benefit of domestic customers is realised. This proposed approach will address the specific aims within the remedy as detailed in Table 1 below, whilst allowing for consideration of mitigation of the risks inherent in the full removal of the WoM requirement:

⁴² CMA, Energy Market Investigation, Final Report, paragraph 13.278, https://assets.publishing.service.gov.uk/media/576d3f15e5274a0da9000092/energy_market_final_report.pdf

⁴³ https://www.ofgem.gov.uk/sites/default/files/docs/2015/01/confidence_code_review_-_january_2015_policy_decision_0.pdf

Table 1: How the aims of the CMA WoM Remedy are being addressed in our proposed changes

Aim of CMA’s WoM Remedy (text taken from the CMA’s Final Report ⁴⁴)	Is this addressed by changes proposed
It will promote the incentive accredited PCWs have to invest in services in the domestic retail energy markets and to promote the use of these services, helping to increase domestic customer engagement;	Partly. Allowing sites to show a partial view as a default or pre-tick the filter to display a partial market view to consumers, gives more flexibility in their display of tariffs and increases incentives to innovate.
It will enhance the effectiveness of the remedy to remove certain aspects of the simpler choices component of the RMR rules as it will facilitate the negotiation of exclusive deals by accredited PCWs.	In full. Proposal for Code to be updated to clarify that exclusive deals do not need to be displayed as part of WoM.
It will allow PCWs to manage any attempts by suppliers to game to their advantage the removal of the relevant aspects of the simpler choices component of the RMR rules (in particular, the constraints on the number of tariffs a supplier can offer) by releasing many similar priced tariffs in order to crowd out competitors on PCW results pages.	Partly. Sites will have the ability to show a limited list of tariffs as a default, the messaging around this would need to be clear.

2.12. This approach would allow us to deliver significant benefits to consumers as quickly as possible, whilst considering the mitigation of risks and uncertainties involved in the remedy as a whole. As a result of the changes being proposed, price comparison sites would have increased flexibility on how they display tariffs. This should give them an increased incentive to innovate and potentially work with suppliers on a wide choice of good value tariffs and exclusive deals for consumers.

Question 1: Do you agree that we should implement the proposed removal of some of the changes we made to strengthen the WoM requirement in the 2015 Code review? If not, please:

- explain why
- suggest and explain any alternative proposals

⁴⁴ CMA, Energy Market Investigation, Final Report, paragraph 13.279, https://assets.publishing.service.gov.uk/media/576d3f15e5274a0da9000092/energy_market_final_report.pdf

Our policy proposal and Code changes

Policy proposal

2.13. The table below shows the changes that we are proposing to the default view, filter choice and filter wording/testing as well as our rationale for doing so. We are keen to hear your views on whether you agree with the proposed change and rationale.

2.14. We are proposing to allow sites to show a 'Partial View' as the default view for consumers. We are proposing to define Partial View as "a view of only those tariffs the consumer can apply to switch to or enter into contracts for, via the Service Provider's Price Comparison Service". This should allow sites more flexibility, promoting investment and innovation, whilst also providing an objective criteria upon which accredited sites are able to provide a default view. We also note that this proposal will sit alongside other, existing requirements of the Code to ensure that sites will continue to:

- ensure that where a consumer chooses to search by price, results are presented strictly by best price,
- taking filters into account... list no fewer than 10 of the cheapest tariffs available
- provide a prominent and clear messaging that the consumer is seeing a Partial View,
- clearly identify any supplier with whom it has a commission arrangement.

Table 2: WoM filter requirements – our proposal

Current Confidence Code	Proposed change	Policy rationale
Default view: accredited sites are not permitted to show consumers a partial view as a default; they must have a filter prior to the results page, or show WoM as a default.	Remove restriction – we propose to allow accredited sites to present a partial view as a default.	Gives sites more flexibility to innovate and differentiate themselves from their peers, hence promoting competition between PCWs. This is an aim of the CMA. In the absence of the 4-tariff rule, this change should help avoid potential gaming of suppliers in top 10s shown on results pages by removing the need for sites to display WoM as a default view.
Filter choice: if an accredited site uses a filter, then they must allow a consumer to make an active choice between a WoM view or a partial market view (no pre-tick/ filtering allowed by accredited sites).	Remove restriction – we propose to allow accredited sites to pre-tick the filter option of results for consumers.	Allowing sites to automatically filter results should reduce the incentive of suppliers to free-ride on the commission they pay sites, and therefore increase the incentive on suppliers to work with accredited sites. This should promote competition between sites.

<p>Filter wording/testing: sites are required to display a WoM view as a default unless their filter messaging is prominent, clear and intelligible. Sites are required to test this with consumers and provide Ofgem with details of the test methodology, sample size and results. The Code does not require us to approve the wording or the testing.</p>	<p>Retain– although the requirement around default WoM view is being removed, we propose to retain requirements around testing their messaging and ensure this applies to filters and partial views .</p>	<p>Provide protections against consumers being misled with the removal of the default WoM view.</p>
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Testing

2.15. Although we propose to allow PCWs to default or pre-tick a filter to show a Partial View, we believe it is important to protect consumers against being misled on what they are seeing. For this reason, we will retain the requirement that PCWs test the messaging for prominence, clarity and intelligibility and send us the test results.

2.16. We will give price comparison websites more guidance on the testing requirement to help them understand what we expect, and what principles we expect sites to follow in their testing to ensure that it is methodologically sound (eg testing should be proportionate to the size of the site).

2.17. From the point at which we implement the changes in this area, we will be closely monitoring price comparison website developments around the messaging they use. If we are concerned that any messaging has the potential to mislead consumers, then we may decide to test this independently (even if PCWs have sent us test evidence) and may request that the messaging be removed and improved.

Question 2: With reference to Table 2, do you agree with our rationale, and proposed policy changes around the **partial default view**? If not, please:

- explain why
- suggest and explain any alternative proposals

Question 3: With reference to Table 2, do you agree with our rationale, and proposed policy changes around the WoM **filter choice**? If not, please:

- explain why
- suggest and explain any alternative proposals

Question 4: With reference to Table 2, do you agree with our rationale, and proposed policy changes around the WoM **filter wording/testing**? If not, please:

- explain why
- suggest and explain any alternative proposals

Question 5: Do you agree that sites should test the prominence, clarity and intelligibility of their messaging with consumers and that Ofgem should monitor this? If not, please:

- explain why
- suggest and explain any alternative proposals

Proposed Code changes

Making the proposed changes outlined above will require changes to be made to current Code Requirements 5(F)-5(I). The table below details these changes and Annex 1 contains a full tracked changes version of the Code:

