

Impact Assessment Form

<p>Title: Confidence Code Review 2016: Impact Assessment for decision on partial remedy</p> <p>Division: Consumers & Competition</p> <p>Team: Non-domestic & Third Party Intermediaries</p> <p>Associated documents: Decision on the partial implementation of the CMA's Whole of Market remedy & consulting on new Code requirements</p> <p>Coverage: This IA covers all policy decisions in the associated document.</p>	Impact Assessment (IA)
	<p>Type of measure: Retail Competition measures</p>
	<p>Type of IA: Not Qualified under Section 5A UA 2000</p>
	<p>Contact for enquiries</p> <p>confidencecode@ofgem.gov.uk</p>

Summary:

What is the problem under consideration? Why is Ofgem intervention necessary?

The Confidence Code rules limit the ability of accredited Price Comparison Websites (PCWs) to show consumers the tariffs which the consumer can switch to directly through the PCW and for which the PCW receives commission from suppliers. Suppliers can therefore have their tariffs displayed prominently on PCWs without paying commission. By restricting the incentives of PCWs to invest and innovate, this prevents consumers from realising the benefits of PCWs playing a more active role in supporting engagement and driving greater supply-side competition. In its Energy Market Investigation, the CMA concluded that the current 'Whole of Market' requirement was having an adverse effect on competition. Ofgem is best placed to resolve the issue because we are responsible for the Code, and the issue sits within the Code rules.

What are the policy objectives and intended effects including the effect on Ofgem's Strategic Outcomes?

We want to allow PCWs to play a more active role in supporting consumer engagement and driving greater supply-side competition, by increasing their incentives to invest and innovate. At the same time, we want to ensure that the Code provides consumers with accredited PCWs they can trust.

This policy is primarily linked to the strategic outcome of lower bills – it seeks to deliver this through greater engagement and competition. This policy would also help PCWs to provide a better quality of service. It also enables a step towards a future where intermediaries may become more important for helping to achieve other strategic outcomes (eg lower environmental impacts). The precise outcomes resulting from this policy are uncertain, for example as market outcomes will also depend on other CMA remedies.

This policy is aligned with Ofgem's regulatory stance on promoting effective competition to deliver for consumers. It also fits with our stance of supporting innovation in technologies, systems and business models.

What are the policy options that have been considered, including any alternatives to regulation? Please justify the preferred option (further details in Evidence Base)

We have already consulted on a partial remedy, as an intermediate step. This would allow PCWs to show as a default a view of tariffs that can be entered into directly through the PCW, with a requirement to have a Wide Results page easily available for customers who wanted it. This IA therefore considers the partial remedy (option 2) against the status quo (option 1). We did not consult on full removal of the Whole of Market requirement in August 2016 – before doing this, we said that we would need to consider whether we had properly mitigated the risks and uncertainties, including the need to devise a new approach to auditing Code compliance.

The partial remedy is our preferred option. We think that this approach provides consumers with accredited PCWs that they can trust and allows competition (among PCWs, and between PCWs and suppliers) to drive benefits for consumers, including through investment by PCWs.

Given the issue originates in the existing Code rules, we have not considered alternative options outside the Code.

Preferred option - Monetised Impacts (£m)

Business Impact Target Qualifying Provision	N/A
Business Impact Target (EANDCB)	N/A
Net Benefit to Ofgem Consumer	N/A
Wider Benefits/Costs for Society	N/A
Explain how was the Net Benefit monetised, NPV or other (eg NPV in 2015 financial year prices covering the period from 2016 to 2020). N/A	

Preferred option - Hard to Monetise Impacts**Describe any hard to monetise impacts, including mid-term strategic and long-term sustainability factors following Ofgem IA guidance**

Hard to monetise impacts include:

- Lower bills for consumers who start to engage as a result of increased advertising of their energy services by PCWs.
- Greater ease in using PCWs, and a greater range of cheap deals, for consumers who use PCWs.
- Increased revenues for PCWs as a result of greater consumer engagement.
- Higher bills for consumers who currently search on PCWs and then select cheaper tariffs only available through suppliers (only if suppliers increase prices to reflect that they have started to pay commission, or if consumers become unaware of the Whole of Market view).
- Higher marketing costs, or diversion of existing marketing costs, for suppliers who choose to start paying commission.

