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By email: futureretailregulation@ofgem.gov.uk

18 October 2018

Dear Katherine and Ruth

uSwitch response to Ofgem's statutory consultation on domestic supplier-customer communications rulebook reforms

I am writing on behalf of uSwitch in response to Ofgem's statutory consultation on domestic supplier-customer communications rulebook reforms published on 20 September 2018.

uSwitch is the UK's leading price comparison and switching service for home services, helping consumers to find a better deal and save money on their gas, electricity, broadband, mobiles, TV, landlines and personal finance products including mortgages, credit cards, current accounts and insurance. During the last year, uSwitch customers saved £377 million on their energy bills alone.

We welcome the opportunity to respond to Ofgem's statutory consultation on domestic supplier-customer communications rulebook reforms, and we would welcome the opportunity to discuss our submission with Ofgem if useful.

Overview

uSwitch welcomes Ofgem's clear statement that a move to a principles-based approach to regulation does not change the policy intent of its rules around supplier-customer communications. We agree with Ofgem that suppliers should be subject to enforceable rules that place responsibility firmly on suppliers to deliver good consumer outcomes. We also appreciate the intention to ensure that rules are future-proofed. As such, uSwitch looks forward to seeing suppliers use the five principles to improve their communications to the benefit of consumers.

We agree that Ofgem's final proposed principles themselves are sensible. We are however concerned that some suppliers may have an incentive to test the limits of the flexibility in the rules, particularly on elements of supplier communications that are designed to facilitate informed consumer decision-making with respect to switching. In order to protect against these risks, we offer a limited number of specific suggestions below on how the wording could be made clearer, within the scope of Ofgem's policy decision.

More broadly, to ensure the success of Ofgem's move from detailing prescriptive rules to five broader principles, it will be key for Ofgem to monitor the compliance of suppliers' communications to customers. Where issues are identified, Ofgem should be confident in swiftly taking enforcement action.

Ofgem's final proposed principles

We welcome Ofgem's five final proposed principles. We agree that it is vital that these rules are enforceable as well as placing responsibility clearly on suppliers to deliver good consumer outcomes. It is right that suppliers should be required to encourage and enable consumers to engage with the market and their own energy supply, inform consumers of how to get assistance and advice, and ensure consumers receive the right information at the right time about billing and changes to contracts.

We do however suggest specific minor amendments to the text for clarity with respect to Tariff Information Labels and the proposed distinct “About Your Tariff” label.

“About Your Tariff”

Within the proposed principle for ‘encouraging and enabling engagement’, we note the proposed SLC 31F.9 that sets out requirements for the “About Your Tariff” label. We agree with Ofgem that it is critical this information provides customers with the data points required to obtain an accurate market comparison, including “the exact name of the current tariff and their annual consumption”.¹

On most comparison services, including uSwitch, there is a preference to run price comparisons using actual consumption figures and specific current tariff names. In doing so, we are able to provide the most accurate price comparison possible for the customer. In the event that a customer does not have access to or is not confident with these numbers, we do offer the ability to run a comparison based on an estimate of consumption based on property size, or based on payment amounts. Running a comparison based on estimated consumption does allow consumers to compare tariffs across the retail market, albeit not with the optimum level of accuracy. However, we would not want suppliers to use this to argue that inclusion of consumption is not required under SLC 31F.9. With this in mind and noting Ofgem’s intent, we are concerned that the draft condition is not sufficiently clear that suppliers must provide the information required to run the most accurate comparison possible within the “About Your Tariff” information.

We consider that the proposed SLC text should be amended to ensure that providers are clear on their obligation to provide a customer with information that is accurate to that customer, and to provide customers with everything that they might require to perform a tariff comparison.

Our suggestions with respect to the proposed SLC 31F.9 below are marked in bold red.

The text of the first bullet point currently reads as:

“contains any information that Domestic Customer may require should that Domestic Customer wish to compare tariffs across the retail market”.

We suggest that this should be amended to read:

“contains **all** information that Domestic Customer **would** require should that Domestic Customer wish to **accurately** compare tariffs across the retail market”.

We consider that this same amendment could also be considered with respect to the definition of “Relevant Billing Information” within the proposed SLC 31H.11.

Tariff Information Labels

We note Ofgem’s proposals to allow suppliers greater flexibility in how they design Tariff Information Labels, subject to them being consistent within the supplier.

The Ofgem Confidence Code currently requires accredited price comparison services to “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.”² In the Confidence Code the definition of “Tariff Information Label” refers out the Supplier Licence Conditions.³ Under the proposed SLC

¹ Statutory Consultation, Paragraph 3.49

² Ofgem Confidence Code Requirement Two (D), https://www.ofgem.gov.uk/system/files/docs/2018/07/decision_letter_-_confidence_code_wom_-_16_july.pdf

³ Ofgem Confidence Code defines “Tariff Information Label” as “has the same meaning as defined in Standard Licence Condition 1”, https://www.ofgem.gov.uk/system/files/docs/2018/07/decision_letter_-_confidence_code_wom_-_16_july.pdf

31F.10, we are concerned it could be argued price comparison services have to replicate each individual supplier's own interpretation of the Tariff Information Label for every given tariff.

We consider that this may harm consumers ability to compare the detail of any given tariff across suppliers within a price comparison service platform, in addition to being administratively disproportionate for comparison services.⁴ We note the objective of the changes to the Tariff Information Label is that they should be comparable *within* suppliers. However, price comparison services will need to ensure information about tariffs is comparable *across* suppliers. Therefore, in its provision of detailed tariff information, comparison services may be able to achieve better consumer outcomes by adopting a format consistent across suppliers.

We consider, to the extent that comparison services act as a supplier representative at point of sale, it should not be the case that comparison services should have to adopt the exact format of a Tariff Information Label that a supplier itself uses when displaying its tariffs. In our view, it may therefore be necessary for Ofgem to make this clear in the SLCs as well as updating the Ofgem Confidence Code to permit comparison services to display a Tariff Information Label, potentially of its own design, subject to it being otherwise be compliant with the SLCs.

Monitoring

Energy suppliers must proactively take responsibility for delivering good consumer outcomes via their communications to customers. uSwitch shares Ofgem's expectation that suppliers should act within the spirit of the rules.

To ensure the success of Ofgem's movement from detailing prescriptive rules to five broader principles, it will be key for Ofgem to establish a programme to monitor the compliance of suppliers' communications to customers. It is essential that suppliers are not permitted to game the rules. We encourage Ofgem to set out further information on its specific approach to monitoring as soon as possible.

Where issues causing consumer harm are identified, Ofgem should be confident in taking enforcement action. This could be in the form of issuing further guidance on the rules to suppliers to address any malpractice quickly. Ofgem should also not hesitate to take stronger enforcement action if required.

We would welcome the opportunity to engage further with Ofgem if useful.

Yours sincerely,

A handwritten signature in blue ink that reads 'Richard Neudegg'.

Richard Neudegg
Head of Regulation

⁴ There is a potentially uncapped number of suppliers that comparison services would need to replicate different versions of a Tariff Information Labels for, even when the comparison service does not have a commercial relationship with a supplier (should it be choosing to offer a wider market comparison under Confidence Code Requirement Ten (A)).