Table 3: WoM filter requirements – resulting Code changes

CURRENT Code Req. #	Current Code wording	Proposal and rationale	Revised Code wording
2(A)	<p>‘The Service Provider must use all reasonable endeavours to include price comparisons for all available domestic tariffs, where applicable for all available payment types, for licensed suppliers (including for any agents, affiliates, and brands operating under the licence of a supplier), for gas, electricity and dual fuel. The service provider is not required to show:</p> <ul style="list-style-type: none"> - social tariffs [...] - tariffs which the supplier has requested the Service Provider to remove [...] <p>tariffs which are available only to consumers in a specified region, to consumers that are not within that specified region.’</p>	<p>Amend – to provide clarity that special/exclusive deals between other sites and suppliers do not need to be listed under WoM for a particular site. This recognises the practical challenges in obtaining special/exclusive deal information from competitor websites. It also recognises that there will be more of an incentive on accredited PCWs to work with suppliers for the benefit of consumers, if these deals do not need to be displayed on competitor sites.</p>	<p>Additional bullet to existing 2(A) ‘...The Service Provider is not required to show: ...tariffs which are exclusive deals between a supplier and another Service Provider’.</p>
5(F)	<p>‘A Service Provider may display only those tariffs the consumer can switch to by using the links on the Service Provider’s Price Comparison Service only if the Service Provider meets the requirements outlined in (G), (H) and (I). If a Service Provider does not meet these requirements, it must display all the results as a default.’</p>	<p>Amend: sites are permitted to show a Partial View as a default option or by offering a filter option before the results page (but they must meet certain requirements around the messaging any time a Partial View is displayed or offered)</p>	<p>New Requirement 5(F): ‘A Service Provider may (subject to requirement 5(G) below) display a Partial View as default option or by offering a filter option before the results page.’</p>
5(Gi) and 5(Gii)	<p>‘Where a Service Provider does not display all the results as a default, the Service Provider must, at the point of filtering:</p> <ol style="list-style-type: none"> i. require consumers to actively choose whether they wish to view all the results or only tariffs they can switch to via the Service Provider’s Price Comparison Service. ‘ii. ensure that the latter option in (i) is not pre-selected as a filter; and...’ 	<p>Remove: no longer required to show an active customer choice at the point of filtering.</p>	<p>n/a – removing.</p>
5(Giii)	<p>‘...iii. ensure that messaging around this choice is prominent, clear and intelligible, so that consumers are aware what view of the market they will see on the results page.’</p>	<p>Amend: to provide extra clarity to ensure that if a site offers a filter at any point in the consumer journey, which may lead to a Partial View of only those tariffs the consumer can switch to via the site, then the messaging around this (including the filter wording itself) is not misleading.</p>	<p>New Requirement 5(G): ‘At any point of filtering which may lead to a Partial View, the Service Provider must ensure that messaging around this choice is prominent, clear and intelligible, so that consumers are aware what view of the market they will see on the results page.’</p>

5(Hi) and 5(Hii)	<p>‘Where all the results are not shown to the consumer, the Service Provider must, on the results page:</p> <p>i. ensure that the consumer can quickly and easily access the page that shows all of the results without re-entering their details or going back to a previous page or link; and</p> <p>‘ii. provide a clear and intelligible statement prominently on the results page explaining that the consumer is seeing a partial market view on the results page, and that they are able to access all of the results.’</p>	<p>Amend: to provide extra clarity that both of these limbs apply when any Partial View is displayed.</p>	<p>New Requirements 5(H)) – At any point where the Service Provider displays a Partial View (either as a default or after a filter is applied), the Service Provider must, on the results page: ensure that the consumer can quickly and easily access the page that shows All Results without re-entering their details or going back to a previous page or link; and provide a clear and intelligible statement prominently on the results page explaining that the consumer is seeing a Partial View on the results page, and that they are able to access All Results.</p>
5(I)	<p>‘A Service Provider must test the prominence, clarity and intelligibility of the messaging required to fulfil requirements (G) and (H) with consumers and provide information on the test methodology, sample size and results of this testing to Ofgem.’</p>	<p>Retain</p>	<p>New Requirement 5(I): As current wording but with updated references to (G) and (H)</p>
Definitions	<p>NA</p>	<p>Include a definition of Partial View, and All Results, as these concepts are used in the new code drafting</p>	<p>Partial View: means a view of only those tariffs the consumer can apply to switch to or enter into contracts for, via the Service Provider’s Price Comparison Service.</p> <p>All Results: means all tariffs within the scope of requirement 2A</p>

Question 6: With reference to Table 3, do you agree that the proposed Code wording reflects our proposals? If not, please:

- explain why
- suggest and explain any alternative proposals

3. Personal Projection: our proposal

Chapter Summary

This chapter outlines our proposed changes to the Personal Projection requirement in the Code.

We begin by describing the background to the Personal Projection changes. We then outline our policy proposal on the Personal Projection, namely that it should be removed and replaced with a number of the pre 2015 Code requirements, in order to promote consistency between price comparison websites.

The chapter ends by describing the specifics of the proposed Code changes.

Questions in this chapter

Question 7: Do you agree with our rationale, and proposed policy changes around the **removal of Personal Projection**? If not, please:

- explain why
- suggest and explain any alternative proposals

Question 8: Do you agree with our rationale, and proposed policy changes about including the **pre-2015 code content** on factors an accredited price comparison website should and should not include when deriving a consumer's estimated annual costs? If not, please:

- explain why
- suggest and explain any alternative proposals

Question 9: With reference to Table 4, do you agree that the proposed Code wording reflects our proposals? If not, please:

- explain why
- suggest and explain any alternative proposals

Question 10: Do you agree with our assessment that no changes are required to the TIL references within the Code?

Background

3.1. As part of the RMR reforms⁴⁵, we introduced new tools to help consumers engage with the market, and understand and compare tariffs. Two of these tools are the Personal Projection and Tariff Information Label (TIL). Both were designed to help consumers make well-informed tariff choices, based on accurate and up-to-date information:

- Personal Projection: introduced a standardised methodology for suppliers and their representatives to use when presenting consumers with the costs they would pay over the next 12 months, should they choose not to switch in the meantime.
- TIL: contains key information about a tariff in a standardised format, so that it is easier for consumers to compare tariff features on a like-for-like basis.

⁴⁵ <https://www.ofgem.gov.uk/ofgem-publications/39350/retail-market-review-final-domestic-proposals.pdf>

3.2. The 2015 Code Review introduced requirements for accredited websites to use the Personal Projection methodology⁴⁶ as a default when calculating the costs of a consumer's current and future tariffs⁴⁷. We also introduced requirements⁴⁸ for accredited websites to include a TIL for each tariff displayed on their site, accessible either on or from the main results page.

