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Wednesday 28 September 2016

Dear Caroline

Re: Consultation on the Confidence Code Review 2016.

Thank you for the opportunity to respond on the Confidence Code Review 2016. Our responses to the questions posed in the consultation are provided below.

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**

We are comfortable in the proposed removal of the Whole of Market (WoM) requirement as the default position, as this is necessary to reflect the licence change to allow exclusive PCW deals and improve competition in the market. Obviously, the information provided to the consumer through online messaging will need to be explicit and clear so they are aware of the level of information they are viewing and can thus make an informed choice in how to proceed.

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**

We are comfortable with the proposed change to remove the restriction on displaying the WoM as a default; however we aren't entirely comfortable with the rationale detailed in Table 2. Although it has been identified that this change will help to avoid potential gaming of suppliers in the top 10 shown on the results

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page, we are unsure whether the proposed change will have the same result for suppliers who would be paying a commission to PCWs.

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**

Yes, we believe that it is right for a PCW to be able to show a partial view i.e. either through default or filter, providing there is clear messaging to support this view. We agree that the proposal should sit alongside other existing Code requirements to ensure that a Consumer continues to receive transparent information from a PCW.

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**

We agree that it is necessary for consumers to understand which subset of suppliers they are viewing. Although we recognise that messaging does not need to be prescriptive we fully support the use of testing to develop the most user friendly wording leading to good consumer outcomes.

It is important to ensure PCWs have a level playing field in terms of prominence, clarity and intelligibility of the supporting messaging. We welcome Ofgem's proposed role in ensuring continued consistency in this area.

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**

See answer to Question 4

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**

We agree that the proposed code wording reflects the changes proposed in the consultation.

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**

Following the proposed removal of estimated annual consumption in SLC 1, it is necessary to make consequential changes to The Confidence Code. However, we have serious concerns over the proposal to return to the pre 2015 Code content, which is inconsistent with the principles based proposals for suppliers. The consultation, 'Helping Consumers make Informed Choices' proposes that suppliers have the freedom to develop their own methodologies for estimation which will be personalised, transparent and based on reasonable assumptions. By prescribing what is included and excluded for PCWs there may be serious inconsistencies between suppliers and PCWs leading to confusion for consumers and the development of potential distrust of supplier information.

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**

See answer to question 7. Following the CMA changes there is an expectation of increased competition in the PCW market through the offering of, among other items, discounts and cashback. Under the current confidence code proposals these are likely to be excluded from the estimated annual costs. We feel it would be worthwhile to understand what information would be useful for consumers from a PCW. It may be that customers have an expectation that all tariff features should be included to provide an annual cost, rather than specifying particular inclusions and exclusions. It would be worthwhile to conduct research in consumer understanding of the pre 2015 Confidence Code before these proposals are implemented.

This reiterates comments in our response to Question 1(a) of the Ofgem consultation 'Helping consumers make informed choices – proposed changes to rules around tariff comparability and marketing':

"There is a contradiction between Ofgem's policy intentions for suppliers and those for third party intermediaries (see the proposed revised wording of the Confidence Code as shown in Table 4 of Ofgem's consultation 'Confidence Code Review 2016' dated 3 August 2016). The policy intent for third party intermediaries who are signatories to the Confidence Code is not to include any additional discounts or costs in the REC and only those discounts relating to payment methods, dual fuel, paperless billing and membership fees. For suppliers, there are no such restrictions.

If PCWs do not take account of all additional features, it may lead to good value tariffs being missed by customers as they will show lower down comparison tables than they would do if all features were taken into account. This could result in limiting competition, through a reduction in innovative tariff structures and customer difficulty in being able to make a fully informed choice."

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**

Amend to 7(E)(F)(G) & (J) does reflect the proposals but we have serious concerns that the proposed wording (pre-2015 Code) contradicts the new CMA proposals for suppliers to have the 'freedom to develop their own methodologies for estimation'. This could lead to potential inconsistencies and confusion for consumers. In addition, some new innovative tariffs may be limited by this proposed prescription on PCWs, appearing far down the list of tariff in terms of price, even though they may cost less than other tariffs. This could result in limiting competition, through a reduction in innovative tariff structures and customer difficulty in being able to make a fully informed choice.

Amend to 7(Hi), 7(Hii), and 7(Hiii)

- i.) Agreed as follows definition of estimated annual costs in SLC1
- ii.) Agreed as follows definition of estimated annual costs in SLC1
- iii.) Agreed that it is important for a customer to understand that a termination fee may be payable. However, it would be clearer if the PCW was able to provide details of the actual termination fee associated with the customer's current tariff, and highlight if the potential savings available through switching were outweighed by this fee. We also believe that the importance of termination fees, and the effect they have on the benefits of switching, should be very clear to the customer. We would like to see this information on the main page with other key information, rather than available through clicking on a link.

Amend to 7(I) & (K) agree.

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

We agree that all changes to the TIL in SLC 1 resulting from amendments relating to the RMR remedy, will feed directly through to The Confidence Code. Thus no further changes are required.

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?

We agree that the initiatives outlined in chapter 4 are outside the scope of this review. However, the output from these initiatives may impact the Confidence Code and therefore, it will be necessary to monitor their progress and review and change the code as necessary.

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?

Our preference would be for all PCWs to be licensed; this would enable a regulator to monitor their activities directly and take enforcement action on PCWs where necessary. A second option would be for PCWs to be required to sign up to the Confidence Code, which could then be strengthened to allow Ofgem to monitor PCWs directly.

Licensing of PCWs would reduce the cost of compliance as it would only need to be done once, whereas currently it is done by each supplier individually. Not only is this inefficient, it also increases costs for suppliers and therefore prices for customers. It also causes problems for PCWs who potentially have to deal with different interpretations of regulations by different suppliers.

If you have any further queries do not hesitate to contact Abi Spencer on 07525 703973

Yours sincerely

Tracey Wilmot
Head of Regulation