

Confidence code review 2016 consultation

Response to Ofgem's proposals



Introduction

Confidence code review 2016

The whole of market (WoM) requirement was introduced within the Confidence Code (the Code) in March 2015, requiring price comparison websites (PCWs) to show all tariffs by default. This new requirement was originally introduced to address concerns about about PCWs ‘hiding’ cheaper deals from consumers for which the sites did not earn commission.¹

The policy intent behind the CMA remedy to remove the current WoM requirement is to generate competition within the energy market and to bring energy PCWs in line with other markets.

In our response to the provisional CMA remedies earlier this year, we raised concerns about the decision to remove the WoM requirement, and suggested that as a result of the change there may be a negative impact to the level of engagement and trust amongst energy consumers.²

We understand and support Ofgem’s rationale for undertaking an intermediate step, before consulting on the removal of the WoM code requirement for PCWs.

In response to Ofgem’s proposal within this consultation, to replace the default WoM requirement with a default partial view, Citizens Advice wish to reiterate the importance of ensuring the right measures are in place to prevent any negative impact on consumers.

We strongly support the need for transparency and clarity for consumers when the default WoM view is removed. We also strongly suggest that all the changes that have been proposed within this consultation are closely monitored, and appropriate consideration is given if it becomes evident that the consumer experience has deteriorated.

¹ [Energy and Climate Change Committee Report into Price Comparison Websites February 2015](#)

² [Citizens Advice response to CMA remedies April 2016](#)

Consultation questions

Chapter 2

(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 and suggest and explain any alternative proposals

In our response to the provisional CMA remedies³ earlier this year, we said that the removal of the WoM obligation for PCWs may have unintended consequences that could outweigh the potential benefits. We explained that although the removal of the WoM requirement could provide flexibility to PCWs, encourage innovation, and increase potential for competition, the change may also have a negative impact on consumers. We suggested that the removal may risk compromising the quality of accredited sites, by opening up the potential for sites to exploit existing practices with the introduction of certain deals, not in the interests of consumers.

We agree with Ofgem's decision to take an intermediate step, and make alternative changes to the Code rather than the immediate removal of the WoM requirement. We support the assumption that the changes outlined in this consultation will help mitigate the risk that the removal of the WoM requirement may pose to the administration and application of the Code.

Below we explain our position in response to each of the proposed changes.

(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

PCWs are currently required to show a WoM view of tariffs by default, unless a consumer actively decides to access a partial view instead. For those consumers choosing to select a partial view, a WoM view is still required to be easily accessible.

The proposed change to replace the WoM default view with a partial default view has the potential to resolve the issues identified by the CMA with the WoM default view. It is important that it is clearly communicated to consumers using PCWs what their partial default view includes.

In our response to the provisional CMA remedies we suggested that the removal of the WoM view may reduce customer trust in PCWs to act as an honest broker. We also strongly supported the need for transparency by PCWs, to ensure the removal of the WoM view would not have a negative impact on consumer trust and engagement. With the proposed change to the default view, we wish reiterate the

³ [Citizens Advice response to CMA remedies April 2016](#)

importance of transparency for consumers. In practice this means ensuring consumers can easily understand that they are seeing a partial view and how they can continue to access a WoM view.

Citizens Advice strongly suggest that if a partial view becomes the default view for consumers using accredited or non accredited PCWs, then the accessibility of the WoM view must be fully considered. It will be important for PCWs to include information about how consumers may access a WoM view. Furthermore, guidance provided must be clear and any action required by the consumers to alter their view must be simple to carry out.

We believe transparency by PCWs and clear messaging for consumers is essential for this change to be implemented effectively. We also strongly suggest that Ofgem monitor the implementation of the changes, in the interests of both consumers and PCWs.

(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

At present accredited PCWs are required to let the consumer select a WoM view or partial view, and are not permitted to pre-tick or automatically filter a consumer's view. The proposed change to the WoM filter choice will allow PCWs to pre-tick or filter options on behalf of consumers. This change will inevitably support the introduction of the default partial view, which will also increase the control PCWs have over what a consumer views.

The CMA and Ofgem have suggested that increasing PCWs control over the tariffs displayed on their site may incentivise suppliers and PCWs to work together, and promote competition between PCWs. This could lead to better deals being made available to some consumers.

It is essential that PCWs be required to make it explicitly clear to consumers where a filter has been applied, what the results show and how the filter can be removed.

Citizens Advice also suggest that it would be beneficial to keep the impact of this change on consumers under close review

(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, and suggest and explain any alternative proposals

(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, and suggest and explain any alternative proposals

Yes, we strongly support the proposal to retain the requirement for PCWs to test messaging, and the rationale provided for this decision. We agree that it is essential

to have appropriate measures in place to guarantee consumers are protected from being misled as a result of the removal of the default WoM view.

We agree that guidance should be issued to PCWs to explain what is expected in terms of testing messaging with consumers, and that Ofgem have an important role in monitoring how PCWs are performing in this area.