3.3. In its final report, the CMA recommend that certain SLCs concerning the 'simpler choices' component of the RMR rules should be removed (the RMR Remedy). Its analysis found that these rules were limiting suppliers' ability to innovate and softened competition between price comparison sites. It recommended removing SLCs concerning the ban on complex tariffs, the four-tariff rule, the ban on certain discounts, bundled products and certain reward points, and the simplification of cash discounts⁴⁹.

3.4. The CMA also recommends⁵⁰ that we make any consequential licence condition amendments in light of the restrictions that the CMA recommend removing, in particular the SLCs concerning the information tools introduced as part of the 'clearer information' component of the RMR rules, which includes Personal Projection and the TIL.

Our policy proposal and resulting Code changes: Personal Projection

Policy proposal

3.5. In parallel with this consultation, we have published other consultations on the CMA's RMR remedies. One of these, the policy consultation⁵¹ sets out further detail on our recommendations for changes, including on a proposed new principle we are considering for inclusion in the supply licence.

3.6. We are proposing some immediate changes to the Confidence Code in light of the proposal to remove Personal Projection from the SLCs in the RMR policy consultation "*Helping consumers make informed choices – proposed changes to rules around tariff comparability and marketing*"⁵². We are proposing to remove the Personal Projection requirements and replace them with relevant content from the pre-2015 Confidence Code, which outlined the factors an accredited price comparison site should consider when deriving a consumer's estimated annual costs.

⁴⁶ Based on the definition of Estimated Annual Costs in Standard Licence Condition 1: <https://www.ofgem.gov.uk/licences-codes-and-standards/licences/licence-conditions>

⁴⁷ Confidence Code requirements: 7(E), 7(F), 7(G), 7(H), 7(J), and 7(R).

⁴⁸ Confidence Code requirements: 2(D), and 7(Q).

⁴⁹ Ofgem supports these recommendations and has recently published an open letter (https://www.ofgem.gov.uk/system/files/docs/2016/04/supplier_letter-removal_of_simpler_rmr_rules_14.04_0.pdf), setting out our intention to deprioritise the enforcement of these rules.

⁵⁰ CMA, Energy Market Investigation, Final Report, paragraph 12.396, <https://assets.publishing.service.gov.uk/media/5773de34e5274a0da3000113/final-report-energy-market-investigation.pdf>

⁵¹ Two consultations have been published:

Statutory consultations to remove certain RMR Simpler Tariff Choices rules , <https://www.ofgem.gov.uk/publications-and-updates/statutory-consultations-removal-certain-retail-market-review-simpler-tariff-choices-rules>

A policy consultation in relation to new principles and amendments to the simpler tools.

<https://www.ofgem.gov.uk/publications-and-updates/helping-consumers-make-informed-choices-proposed-changes-rules-around-tariff-comparability-and-marketing>

⁵² <https://www.ofgem.gov.uk/publications-and-updates/helping-consumers-make-informed-choices-proposed-changes-rules-around-tariff-comparability-and-marketing>

3.7. Our intention in doing so is to give accredited price comparison sites a consistent approach to minimise the risk of consumers potentially being misled or confused by differences between individual sites. There was general agreement among the participants at the May 2016 workshop that this was sensible.

Pre-2015 Confidence Code content

3.8. The previous version of the Code included a requirement on what factors an accredited site should and should not include when deriving a consumer's estimated annual costs.

"...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; and,*
- 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)."*

Question 7: Do you agree with our rationale, and proposed policy changes around the **removal of Personal Projection**? If not, please:

- explain why
- suggest and explain any alternative proposals

Question 8: Do you agree with our rationale, and proposed policy changes around the inclusion of the **pre-2015 code content** on factors an accredited price comparison website should and should not include when deriving a consumer's estimated annual costs? If not, please:

- explain why
- suggest and explain any alternative proposals

Proposed Code changes

3.9. Making the proposed changes outlined above will require changes to be made to current Code Requirements. The table below fully details these changes (and Annex 1

contains a full tracked changes version of the Code) and we are keen to hear from you on whether you agree with the revised Code wording.

Question 9: With reference to Table 4, do you agree that the proposed Code wording reflects our proposals? If not, please:

- explain why
- suggest and explain any alternative proposals

Table 4: Personal Projection requirements – resulting Code changes

CURRENT Code Req. #	Current Code wording	Proposal and rationale	Revised Code wording
7(E)(F)(G) & (J)	<p>(E)Where a Service Provider provides a comparison for a time period, the estimated costs of all tariffs (including a consumer’s current tariff) must be calculated as a default using the methodology based on the definition of Estimated Annual Costs in Standard Licence Condition 1.</p> <p>(F)Where provided, estimated annual costs must be referred to as a ‘Personal Projection.</p> <p>(G)A Service Provider may, if it wishes, provide an additional alternative methodology to calculate estimated costs for the consumer’s current tariff and, where applicable, estimated savings, but this methodology must not be used as a default.</p> <p>(J) ‘If an alternative methodology is offered under (G), the consumer must be provided with a link on the results page allowing the consumer to switch from the default methodology to the alternative and vice versa.’</p>	<p>Remove: no longer referencing the Estimated Annual Costs prescriptive methodology from the SLC. Instead, proposing to replace this with pre-2015 Code wording which provided details of the factors which should and should not be considered in calculating estimated annual cost.</p>	<p>Unless otherwise specified by Ofgem, where a Service Provider provides a comparison for a time period, the estimated costs of all tariffs must take into consideration the factors in requirements [X] and [Y] below.</p> <p>[X] The factors that a Service Provider uses to base its calculations on should not include:</p> <ul style="list-style-type: none"> -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; and - 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.’ <p>[Y] After taking requirement [X] into account, the factors that a Service Provider uses to base its calculations on should include recurring discounts that are paid automatically:</p> <ul style="list-style-type: none"> - for paying by a certain method (e.g. monthly Direct Debit); - dual fuel discount; - compulsory paperless billing discounts; - fixed charges (e.g. a fixed monthly membership fee).’ <p>Requirement [X] takes precedence over requirement [Y]). For example, for a comparison period of 12 months, an automatic monthly Direct Debit discount paid after the first 12 months of a customer’s supply start date would not be included in the calculation</p> <p>Ofgem may review any new form of discount and issue Service Providers with a formal direction as to how such discount should be treated in relation to compliance with the Confidence Code. The formal direction shall have effect as if it were part of this document.</p>