Key assumptions/sensitivities/risks

- Some consumers' trust in PCWs could be affected as a result of this policy, which could have an impact on engagement. However, this risk can be addressed through appropriate mitigations – in particular to ensure consumers are clear what they are seeing, so that they do not make switching or searching decisions on the basis of incorrect assumptions. The current Whole of Market requirement is also not present in other sectors in which PCWs offer services.
- Bargaining power of PCWs could increase, allowing them to increase their commission rates (or impose restrictive clauses). Any increase in costs could be passed onto consumers. We will address this risk by monitoring the impact of the partial remedy on competition.

Will the policy be reviewed?

Yes

If applicable, set review date:

Later in 2017 (as part of consulting on the full remedy)

Is this proposal in scope of the Public Sector Equality Duty?

No
(see
paragraph
1.20)

Summary of main impacts

We have two options: 'do nothing' (option 1) and the partial remedy (option 2). The table below therefore summarises the main expected impacts of option 2 on different groups, relative to option 1.

Group	Benefits	Costs	Risks
Consumers	<p><u>For consumers who engage as a result of increased advertising by PCWs:</u></p> <p>Lower bills</p> <p><u>For consumers who use PCWs:</u></p> <p>Easier decision making following increased investment and innovation by PCWs</p> <p>Easier switching from more tariffs being available through PCWs</p> <p>Lower bills as a result of exclusive deals negotiated between PCWs and suppliers</p>	<p><u>For consumers who currently search on PCWs and then select cheaper tariffs only available through suppliers:</u></p> <p>Higher bills (only if suppliers increase prices to reflect that they have started to pay commission, or if individual consumers become unaware of the Wide Results page, despite our proposed mitigations)</p>	<p>Reduced trust in PCWs, with a potential impact on engagement</p> <p>Any increases in commission rates may be passed on to consumers</p>
Suppliers	<p><u>For suppliers looking to grow and attract new customers:</u></p> <p>Higher customer numbers and revenues as a result of greater consumer engagement</p>	<p><u>For suppliers who choose to start paying commission:</u></p> <p>Higher marketing costs (or diversion of existing costs), plus costs of negotiating commercial agreements</p>	<p>Increased bargaining power for PCWs leads to higher commission rates and/or use of restrictive clauses</p>
PCWs	<p>Higher revenues, as more consumers switch through PCWs</p> <p>Greater freedom to innovate</p> <p>Increased ability to be a trusted source of information for consumers on supplier performance</p>	<p><u>For PCWs who choose to develop new commercial agreements:</u></p> <p>Costs of negotiating these agreements</p>	

Although we have not sought to quantify the impacts, we expect the benefits of option 2 to outweigh its costs (each relative to option 1). In particular, the consumer benefits from increased investment and innovation by PCWs would be relevant for all PCW users, and there are a large number of consumers who could benefit from engaging as a result of increased investment by PCWs. In contrast, the costs would only apply to the smaller number of consumers who currently search through PCWs and then select cheaper tariffs only available through suppliers. The costs would also be reduced to some extent by the fact that PCWs will still have to provide a clearly-signposted Wide Results page under the partial remedy.

Any additional commission payments would be a cost to suppliers, but would also be a source of revenue to PCWs. These payments therefore represent a transfer between types of business, rather than a cost to businesses as a whole. While suppliers and PCWs may incur some costs from negotiating new commercial agreements, this would be a commercial choice.

