

Ofgem's Confidence Code Review 2016

Energy UK response

28 September 2016

Introduction

Energy UK is the main trade association for the energy industry, with over 90 members; representing energy generators and suppliers of all sizes. Our members supply gas and electricity and provide network services to both the domestic and non-domestic market. Energy UK members own over 90% of energy generation capacity in the UK market and supply 26 million homes and 5 million businesses, contributing over £25 billion to the UK economy each year. The industry employs 619,000 people across the length and breadth of the UK, not just in the South East, contributing £83bn to the economy and paying over £6bn annually in tax.

Energy UK's retail members are: British Gas, Bristol Energy, Co-Operative Energy, DONG Energy, Ecotricity, EDF Energy, Engie, E.ON, Flow Energy, First Utility, GB Energy Supply, Good Energy, Haven Power, npower, Opus Energy, Scottish Power, Smartest Energy, Spark Energy, SSE, Utilita and Utility Warehouse.

Energy UK strongly believes in promoting competitive energy markets that produce good outcomes for consumers. In this context, we are committed to working with Government, regulators, consumer groups and our members to develop reforms which enhance consumer trust and effective engagement. At the same time, Energy UK believes in a stable and predictable regulatory regime that fosters innovation, market entry and growth, bringing benefits to consumers and helping provide the certainty that is needed to encourage investment and enhance the competitiveness of the UK economy.

These high-level principles underpin Energy UK's response to Ofgem's Confidence Code Review 2016. This is a high-level industry view; Energy UK's members may hold different views on particular issues. We would be happy to discuss any of the points made in further detail with Ofgem or any other interested party if this is considered to be beneficial.

Executive summary

Energy UK welcomes Ofgem's commitment to implementing the CMA's final remedies.

Energy UK is a strong supporter of steps to enhance consumer engagement and competition within the market. This is why we have led the way with the introduction of the Energy Switch Guarantee earlier this year.

In the absence of the Whole of Market (WoM) requirement and a prescribed methodology on product comparability, it is, however, essential Ofgem ensure that customers are easily able to navigate Price Comparison Websites (PCWs), as well as being able to understand and accurately compare offers presented to them. In particular, it is vital that PCWs are consistent in their use of Personal Projection methodology across the tariffs they offer. Ofgem could ensure this consistency by extending the proposed comparability and sales and marketing principles to PCWs through the Confidence Code.

It is incumbent on Ofgem to ensure that the Confidence Code remains consistent with and compliments suppliers' licence conditions as they evolve to ensure customers are protected by the same rules regardless of the route they use to find an energy deal.

We anticipate our members will respond individually in more detail on the proposed changes set out in the review. Energy UK has elected to respond to a number of relevant questions below.

Consultation questions

Q1. 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?

Energy UK supports the implementation of CMA remedies.

In the absence of the default WoM requirement, it is essential Ofgem ensure that customers are easily able to navigate (PCWs, and to understand and accurately compare offers presented to them through individual PCWs. Ofgem could ensure this by extending the proposed comparability principles to PCWs through the Confidence Code.

Q2. With reference to Table 2, do you agree with our rationale, and proposed policy changes around the partial default view?

We anticipate that members will respond individually on Ofgem's specific proposal for a partial default view.

Q3. Question 3: With reference to Table 2, do you agree with our rationale, and proposed policy changes around the WoM filter choice?

AND

Q4. Question 4: With reference to Table 2, do you agree with our rationale, and proposed policy changes around the WoM filter wording/testing?

See responses to Q1 above. In the absence of the default WoM requirement, it is essential Ofgem ensure that customers are easily able to navigate Price Comparison Websites (PCWs), and to understand and accurately compare offers presented to them through individual PCWs.

Q5. Do you agree that sites should test the prominence, clarity and intelligibility of their messaging with consumers and that Ofgem should monitor this?

Yes. To ensure consistency in the treatment of customers, Ofgem should hold PCWs to the same high standards set for suppliers' communications with customers under the Standards of Conduct (SoC). We would support the SoC being applied directly to PCWs and used by Ofgem to assess the prominence, clarity and intelligibility of PCW's messaging under the Confidence Code.

Q6. With reference to Table 3, do you agree that the proposed Code wording reflects our proposals?

We anticipate that our members will make detailed comments on the proposed Code wording.

In line with the CMA's rationale for removing the WoM requirement, it is inconsistent that PCWs should be required to show exclusive deals held by other PCWs as part of their WoM view. We agree that PCWs should not be required to show exclusive deals as part of the WoM view. We note that Citizens Advice's price comparison tool could provide a WoM view, including exclusive deals.

Q7. Do you agree with our rationale, and proposed policy changes around the removal of Personal Projection?

AND

Q.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?

Energy UK understand the need to review the Confidence Code's approach to Personal Projection and calculating estimated annual costs following the proposed removal of SLC 22B.

Ofgem must, however, remain mindful of the impacts of moving away from prescription around calculating estimated annual costs. Ofgem needs to acknowledge that PCWs and suppliers may adopt different approaches to help consumers making informed choices between their tariffs. The role of Price Comparison Websites in facilitating comparison between suppliers will, as a result, become both more important and more difficult.

With this in mind, in the absence of a prescribed methodology for deriving a consumer's estimated annual costs across PCWs, it is essential vital that PCWs are consistent in their use of personal projection methodology across the tariffs they offer consumers. Ofgem could ensure this consistency by extending its proposed comparability and sales and marketing principles for suppliers to PCWs through the Confidence Code..

It is incumbent on Ofgem to ensure that the Confidence Code remains consistent with suppliers' licence conditions to ensure customers are protected by the same rules regardless of the route they use to find an energy deal.

Q9. With reference to Table 4, do you agree that the proposed Code wording reflects our proposals?

Energy UK anticipates that members will respond to the code wording individually.

Q10. Do you agree with our assessment that no changes are required to the TIL references within the Code?

Energy UK anticipates that members will respond individually to this question.

Q11. 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?

AND

Q12. 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?

Energy UK believes that there are a number of additional initiatives that Ofgem should consider to ensure a joined-up approach is taken to reviewing the Confidence Code both now and in the future.

The CMA's remedies around the future of Midata will lead to an increase in the amount of customer data handled by PCWs. There is likely to be an increased demand for confidence in how this data is handled. It may be appropriate in the future for the Confidence Code to change in order to provide consumers with greater reassurance about PCWs use of data.

Similarly, as the use of data spreads throughout the industry (for example, PCWs gaining access to ECOS and DES) there will be an increased focus on the need for data quality. It would be useful for Ofgem to be mindful of this as it reviews the Confidence Code.

The Code also needs to keep abreast of Ofgem's switching Significant Code Review programme to ensure the role of PCWs in future switching arrangements is carefully considered.

IF YOU HAVE ANY QUESTIONS OR WOULD LIKE TO DISCUSS FURTHER PLEASE CONTACT NATAN DORON ON 0207 747 2932 OR AT NATAN.DORON@ENERGY-UK.ORG.UK.