7(Hi), 7(Hii), and 7(Hiii)	'At a minimum, a Service Provider must provide a link or message on the results page explaining how estimated costs of tariffs are calculated, including: i. that, if the consumer's fixed term tariff is coming to an end within 12 months from the date of calculation, the Personal Projection methodology assumes that the consumer will take no action and be rolled onto their current supplier's Relevant Cheapest Evergreen Tariff when their fixed term tariff ends; ii. details of any alternative methodology where offered; and iii. that the consumer may incur a termination fee if switching to a new tariff.'	Amend: 7H(i) and (ii) would no longer be applicable if Personal Projection methodology is not being followed, but (iii) is still valid.	At a minimum, a Service Provider must provide a link or message on the results page explaining how estimated costs of tariffs are calculated, including that the consumer may incur a termination fee if switching to a new tariff
7(I) & (K)	Where a Service Provider displays an estimate of the savings a consumer could make by switching to a tariff, as a minimum, a Service Provider must provide a link or messaging on the results page explaining how the savings figure is calculated, including: i. what two figures are used to calculate savings and assumptions behind these figures; and ii. that the savings figure is an estimate only, and will change if the consumer's situation changes. Messaging to fulfil requirements (H), (I) and (J) must be prominent, clear and intelligible.	Retain: still valid	As per existing wording

Our policy proposal and resulting Code changes: TIL

3.10. Under the RMR Remedy, we are proposing⁵³ to retain the TIL but amend its format. Stakeholders at the May 2016 workshop supported maintaining it. As the Confidence Code references the TIL, but not the detailed items in it, there is no intention to propose amendments to the Confidence Code in this area.

3.11. The RMR Remedy Consultation proposes to retain the TIL, as it is a key source of information for consumers about a tariff⁵⁴. By enabling consumers to access all the key information about their tariff in one place, it is designed to make comparison (and switching) easier.

3.12. We believe that the TIL is a valuable tool that facilitates a single location for all the information they need in order to understand, compare and switch their energy tariff.

⁵³ <https://www.ofgem.gov.uk/publications-and-updates/helping-consumers-make-informed-choices-proposed-changes-rules-around-tariff-comparability-and-marketing>

⁵⁴ The TIL currently includes: name of supplier; tariff name and type; payment method, unit rate and standing charge; tariff duration; exit fees; assumed annual consumption, average estimated annual cost and TCR.

3.13. However, in order to make it compatible with the changes we are proposing to make to the RMR rules, we are proposing⁵⁵ (as a consequential amendment related to the RMR remedy) to change the format of the TIL. We do not envisage that these changes to the format of TIL require us to make changes to the Code in this area, as the Code does not reference the details of the TIL.

Question 10: Do you agree with our assessment that no changes are required to the TIL references within the Code?

⁵⁵ <https://www.ofgem.gov.uk/publications-and-updates/helping-consumers-make-informed-choices-proposed-changes-rules-around-tariff-comparability-and-marketing>

4. Other Initiatives

Chapter Summary

This chapter lists and describes some other work areas that we believe may impact the Code in future. This chapter outlines some other initiatives which could affect price comparison sites at some point. Although these are not considered in scope, it is important to keep abreast of developments in these areas to ensure it's properly joined-up to our policy development work. Some of these are relate to CMA initiatives, while the other areas relate to other major Ofgem projects.

Questions in this chapter

Question 11: Do you agree that these initiatives are out of scope for this review and that we should monitor their progress to be aware of potential impacts in the future of these initiatives?

Question 12: Do you believe there are any other initiatives we should be keeping abreast of to ensure a joined-up approach to our policy development work?

Related CMA initiatives

Access to ECOES and DES⁵⁶

4.1. An erroneous transfer occurs when a consumer has their supply switched without their consent. Among other things, it can occur when a supplier picks the wrong supply point to switch or when a consumer provides the incorrect details (either directly to a supplier or via a price comparison site).

4.2. Two central databases (ECOES and DES) were originally designed to, among other things, assist suppliers in the customer transfer process by allowing them to cross-check the data they held for the customer before a customer transfer⁵⁷.

4.3. The CMA's Final Report found that customers face actual and perceived barriers to switching, such as where they experience erroneous transfers which have the potential to cause material detriment to consumers.⁵⁸ It has therefore proposed that price comparison sites be given access to the above databases to reduce actual and perceived barriers to switching resulting from erroneous transfers.

4.4. The MRA Executive Committee has commissioned a working group to review price comparison sites' access to ECOES. This group expects to consult on proposals later this year. Ofgem will continue to monitor the progress of this group as well as Xoserve's work to let sites access DES. In particular, we will review any potential implications for the Confidence Code.

⁵⁶ ECOES (the Electricity Central Online Enquiry Service) is managed by Gemserv, DES (Data Enquiry Service) is managed by Xoserv (and was originally known as SCOGES).

⁵⁷ Specifically Meter Points Administration Number ((MPAN)/Meter Point Registration Number (MPRN), address and meter serial number

⁵⁸ CMA, Energy Market Investigation, Final Report, paragraph 13.318

https://assets.publishing.service.gov.uk/media/576d3f15e5274a0da9000092/energy_market_final_report.pdf

Midata

4.5. Midata was launched in 2011 as a Government led voluntary programme working with industry to provide consumers access to their personal data in a portable, electronic format. One of its key aims is for individuals to be able to use this data to make more informed choices about products and services.

4.6. Phase 1 of the Midata programme in energy is complete and allows consumers to download consumption data as a CSV file. Consumers can open the file using a spreadsheet programme and/or upload the file to a Third Party Intermediary (TPI) to populate the details necessary for an accurate tariff comparison. The intention is for phase 2 of the programme to allow TPIs, with the consent of the consumer, to gain direct access to a consumer's Midata file electronically, without the need for the consumer to download and upload a CSV file.

4.7. The CMA's final report includes a remedy to change phase 2 of the Midata programme to give TPIs more flexibility in the way in which they can access Midata and also allow them to obtain more data items. The aim of this is to allow TPIs to monitor the market on behalf of their customers and advise them of savings which will be more closely personalised to their individual circumstance.⁵⁹

4.8. Changes to the Midata programme are likely to have an impact on accredited sites, but not necessarily to the Confidence Code. The Midata programme in energy is being led by BEIS and we will work with BEIS to understand if the implementation of phase 2 of the programme could have potential implications for the Confidence Code in the future.

Other related initiatives

Smart metering

4.9. The Great Britain smart metering rollout will create an unprecedented new platform for innovation in energy data – 53 million smart electricity and gas meters will be installed by energy suppliers in homes and small businesses by the end of 2020, each storing a consumer's consumption and tariff information. This platform will help wide range of new technologies and services to develop, as well as empowering consumers to take energy saving measures, enabling them to switch energy provider more smoothly and ending estimated bills.⁶⁰

4.10. Consumers will be in control of their own metering data and able to give their consent to third parties (including price comparison sites) to retrieve data from smart meters using the communications infrastructure being managed by the Data and Communications Company (DCC). This would give sites direct access to a consumer's half-hourly consumption and tariff information from when DCC goes live.⁶¹

⁵⁹ CMA, Energy Market Investigation, Final Report, paragraph 13.372
https://assets.publishing.service.gov.uk/media/576d3f15e5274a0da9000092/energy_market_final_report.pdf

⁶⁰ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/397291/2903086_DECC_cad_leaflet.pdf

⁶¹ Currently expected in August 2016.