Evidence Base

Problem under consideration and rationale for intervention

- 1.1. The Confidence Code (Code) is a voluntary code in relation to online price comparison services for domestic consumers. Ofgem has managed this Code since 2013.
- 1.2. Among the Code requirements, Price Comparison Websites (PCWs) must use all reasonable endeavours to include price comparisons for all available domestic tariffs (with the exception of social tariffs, tariffs which a supplier has requested are removed, and tariffs which are not available in the customer's region).¹
- 1.3. In addition, PCWs can show a partial view (only showing fulfillable tariffs)² of the market. However, they cannot show this view unless the consumer makes an active choice. PCWs also cannot pre-tick this option where a PCW provides a filter, offering a consumer a choice of seeing the partial view or the Wide Results page.³ A PCW may show a partial view, provided that the consumer makes an active choice and the PCW complies with requirements on: the messaging the consumer sees, the testing of this messaging, and the ability of the customer to switch to see all results.⁴
- 1.4. These 'Whole of Market' (WoM) requirements limit the ability of PCWs to show consumers the tariffs which earn them revenues (through the payment of commission by suppliers). This means that PCWs' revenues may be lower than if these requirements were not in place. In particular, some suppliers are able to 'free ride' by being displayed on PCWs without paying commission – if a consumer searches on a PCW and then switches to one of these suppliers directly, the PCW would not receive any revenue from this switch. This therefore limits the incentives on PCWs to invest – for example in advertising, or in innovative ways of making their sites easier for consumers to use.
- 1.5. Under the current Code requirements, investment by PCWs is a positive externality. A PCW is only able to capture part of the benefit of its investment (as it does not receive revenue when consumers visiting its site switch to suppliers who do not pay commission). It would therefore be expected to under-invest, for

¹ Code requirement 2(A).

² Fulfillable tariffs are tariffs which the consumer can switch to directly through the PCW, for which the PCW receives commission from the supplier.

³ We previously referred to the 'Wide Results page' as the 'WoM view' in the August 2016 consultation document. The Code drafting currently in force refers to 'All Results'. We use the term 'Wide Results page' throughout this document, both when referring to the current Code and when evaluating the policy options.

⁴ The rules are set out fully in requirements 5(F), 5(G), 5(H) and 5(I) of the Code.

example in comparison to other sectors where these requirements are not present.

- 1.6. However, the current Code requirements could have some benefits for suppliers who are displayed on PCWs without paying commission, as they can advertise themselves using PCWs without incurring marketing costs.
- 1.7. The Competition and Markets Authority (CMA) considered the current Code requirements as part of its Energy Market Investigation. It found that the current requirements contributed to an Adverse Effect on Competition, and put forward a recommendation to address this.⁵ In order to strengthen PCWs' incentives to engage consumers, the CMA recommended to Ofgem: 'that it removes the Whole of the Market Requirement in the Confidence Code and introduces a requirement for PCWs accredited under the Confidence Code to be transparent over the market coverage they provide to energy customers'.⁶
- 1.8. The CMA's rationale for its recommendation was:

'(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'.⁷
- 1.9. This recommendation forms part of the CMA's broader package of remedies. Some of these are specifically related to PCWs, such as the orders to provide PCWs with access to the ECOES and DES industry databases, and the recommendation to government in relation to its Midata policy. Reforms to the Code therefore complement other changes to make it easier for intermediaries to help domestic consumers to engage. Other CMA remedies also seek to drive greater competition, innovation and consumer engagement – such as the removal of the four-tariff rule, and the recommendation to trial prompts to

⁵ CMA (2016) Energy Market Investigation, Final Report, paragraph 13.264.
<https://assets.publishing.service.gov.uk/media/5773de34e5274a0da3000113/final-report-energy-market-investigation.pdf>

⁶ CMA (2016), Summary of Final Report, paragraph 239.
<https://assets.publishing.service.gov.uk/media/576c23e4ed915d622c000087/Energy-final-report-summary.pdf>

⁷ CMA (2016), Energy Market Investigation, Final Report, paragraph 13.279.
<https://assets.publishing.service.gov.uk/media/5773de34e5274a0da3000113/final-report-energy-market-investigation.pdf>

engage. While this IA focuses on our proposed immediate changes to the Code, other remedies will also affect the retail market at the same time.

- 1.10. The problem under consideration is a consequence of the current Code requirements. Making changes to the Code is therefore a direct way of addressing it. Ofgem is best placed to resolve the issue because we are responsible for the Code.

Policy objective

- 1.11. We want to allow PCWs to play a more active role in supporting consumer engagement and driving greater supply-side competition, by increasing their incentives to invest and innovate. At the same time, we want to ensure that the Code provides consumers with accredited PCWs they can trust.
- 1.12. This policy is primarily linked to the strategic outcome of lower bills – it seeks to deliver this through greater engagement and competition. This policy can also help PCWs to provide a better quality of service. It also enables a step towards a future where intermediaries may become more important for helping to achieve other strategic outcomes (eg lower environmental impacts).
- 1.13. This policy is aligned with Ofgem’s regulatory stance on promoting effective competition to deliver for consumers. It also fits with our stance of supporting innovation in technologies, systems and business models.