We understand that there is no intention to substantially formalise Ofgem's role with regards to oversight of the testing undertaken by PCWs. We suggest that as a result of the changes proposed to the Code, there is an ideal opportunity for Ofgem to consider whether oversight of the testing methodology applied by PCWs could be furthered strengthened.

The success of the default partial view will significantly depend on consumer engagement, and a consumer's understanding of what they're shown will be imperative. Evidence of consumer engagement with PCWs across markets suggests that consumers are confused about ranking criteria, pricing, market coverage and business models.⁴ We therefore agree that there is a need for an enhanced role for Ofgem in terms of oversight of testing (including improving or removing messaging), to safeguard consumers from misleading messaging.

There is also a continuing role for Ofgem to ensure that any default ranking affected by a contractual or any other type of relationship between a PCW operator and an energy supplier should be clearly marked in order to enhance transparency to consumers. Similarly, any paid for supplier review which is posted on the PCW should be clearly marked as advertising. Consumers should also have clear information about criteria on which different rankings are based e.g. price, personalised set of criteria, etc.

(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 wording reflects the proposals made to change the requirements of the code.

Chapter 3

(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

In our response to the consultation 'Helping Consumers Make Informed Choices', we explain that with the removal of existing requirements, we believe it is essential that consumers continue to receive a Personal Projection (PP). We also explain that

⁴ [Price comparison websites - consumer perceptions and experiences, Consumer Futures 2013](#)

we share Ofgem's concerns that the removal of the PP methodology could lead to inconsistencies across providers.

We are supportive of Ofgem's response to this remedy, and hope that it will help resolve some of the issues identified with the current PP methodology, whilst remaining to provide a consistent basis from which consumers are able to access a personalised projection of their energy cost.

We believe it is essential that once the new requirement is implemented it is closely monitored, and in particular the calculation of prices on PCWs will need to be regularly reviewed to ensure that consumers are accessing accurate prices when making switching decisions.

We also suggest that with the potential for variation to occur between providers as a result of the change, there is an important role for Ofgem to help ensure that the removal of the PP doesn't result in significant confusion amongst consumers.

We advised in our response to the helping consumers make informed choices consultation, that where a supplier changes its methodology over time due to new information becoming available then we would expect the revised calculation to be introduced across all its tariffs at the same time (this will be particularly important for new time of use tariffs). Suppliers must also use internally consistent calculations to ensure that consumers are not misled.

(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

Yes, we agree with the proposal to include the pre-2015 code content explaining what factors a PCW should and should not use when calculating an estimated annual cost for a consumer.

We strongly believe that with the removal of the PP methodology, there must be alternative requirements for providers to ensure that consumers receive an accurate estimation, which is based on consistent calculations across the industry. Citizens Advice has a keen interest in this area and would be willing to participate in future work in this area.

(9) With reference to Table 4, do you agree that the proposed Code wording reflects our proposals? If not, please: Confidence Code Review 2016: Our proposals 44 explain why suggest and explain any alternative proposals

We agree that the proposed wording reflects the proposals made to change the requirements of the code.

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

We agree that the tariff information label (TIL) should be retained, and support Ofgem's assessment that no changes are needed to be made to the existing reference to the TIL within the Code.

We appreciate that the CMA's RMR remedy proposes to amend the current format of the TIL, but on the basis that the existing reference to the TIL within the Code has little detail we agree that no change is necessary to the current reference made.

However, we suggest that the proposed amendments contained in the RMR remedy will need to be communicated to providers so they are aware of what is required in application of the Code.

Chapter 4

(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?

Citizens Advice agree that the initiatives included in Chapter 4 of the consultation are out of scope for the review of the Confidence Code at this point in time, however any dependencies with these initiatives should be monitored appropriately.

As these initiatives progress, we suggest that it will be beneficial to allow for flexibility to amend the Code when required.

Where initiatives have the potential to provide PCWs access to additional sources of data and particularly when this is personal data (e.g. ECOES and DES, Midata Smart, half hourly settlement), we expect that the impact on consumers to be thoroughly considered. Furthermore, we would expect that any new measures needed to protect consumers (and use of their data) are put in place and appropriately reflected in the Code.

(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?

Confidence Code

- In our response to the provisional CMA remedies we suggested that Ofgem should require all PCWs operating in the market to be accredited under the Confidence Code, once the changes are implemented. We would also like to see other Third Party Intermediaries (TPIs), such as collective switching schemes and New Model Intermediaries like Flipper, brought into the Code.

Midata and smart

- In our response to the provisional CMA remedies we referred to the relationship between Midata and Smart, and identified an opportunity to draw connections between the two initiatives. We'd like to reiterate that as these initiatives were created separately, there are consumer policies in both that the other would benefit from. We would be happy to offer our support and discuss this with Ofgem in more detail.

Non domestic TPI Code of Practice

- Citizens Advice remains eager for Ofgem to move forward with the development of a Code of Practice for non domestic TPIs. Given the likelihood of TPIs operating across both the domestic and non domestic sectors, we would support the development of a single code of practice with TPIs covered by the sections that apply to the markets in which they are currently active.