4.11. Actual consumption and tariff information from a consumer's smart meter rather than estimates will allow price comparison sites to show real-time tailored best deals. Detailed consumption data will allow sites to recommend new time of use deals that are suited to a consumer's individual usage profile. Data held in DCC's smart inventory (address data, meter IDs, MPxNs) will help simplify and speed up the switching process.

4.12. Detailed consumption and tariff information could be used to provide a breakdown of spending on energy, including information on when energy was used. Comparisons between households (eg your household vs another with the same appliances) could provide detailed advice allowing consumers to use energy more efficiently.

4.13. If a consumer has given permission for a price comparison website to access the DCC's data, then the site will not need to ask the consumer detailed consumption questions. However, if they don't have access to the DCC data then the consumer may potentially need to input their consumption and tariff data in much more detail than the current annual figure which is currently standard across sites (eg if the consumer's current tariff is an innovative ToU tariff with multiple staged rates, then the amount of data a consumer would need to enter could be significant). If sites want to be able to offer a comparison to consumers on non-standard tariffs then they will need to find ways to respond to the tariff developments in the market. This will be a challenge as suppliers move away from standard tariff structures (eg towards real-time tariff offerings or tariffs which allow the consumer to choose their own peak periods).

Half-hourly settlement

4.14. The electricity market operates in half-hourly increments of time. Before a given half-hour, a supplier generally buys electricity to meet the expected demand of its customers in that period. However, in reality, its customers may consume more or less energy than expected.

4.15. Settlement reconciles discrepancies between a supplier's contractual purchases of electricity and the actual demand of its customers. A key aspect is identifying how much consumers use in each half-hour. Using actual half-hourly data in settlement is known as half-hourly settlement (HHS). This is the alternative to the current method of estimating usage patterns using profiles of average consumers.

4.16. Half-hourly settlement can help to achieve the outcomes we want to see for consumers: lower bills, reduced environmental impacts, enhanced security of supply, and a better quality of service.

4.17. In December 2015, we published an open letter⁶² with our plans to introduce half-hourly settlement for domestic and smaller non-domestic electricity customers. We said we thought the right first step was to remove the barriers to suppliers electing to settle customers half-hourly, and that in the longer term, we expect that we will need to mandate all suppliers to settle their customers on a half-hourly basis to realise the full benefits.

4.18. In May 2016 we published our conclusions paper from the elective workstream. This presented our conclusions on the barriers to elective half-hourly settlement, and indicates how these could be addressed by industry. We have agreed with the Secretary of State for Energy and Climate Change that we will remove the barriers to cost-effective elective half-hourly settlement by early 2017.

⁶² https://www.ofgem.gov.uk/sites/default/files/docs/final_open_letter_on_hhs.pdf

4.19. We do not envisage that adopting elective half-hourly settlement will have an immediate impact for the accredited price comparison sites in the short term. In the longer term, as the number of suppliers adopting this increases, then there is likely to be a growing impact on the tariff offerings coming to market. If there are Confidence Code requirements which restrict the accredited sites' ability to respond to the developments in the market, then these requirements will be evaluated at that time.

Question 11 Do you agree that these initiatives are out of scope for this review and that we should monitor their progress to be aware of potential impacts in the future of these initiatives?

Question 12 Do you believe there are any other initiatives we should be keeping abreast of to ensure a joined-up approach to our policy development work?

Appendices

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Appendix 1 – Revised Code drafting

1. Definitions

This section sets out the defined words and expressions used in the Confidence Code and gives their definitions next to them.

All Results	means all tariffs within the scope of requirement 2A.
Consumer Journey	means the steps a consumer may take when using a Price Comparison Service. Such steps include the Price Comparison Service’s energy homepage, the consumer data entry stage, and any other steps before an agreement is made on a specific tariff.
Historic Tariffs	means those tariffs that have legacy customers on them but are no longer available to new customers.
Partial View	means a view of only those tariffs the consumer can apply to switch to or enter into contracts for, via the Service Provider’s Price Comparison Service.
Price Comparison Service	means an internet-based price comparison service for domestic gas and electricity consumers, which can be a website or app.
Service Provider	means the provider of a Price Comparison Service.
Standard Licence Conditions	means the standard licence conditions for gas and electricity suppliers which are available at https://www.ofgem.gov.uk/licences-codes-and-standards/licences/licence-conditionsm
Tariff Information Label	has the same meaning as defined in Standard Licence Condition 1.

1. The requirements

Requirement one – Independence and impartiality

- (A) The Service Provider must be independent of any gas or electricity supplier. It can take commission from suppliers but this must not influence how it provides any information or data to consumers.

A Service Provider will be considered independent of any gas or electricity supplier when it is not an affiliate or related undertaking of any supplier or of a company that is an affiliate of any energy supplier.

- (B) A Service Provider must provide impartial advice, not advice that is biased in favour of or against any particular gas or electricity supplier.

A Service Provider will be treated as completely impartial only if it is not intended to operate, and does not have the effect of operating in practice, in a way that is biased in favour of or against any particular supplier.

- (C) The Service Provider must not present any information or data in such a way that is deemed by Ofgem to be, or potentially to be, misleading or confusing to consumers.

- (D) Where a consumer cannot automatically switch to their chosen supplier through the Service Provider's Price Comparison Service, the Service Provider must not recommend an alternative supplier.

- (E) Advertisements from energy suppliers, their agents, affiliates, or brands operating under the licence of a supplier must not be displayed on the home/main page or on the energy price comparison pages of the Service Provider's Price Comparison Service.

- (F) Where a consumer chooses to search by price, results must be presented strictly by best price.

Commission arrangements messaging

- (G) The Service Provider must clearly identify any supplier with whom it has a commission arrangement for switches completed through the Service Provider's Price Comparison Service. The requirement for clear identification shall be met where the supplier's name is listed as part of a single list which identifies all suppliers from whom the Service Provider receives a commission.

- (H) The list required in (G) must be prominently displayed, or be accessible from a prominent and clearly-labelled link, during the Consumer Journey.

- (I) The Service Provider must provide, alongside the list required in (G):
- i. a brief description of the Service Provider's business model if they take commission from suppliers. At a minimum, this description must state whether the Service Provider operates under a commission-based model; and

- ii. a statement explaining if, and where applicable, how any commission arrangements from suppliers influence the tariffs displayed on the results page, including where a Service Provider provides consumers with the choice to view only tariffs that a consumer can switch to through the Service Provider's Price Comparison Service.
- (J) Messaging to fulfil requirements (G) to (I) must be prominent, clear and intelligible.