Description of options considered

- 1.14. This impact assessment considers two options.
- **Option 1** is the ‘do nothing’ option. This would involve maintaining the current Code requirements.
 - **Option 2** is the ‘partial remedy’. In August 2016 we consulted on an intermediate step towards implementing the CMA’s recommendation to remove the WoM requirement from the Code. This partial remedy allows PCWs to show fulfillable tariffs as a default, with a requirement to have a Wide Results page easily available for customers who wanted it. Following this consultation and further consideration, we have now added further mitigations in relation to: messaging on market coverage, messaging on the Wide Results page, and showing tariffs in price order as a default. A full description of this option, as well as the associated Code drafting, is available in the main consultation document.
- 1.15. As we have two options, this IA focuses on evaluating the partial remedy (option 2) relative to the ‘do nothing’ option (option 1).

- 1.16. We did not consult on full removal of the WoM requirement in August – before doing this, we said that we would need to consider whether we had properly mitigated the risks and uncertainties, including the need to devise a new approach to auditing Code compliance. Given that our August 2016 consultation already narrows down the list of options, we therefore do not assess full removal in this IA, as the immediate decision is whether or not to implement the partial remedy. We recognise that PCWs support full removal of the WoM requirement, and that their views on the partial remedy have been provided in this context.

Impact assessment methodology

- 1.17. We have taken a primarily qualitative approach to this IA. We have considered the following factors, among others, when deciding the level of analysis that is proportionate:
- The fact that PCWs are a significant means for consumers to engage with the energy market. For example, a 2016 survey found that 51% of consumers who had switched supplier, changed tariffs or compared tariffs in the previous 12 months had used an online price comparison tool to find out about the deals offered.⁸
 - The previous public interest in the WoM requirement – for example from the Energy and Climate Change Select Committee.⁹
 - The analysis already carried out by the CMA in relation to PCWs as part of its Energy Market Investigation. This was a two-year investigation, with extensive evidence gathering and analysis, which included assessment of the impact of its recommendations.
 - Our position that the decision on the partial remedy is an intermediate step towards implementing the CMA’s recommendation. We may conduct additional analysis before any decision to implement further changes to the Code.
 - That this policy is in relation to a voluntary¹⁰ Code, rather than mandatory regulation.

⁸ TNS BMRB (2016), Consumer engagement in the energy market since the Retail Market Review. 2016 Survey Findings. Report prepared for Ofgem, p33.

https://www.ofgem.gov.uk/system/files/docs/2016/08/consumer_engagement_in_the_energy_market_since_the_retail_market_review_-_2016_survey_findings.pdf

⁹ Letter from Chair of the Energy and Climate Change Select Committee, 19 July 2016

<http://www.parliament.uk/documents/commons-committees/energy-and-climate-change/Correspondence/CMA-investigation-CHAIR-to-DBEIS-SOS.pdf>

¹⁰ The CMA has noted that: ‘it appears that the most DCTs [Digital Comparison Tools] have signed up to Ofgem’s ‘confidence code’ as a result of the largest energy companies making accreditation a requirement if DCTs are to list them’, paragraph 8.7 (b). CMA (2017), Digital Comparison Tools market study update paper.

- 1.18. We have not sought to quantify the impact of our preferred option. Its impact will depend on a wider context of changes in the market as a result of other CMA remedies, which are designed to be mutually reinforcing. We therefore do not consider that it is proportionate to develop a quantitative estimate of this particular policy in isolation. Instead, this IA provides a qualitative analysis of the impacts of the policy.
- 1.19. We must carry out an IA where this is required by statute (where the policy is 'important' within the meaning of Section 5A of the Utilities Act 2000). We have determined that the policy area under consideration does not meet the statutory test for importance for the reasons below, but are nonetheless producing this IA, in accordance with our better regulation duties and to promote the interests of consumers. We have decided that the test of importance under Section 5A is not met because the policy does not: (i) change Ofgem's functions, (ii) have significant effects on the environment or (ii) result in 'significant impacts' to the relevant stakeholders set out in Section 5A. While we recognise that the policy affects PCWs,¹¹ we would not expect this policy to have significant costs for them, and the change in the Code requirements from the partial remedy is relatively small. We also do not consider that the policy has significant impacts on suppliers (especially given that any costs would be the result of commercial decisions by suppliers) or on the general public (for example given that PCWs will still provide a Wide Results page).
- 1.20. Under the Public Sector Equality Duty, we need to consider whether the policy could have a particular impact on people with certain protected characteristics. We do not have reason to believe that the partial remedy would result in those with protected characteristics finding it more difficult to use PCWs than those without such characteristics. While the policy will not be relevant for consumers without internet access (which may be more likely for elderly consumers), this is also true of the Code at present. This means there is no incremental impact and therefore we do not consider the policy changes will have an effect on equality or cause disadvantage to be suffered by people due to their protected characteristics.

Assessment – consideration of potential benefits

- 1.21. This section considers the potential benefits of the partial remedy, which we discuss in turn below. A key benefit is higher engagement as a result of PCWs having stronger incentives to invest in advertising (given that more consumers visiting a PCW would be expected to switch through it). Higher site traffic could also increase the incentives for PCWs to invest in innovating and developing their sites – this would benefit consumers by helping them to make decisions more easily.

<https://assets.publishing.service.gov.uk/media/58da7afce5274a06b000003c/dct-update-paper.pdf>

¹¹ PCWs would be considered under the category in (2)(c) of Section 5A – 'persons engaged in commercial activities connected with the shipping, transportation or supply of gas conveyed through pipes or with the generation, transmission, distribution or supply of electricity'.

- 1.22. The partial remedy could also make it easier for consumers to switch directly through PCWs. Suppliers and PCWs may also have higher incentives to negotiate cheap exclusive deals, and the partial remedy would improve the ability of PCWs to show consumers the products they have checked.

Higher engagement

- 1.23. The current rules are likely to dampen the incentives to invest. For example, if a PCW invested in advertising, some of the additional visitors it attracted may look at the default¹² Wide Results page to compare prices, and then contact a supplier directly to switch to one of the unfulfillable tariffs. We discuss the evidence on the impact of the 2015 Code changes in the next section.
- 1.24. The current Code rules mean that many consumers may only see a Wide Results page.¹³ There are very few fulfillable tariffs (from which a PCW earns revenue) at the top of this view. For example, a check in January 2017 found there were on average 1.3 fulfillable tariffs in the top ten tariffs on the Wide Results pages from accredited PCWs.¹⁴ A further check in April showed that none of the four cheapest tariffs were fulfillable on any accredited PCW.¹⁵ One PCW also provided data showing the trends over time for the proportion of fulfillable tariffs for its top tariff on the Wide Results page and its top three, top five and top ten tariffs on the Wide Results page. This showed lower levels of fulfillability after the 2015 Code changes compared to before them, and a broadly decreasing trend over time since the 2015 changes.¹⁶
- 1.25. The top results matter because there is evidence that consumers focus on them (which may be because these are generally the cheapest). One PCW told us that 87.5% of its users only look at the top ten results.¹⁷ In the final report for its Private Motor Insurance market investigation, the CMA cited survey evidence that 93% of customers selected a policy that was in the top five cheapest quotes.¹⁸
- 1.26. PCWs told us that the current Code rules had other negative impacts on investment:

¹² Unless the consumer makes an active choice – see paragraph 1.3 above.

¹³ We discuss the available evidence in paragraph 1.37 below.

¹⁴ Ofgem analysis based on spot checking accredited PCWs, 24 January 2017. (Annual consumption of 16,500kWh gas and 3,300kWh electricity; dual fuel; direct debit; post code SE20)

¹⁵ Ofgem analysis based on spot checking accredited PCWs on 6 April 2017. (Annual consumption of 12,500kWh gas and 3,100kWh electricity; dual fuel; direct debit; post code NE8). The fifth cheapest tariff was only fulfillable on three of the accredited PCWs.

¹⁶ Data covers the period January 2015 to March 2017.

¹⁷ Data covers the period 2015 to August 2016.