Requirement two – Tariffs and price comparisons

- (A) The Service Provider must use all reasonable endeavours to include price comparisons for all available domestic tariffs, where applicable for all available payment types, for licensed suppliers (including for any agents, affiliates, and brands operating under the licence of a supplier), for gas, electricity and dual fuel. The Service Provider is not required to show:
- social tariffs (ie tariffs where consumer eligibility is based upon social or financial circumstances, eg receipt of benefits); or
 - tariffs which the supplier has requested the Service Provider to remove from its Price Comparison Service; or
 - tariffs which are available only to consumers in a specified region, to consumers that are not within that specified region; or
 - tariffs which are exclusive deals between a supplier and another Service Provider.
- (B) The Service Provider must use all reasonable endeavours to include information on Historic Tariffs for the purposes of comparison if a consumer's current tariff is a Historic Tariff.
- (C) A Service Provider must notify Ofgem in the event of being asked by an energy supplier to remove a tariff from its Price Comparison Service, which to the best of that Service Provider's knowledge is still available to consumers.
- (D) A Service Provider must provide a copy of the Tariff Information Label, accessible either within or from the main results page, for each tariff displayed on the main results page.
- (E) A Service Provider may include price comparisons for meters other than single rate and Economy 7 meters at its discretion.
- (F) A Service Provider is responsible for obtaining, updating and ensuring the accuracy of all data displayed on its Price Comparison Service covering all licensed supplier tariffs (including those of its agents, affiliates and any associated brands).
- (G) Service Providers must ensure that the length of the comparison period

defaults to 12 months from the date of comparison; however filters can be created for other comparison periods.

Requirement three – Control and management

- (A) The Service Provider must manage and control its Price Comparison Service and use its own tariff database and calculator.
- (B) A Service Provider will be treated as managing its Price Comparison Service where:
 - i. it has full control over the information content provided on the Price Comparison Service and how that content is presented; or
 - ii. it has that degree of control referred to in (i), even where the Price Comparison Service is maintained by a third party on behalf of the Service Provider.
- (C) However, where:
 - i. a Price Comparison Service is maintained by a third party; and
 - ii. that third party also maintains a Price Comparison Service on behalf of any other Service Provider (whether accredited by Ofgem or not),

the Service Provider will be treated as managing the Price Comparison Service only where that third party maintains the Price Comparison Service entirely independently of the Price Comparison Service of the other provider. But, in any event, the Price Comparison Service may not be maintained by a third party that also manages another Ofgem accredited Price Comparison Service.

- (D) A Service Provider may make its tariff database and calculator available to third parties. Where it does so:
 - i. the third party may state that it uses the Service Provider's calculator or tariff database and state that the Service Provider is accredited to the Confidence Code, but the third party must not use the Confidence Code logo;
 - ii. the Service Provider's arrangements with the third party must provide that the third party may only make such statements in (i) if it has followed the same rules as the Service Provider for making the comparisons and meets the requirements of the Confidence Code; and
 - iii. the Service Provider is responsible for ensuring that the third party complies with the arrangements in (ii). Any failure by the third party to meet the requirements of the Confidence Code can be determined as a breach of the Confidence Code by the Service Provider.

Requirement four – Payment methods

- (A) A Service Provider must provide consumers with an explanation of the following payment methods:
- Standard credit by cash/cheque;
 - Monthly and quarterly Direct Debit;
 - Prepayment meter.

Requirement five – Results and filters

Opt-in filters

- (A) Taking filters into account, a price comparison provided to a consumer must list (on a single page) no fewer than 10 of the cheapest tariffs available in the region where the consumer wants supply. The prices must include VAT (and state that they do so).
- (B) A Service Provider may provide filters so that consumers may search results based on different criteria selected by the consumer (eg the different types of tariff available or an energy supplier's service rating etc), but these must be opt-in only.
- (C) A Service Provider must clearly explain the potential impact to consumers who select an opt-in filter, so that consumers are fully aware of the effect and limitations this may have on the results.
- (D) Where the Service Provider provides a filter for green or environmental tariffs, it must explain the methodology for filtering these tariffs. Green results should be displayed by order of fuel mix then price.
- (E) A Service Provider must provide a facility or follow-through page(s) so that consumers have the ability to view a list of their price comparison results free from any opt-in filters selected.

The display of a Partial View

- (F) A Service Provider may (subject to requirement 5(G) below) display a Partial View as a default option or by offering a filter option before the results page.
- (G) At any point of filtering which may lead to a Partial View, the Service Provider must ensure that messaging around this choice is prominent, clear and intelligible, so that consumers are aware what view of the market they will see on the results page.
- (H) At any point where the Service Provider displays a Partial View (either as a default or after a filter is applied), the Service Provider must, on the results page:
- i. ensure that the consumer can quickly and easily access the page

that shows All Results without re-entering their details or going back to a previous page or link; and

- ii. provide a clear and intelligible statement prominently on the results page explaining that the consumer is seeing a Partial View on the results page, and that they are able to access All Results.

- (I) A Service Provider must test the prominence, clarity and intelligibility of the messaging required to fulfil requirements 5(G), (H)(i) and (H)(ii) with consumers and provide information on the test methodology, sample size and results of this testing to Ofgem.

Requirement six – Quality of service and signposting to information

Quality of service

- (A) The Service Provider may assign ratings to a supplier's performance and invite the consumer to consider quality of service issues, including any such supplier service ratings.
- (B) The Service Provider may assign supplier performance ratings provided they either:
 - i. send their methodology to Ofgem for review; or
 - ii. use ratings adopted by other recognised consumer organisations (eg Citizens Advice).
- (C) In developing a supplier ratings methodology and, where appropriate, when using supplier ratings, a Service Provider should adhere to the following principles:
 - i. the methodology should be evidence-based and objective;
 - ii. the methodology should be applied consistently across suppliers;
 - iii. the resultant ratings should offer a comprehensive coverage of suppliers. Where a supplier is not assigned a rating, where appropriate, it should be clear that this is not necessarily an indication of poor performance;
 - iv. the data used should be statistically significant;
 - v. the rating values should be refreshed at least once every 12 months and the last updated date should be displayed to consumers; and
 - vi. explanatory messaging around the ratings should be clear and objective.
- (D) If a Service Provider either:
 - i. has applied their current supplier ratings methodology prior to 25 March 2015;
 - ii. plans to apply any supplier ratings for the first time; or
 - iii. plans to amend any existing supplier ratings methodology,

it should provide Ofgem with evidence and an explanation of how its methodology meets the principles in (C).

Energy efficiency information

- (E) A Service Provider must, on the homepage or during the Consumer Journey, provide signposting to independent sources of advice on energy efficiency matters that will be of benefit to all energy consumers. At a minimum, we require that the following sources should be clearly signposted by the Service Provider:
 - i. Energy Saving Trust;
 - ii. Government energy grants calculator; and
 - iii. Citizens Advice.
- (F) This signposting should be prominent, clear and intelligible, so that consumers are aware what information is available within these sources.