¹⁸ CMA (2014) Private Motor Insurance market investigation final report, Appendix 8.1, paragraph 77. https://assets.publishing.service.gov.uk/media/5421c32ee5274a1314000003/Appendices_Glossary.pdf

- One PCW told us that the current WoM requirement created uncertainty about the number of fulfillable tariffs, which impacted planning and investment, e.g. in high-profile advertising campaigns.
- One PCW said that it invests from retained profits, and so a reduction in profits as a result of the 2015 Code changes led to a reduction in investment.¹⁹ This would only be a binding constraint on the ability to invest for PCWs that do not have access to alternative sources of funding for investment.

1.27. PCWs that operate across multiple sectors may also have to decide how to allocate investment between them. In its Energy Market Investigation, the CMA reported that: 'PCWs present in multiple markets spend a relatively small proportion of their advertising expenditure on their energy comparison and switching service: less than 15% of their total advertising spend in 2014'.²⁰

Higher engagement – impact of 2015 Code changes

- 1.28. To contribute to our understanding of the potential impact of the partial remedy, we can look at the effects of the 2015 Code changes, which introduced the current rules. This is not an exact parallel, because the proposed partial remedy would provide greater flexibility than the pre-2015 rules. We are also limited in the conclusions we can draw because only some PCWs responded to our RFI.
- 1.29. Conversion rates (the proportion of site visitors switching through the PCW) fell after the 2015 Code changes, though the extent differed between the five sites who provided information in the format requested. The median percentage change in the average monthly conversion rate was -36%.²¹ However, we do not know how many consumers who left PCWs without switching went to the websites of suppliers whose tariffs could not be switched to from the PCWs.
- 1.30. One PCW also provided data showing that its conversion rate for consumers who only saw the Wide Results page was flat after the 2015 changes (at a time when its conversion rate for consumers who only saw the partial view increased). It attributed this to the fall in the number of revenue-earning tariffs in the Wide Results page.
- 1.31. Several PCWs also provided some evidence that their investment fell as a result of the 2015 changes. One PCW said that it had run fewer promotions with newspaper partners, which it thought had a particular impact on less engaged groups.²² One PCW said that it had reduced its marketing costs by 97%

¹⁹ Response to Q2 of the PCW RFI.

²⁰ CMA (2016) Energy Market Investigation Final Report, appendix 9.3, paragraph 32. <https://assets.publishing.service.gov.uk/media/576bcbd4ed915d622c00007b/appendix-9-3-price-comparison-websites-and-collective-switching-fr.pdf>

²¹ Comparing the years starting in November 2013 and November 2015. Note that this is the percentage change in conversion rates, rather than the percentage point change in conversion rates.

²² Response to Q2 of the PCW RFI.

compared to the peak.²³ It also said that it had suspended its partner programme and suspended a project to offer face to face comparison for customers without internet access.²⁴ One PCW told us that its energy investment fell by 30% from 2014/15 to 2015/16.²⁵ One PCW told us that, as a result of the 2015 changes, it invested less in 2015 and reduced its national TV advertising campaign by a month. One PCW told us that it had held off investing in traffic as a result of the 2015 changes. It said that it tried Pay Per Click advertising for a short period in November 2016, but did not see a sufficient impact on conversion rates.²⁶ However, one PCW told us that WoM had little direct impact on investment, and that (under a broad definition including compliance monitoring and regulatory engagement, in addition to development costs), its investment increased by 53% from 2014/15 to 2015/16.²⁷

- 1.32. However, survey data suggests that the overall proportion of customers switching through PCWs did not fall after the 2015 changes. The proportion of consumers using a PCW to switch rose from 44% in 2014 (and 2015) to 47% in 2016.²⁸ This survey did not differentiate between Code-accredited PCWs and other PCWs. We observed a similar pattern based on the information from our RFI to suppliers, though this also did not allow us to differentiate between Code-accredited and other PCWs.²⁹
- 1.33. Two PCWs provided customer visit numbers before and after the 2015 Code changes, which were broadly flat.³⁰ If these sites had reduced investment as a result of the 2015 changes, we might have expected to see a fall in the number of customers visiting the sites. The limited data available does not show this.
- 1.34. Two of the largest PCWs appear to have grown (in revenues or number of switches) since the 2015 changes. ZPG's energy revenue (under the uSwitch brand) increased 46% between its 2015 and 2016 Financial Years.³¹ The first half of its 2015 Financial Year (October 2014-March 2015) was before the introduction of the 2015 Code changes, and therefore the year on year comparison will partly take into account any impact from these changes. For MoneySuperMarket, the number of fuels switched increased from 0.6m in 2014 to

²³ Response to Q1 of the PCW RFI.