Warm Home Discount scheme

- (G) A Service Provider must, during the Consumer Journey, alert relevant consumers to the possibility that if they move to certain suppliers, they could lose support from government energy support schemes such as the Warm Home Discount benefit. This messaging may include signposting to relevant websites.

Requirement seven – Accuracy and updating tariffs

- (A) Prices and price comparisons must be accurate and state when they were last updated.
- (B) A Service Provider must state the date that its Price Comparison Service and database has been updated.
- (C) Ofgem may review any new form of tariff and issue Service Providers a formal direction as to how such a tariff should be treated in relation to compliance with the Confidence Code. The formal direction shall have effect as if it were part of this document.

Estimating the consumer's consumption

- (D) A Service Provider can estimate a consumer's current spend if the consumer is unable to provide certain information. For example, a Service Provider can estimate consumption by asking questions about the size of property, number of bedrooms, etc. In these cases, it should be clear that this information is estimated.

However, Service Providers must emphasise to consumers the importance of entering accurate information to get the best comparison and should encourage consumers to input their annual consumption figures in order

to do this.

Calculation methodology and assumptions

- (E) Unless otherwise specified by Ofgem, where a Service Provider provides a comparison for a time period, the estimated costs of all tariffs must take into consideration the factors in requirement 7(F) and 7(G) below.
- (F) 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.
- (G) After taking requirement [7F] into account, 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 (e.g. monthly Direct Debit);
 - dual fuel discount;
 - compulsory paperless billing discounts;
 - fixed charges (e.g. a fixed monthly membership fee).
- (H) Requirement [7F] takes precedence over requirement 7[G]. For example, for a comparison period of 12 months, an automatic monthly Direct Debit discount paid after the first 12 months of a customer's supply start date would not be included in the calculation.
- (I) Ofgem may review any new form of discount and issue Service Providers with a formal direction as to how such discount should be treated in relation to compliance with the Confidence Code. The formal direction shall have effect as if it were part of this document.

Calculation messaging

- (J) At a minimum, a Service Provider must provide a link or message on the results page explaining how estimated costs of tariffs are calculated, including that the consumer may incur a termination fee if switching to a new tariff.
- (K) Where a Service Provider displays an estimate of the savings a consumer could make by switching to a tariff, as a minimum, a Service Provider must provide a link or messaging on the results page explaining how the savings figure is calculated, including:

- i. what two figures are used to calculate savings and assumptions behind these figures; and
 - ii. that the savings figure is an estimate only, and will change if the consumer's situation changes.
- (L) Messaging to fulfil requirements [(K) and (L)] must be prominent, clear and intelligible.

Updating tariffs

- (M) A Service Provider must use all reasonable endeavours to:
- update tariffs;
 - add tariffs for a new supplier;
 - correct any errors/issues highlighted by Ofgem;
 - add new tariff information in a manner that complies with the Confidence Code.
- (N) A Service Provider must add new tariff information as soon as possible, but no later than two working days after the details and confirmation of the effective date being provided to it by the relevant energy supplier (or Ofgem), or from the tariff being made available to consumers, whichever is the latter.
- (O) A Service Provider should not include a new tariff on their Price Comparison Service more than six weeks before it becomes available to consumers.
- (P) For the purposes of requirement (N), where the tariff is new because of changes in price of an existing tariff, the date it is 'available to consumers' is to be determined as the date that the price change takes effect.
- (Q) A Service Provider must inform Ofgem immediately of any circumstance that prevents it from complying with requirements (L), (M), (N) or (O). Ofgem will consider each individual case on its own merits and determine whether the Service Provider has used all reasonable endeavours to comply with the requirement or is in breach of the Confidence Code.

Displaying current tariff and spend details

- (R) A Service Provider must display the details of a consumer's current tariff, based on the information the consumer has entered, in the format of a Tariff Information Label. The Tariff Information Label must be accessible either within or from the main results page.A

Requirement eight – Audits and monitoring

- (A) The Service Provider must comply with an annual audit done by an auditor independent of the Service Provider, working according to terms of reference supplied by Ofgem. The cost of each audit will be borne by the Service Provider, unless otherwise advised by Ofgem prior to commencement.

- (B) The Service Provider must comply with audits and monitoring undertaken internally by Ofgem.
- (C) The Service Provider must provide the auditor with access to its premises and to its systems, and all other assistance, that the auditor reasonably requests.
- (D) The Service Provider must provide Ofgem with any information and assistance that it reasonably requests.

Requirement nine – Complaint handling

- (A) The Service Provider must establish and operate an effective consumer complaint and enquiry handling procedure and respond to any complaint or enquiry within seven working days of receipt.
- (B) A Service Provider must provide Ofgem with a contact name and number for complaint referrals received in relation to the Service Provider.
- (C) A Service Provider must acknowledge a complaint referred by Ofgem within two working days and the Service Provider must use all reasonable endeavours to resolve this complaint within seven working days. Ofgem should be copied into any response to the consumer.

Appendix 2 - Consultation Response and Questions

- 1.1. Ofgem would like to hear the views of anyone interested in the issues in this document.
- 1.2. We especially welcome responses to the specific questions at the beginning of each chapter heading and below.
- 1.3. Unless marked confidential, all responses will be published in Ofgem's library and on our website, www.ofgem.gov.uk. You can ask us to keep your response confidential, and we will respect this request, subject to any obligations to disclose information, for example, under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004.
- 1.4. If you want us to keep your response confidential, please clearly mark the document/s to that effect and include your reasons. It would be helpful if responses could be submitted both electronically and in writing. Please put any confidential material in the appendices to your responses.
- 1.5. Next steps: Having considered the responses to this consultation, we will publish a summary of responses and details of any further work this autumn.
- 1.6. The response deadline for this consultation is 28 September 2016. Please send responses and any questions on this document to:

Caroline Ainslie, Senior Manager
Consumers and Competition,
Ofgem,
107 West Regent Street,
Glasgow, G2 2BA
02079017000
Confidencecode@ofgem.gov.uk

CHAPTER: Two

Question 1: Do you agree that we should implement the proposed removal of some of the changes we made to strengthen the WoM requirement in the 2015 Code review? If not, please:

- explain why
 - suggest and explain any alternative proposals

Question 2: With reference to Table 2, do you agree with our rationale, and proposed policy changes around the **partial default view**? If not, please:

- explain why
- suggest and explain any alternative proposals

Question 3: With reference to Table 2, do you agree with our rationale, and proposed policy changes around the WoM **filter choice**? If not, please:

- explain why
- suggest and explain any alternative proposals

Question 4: With reference to Table 2, do you agree with our rationale, and proposed policy changes around the WoM **filter wording/testing**? If not, please:

- explain why
- suggest and explain any alternative proposals

Question 5: Do you agree that sites should test the prominence, clarity and intelligibility of their messaging with consumers and that Ofgem should monitor this? If not, please:

- explain why
- suggest and explain any alternative proposals

Question 6: With reference to Table 3, do you agree that the proposed Code wording reflects our proposals? If not, please:

- explain why
- suggest and explain any alternative proposals

CHAPTER: Three

Question 7: Do you agree with our rationale, and proposed policy changes around the **removal of Personal Projection**? If not, please:

- explain why
- suggest and explain any alternative proposals

Question 8: Do you agree with our rationale, and proposed policy changes about including the **pre-2015 code content** on factors an accredited price comparison website should and should not include when deriving a consumer's estimated annual costs? If not, please:

- explain why
- suggest and explain any alternative proposals

Question 9: With reference to Table 4, do you agree that the proposed Code wording reflects our proposals? If not, please:

- explain why
- suggest and explain any alternative proposals

Question 10: Do you agree with our assessment that no changes are required to the TIL references within the Code?

CHAPTER: Four

Question 11: Do you agree that these initiatives are out of scope for this review and that we should monitor their progress to be aware of potential impacts in the future of these initiatives?

Question 12: Do you believe there are any other initiatives we should be keeping abreast of to ensure a joined-up approach to our policy development work?

Appendix 3 - Glossary

C

Competition and Markets Authority (CMA)

A non-ministerial government department responsible for promoting competition, and preventing and reducing anti-competitive activities within the United Kingdom.

F

Final Report (FR)

The CMA's Final Report, published on 24 June 2016, which sets out the conclusions of the CMA's energy market investigations.

Fulfillable tariffs

A fulfillable tariff is one for which a PCW can facilitate the switch and is paid a commission for doing so. A PCW will receive no commission for displaying results for non-fulfillable tariffs.

Full WoM removal

See WoM Remedy.

M

May 2016 Workshop

A workshop hosted by Ofgem, on 25 May 2016, on the Competition and Markets Authority's (CMA) remedies relating to the removal of 'RMR simpler' and the Confidence Code Whole of Market Requirement. Details are here:

<https://www.ofgem.gov.uk/publications-and-updates/stakeholder-workshop-cma-rmr-and-whole-market-remedies-25052016>

O

Ofgem

Office of Gas and Electricity Markets. A non-ministerial government department and an independent National Regulatory Authority, recognised by EU Directives. The government regulator for gas and electricity markets in Great Britain.

P

Partial View

When a PCW presents a consumer with a partial view, it displays a subset of all tariffs within the market. A partial view often contains tariffs which result in the PCW being paid commission if the consumer switches via the PCW; such a partial view is

also known as a list of 'fulfillable tariffs'. Within the Confidence Code, this consultation is proposing to introduce a definition of Partial View which 'means a view of only those tariffs the consumer can apply to switch to or enter into contracts for, via the Service Provider's Price Comparison Service.

Personal Projection (PP)

The estimated cost of energy to a consumer over a 12 month period, based on a specified methodology and the best available information about that consumer's consumption.

Price Comparison Website (PCW)

A website that provides its users with the ability to compare (and possibly switch) their energy supply contract. For the purpose of this document, we include apps within this definition.

Provisional Decision on Remedies (PDR)

A document published by the CMA on 17 March 2016, which outlines the provisional findings of the CMA's energy market investigation, and the provisional remedies that the CMA proposed to counter any adverse effects on competition found by the CMA in their investigation.

<https://assets.publishing.service.gov.uk/media/5706757340f0b6038800003b/Provisional-decision-on-remedies-EMI.pdf>

R

Retail Market Review (RMR)

Ofgem launched the Retail Market Review in 2010. As a result of this we introduced a range of reforms aimed at making the retail market simpler, clearer and fairer for consumers.

RMR Remedy

The CMA's recommendation for Ofgem to remove certain standard licence conditions (SLCs) concerning the 'simpler choices' component of the RMR rules and to make any consequential SLC amendments. As part of our implementation of this remedy, we are also consulting on affected aspects of the 'clearer information' component of the RMR rules, including the tariff information label and the Personal Projection.

S

Standard Licence Conditions (SLCs)

The legally binding conditions that licensed gas and electricity suppliers must meet to supply to domestic and non-domestic customers, in accordance with the Gas Act (1986) and Electricity Act (1989).

Switching

The process of changing gas or electricity supplier, or changing to a new tariff with the same supplier.

T

Tariff

The charges for supply of electricity/gas combined with all other terms and conditions that apply, or are in any way linked, to a particular type of contract for the supply of electricity/gas to a domestic customer.

Tariff Information Label (TIL)

A table of key facts that would allow consumers to compare the price and non-price features of energy tariffs on a like-for-like basis.

Third Party Intermediary (TPI)

Third party intermediaries (TPIs) are organisations or individuals that give energy related advice, aimed at helping users to buy energy and/or manage their energy needs, and facilitate switches. TPIs include switching sites, energy brokers and any company that offers support with energy procurement.

W

WoM Remedy

Removal of the WoM Requirement and elements of the 2015 Code review changes to strengthen the WoM requirement (also known as full WoM removal).

WoM Requirement

When a PCW presents a consumer with a WoM view, it displays all tariffs within the market that are described under Requirement 2 of the code. Within Requirement 5 of the Code there are additional restrictions around filtering and display of Partial View, taken together, these requirements are commonly referred to as the WoM Requirement.

WoM Requirement (strengthening)

Where PCWs do not display a WoM view as a default then they are subject to specific requirements around the filtering between a WoM and a partial view (this is outlined in Requirement 5 F-I). The changes that were made to these requirements as part of the 2015 Code Review are sometimes referred to as 'strengthening of WoM requirement'.

2015

2015 Code Review



Confidence Code Review 2016: Our proposals

The Confidence Code Review which concluded in March 2015

https://www.ofgem.gov.uk/sites/default/files/docs/2015/01/confidence_code_review_-_january_2015_policy_decision_0.pdf

Appendix 4 - Feedback Questionnaire

1.1. We believe that consultation is at the heart of good policy development. We are keen to consider any comments or complaints about how we have conducted this consultation. We are also keen to get your answers to the following questions:

1. Do you have any comments about the overall process adopted for this consultation?
2. Do you have any comments about the overall tone and content of the report?
3. Was the report easy to read and understand? Could it have been better written?
4. Did the report's conclusions provide a balanced view?
5. Did the report make reasoned recommendations for improvement?
6. Please add any further comments.

1.2. Please send your comments to:

Andrew MacFaul

Consultation Co-ordinator

Ofgem

9 Millbank

London

SW1P 3GE

andrew.macfaul@ofgem.gov.uk