²⁴ Response to Q2 of the PCW RFI.

²⁵ Response to Q4a of the PCW RFI.

²⁶ Response to Q2 of the PCW RFI.

²⁷ Response to Q4b of the PCW RFI.

²⁸ TNS BMRB, Consumer engagement in the energy market since the Retail Market Review. 2016 Survey Findings. Report prepared for Ofgem, p28.

https://www.ofgem.gov.uk/system/files/docs/2016/08/consumer_engagement_in_the_energy_market_since_the_retail_market_review_-_2016_survey_findings.pdf

²⁹ See paragraph 1.104 for caveats to this data.

³⁰ Responses to Q1 of the PCW RFI.

³¹ Zoopla Property Group Plc, Full Year Results 2016 (presentation), p28. ZPG is the parent company of uSwitch. ZPG acquired uSwitch part-way through its 2015 Financial Year, so we use the figures based on a full year's worth of trading in the Comparison Services division to focus on the underlying growth. <https://www.zpg.co.uk/~media/Files/Z/Zoopla/documents/reports-and-presentation/zpg-fy16-results-presentation.pdf>

1.5m in 2016.³² However, this figure includes the non-Code accredited MoneySavingExpert site, which switched 0.6m users in 2016 through its Cheap Energy Club.³³ Given Cheap Energy Club was only launched in 2013,³⁴ this may represent a large proportion of MoneySupermarket's growth between 2014 and 2016.

- 1.35. However, two other PCWs provided us with information suggesting that their profitability fell after the 2015 Code changes.³⁵ One PCW said that its revenue was flat and its profit was lower in 2015/16 compared to 2014/15.³⁶ One PCW told us that its revenues fell significantly in 2016 compared to 2015, and that its underlying loss rose.³⁷
- 1.36. In summary, the available data (from a minority of PCWs) suggests that there was a reduction in conversion rates following the 2015 Code changes. However, the overall number of customers switching through PCWs did not fall compared to the number of switches before these changes.³⁸ The available evidence therefore does not allow us to develop a strong conclusion on the impact of the 2015 Code changes, but PCWs have provided some information to suggest that these changes reduced their investment.

Higher engagement – impact of partial remedy

- 1.37. The partial remedy would allow a PCW to ensure that all visitors to its site saw the partial view, increasing the prominence of the tariffs which earn it revenue. The limited data available suggests that a significant proportion of consumers may not see the partial view. Data from one PCW shows that, as a monthly average in 2016, 41% of its customers did not see the partial view at all.³⁹ On average, 48% of one PCW's customers saw the partial view only between November 2015 and October 2016.⁴⁰ For one PCW, an average of 25% of customers saw the partial view only since it introduced a filter view in July 2016.⁴¹ Under the partial remedy, consumers will still be able to toggle to the Wide Results page from the results page. We do not know how many customers will do this. We note that most PCW consumers at present look at more than one

³² MoneySuperMarket, Preliminary Results 2016, p14.

<http://corporate.moneysupermarket.com/~media/Files/M/Moneysupermarket-V3/result-and-presentations/preliminary-results-2016-presentation.pdf>

³³ MoneySuperMarket, Preliminary Results 2016, p25.

<http://corporate.moneysupermarket.com/~media/Files/M/Moneysupermarket-V3/result-and-presentations/preliminary-results-2016-presentation.pdf>

³⁴ MoneySuperMarket, Preliminary Results 2016, p27.

<http://corporate.moneysupermarket.com/~media/Files/M/Moneysupermarket-V3/result-and-presentations/preliminary-results-2016-presentation.pdf>

³⁵ Responses to Q2 of the PCW RFI

³⁶ Response to Q2 of the PCW RFI.

³⁷ Response to Q2 of the PCW RFI.

³⁸ We do not know what would have happened in the absence of the 2015 changes.

³⁹ Average of monthly percentages.

⁴⁰ Calculated using response to Q1 of the PCW RFI. Average of monthly percentages.

⁴¹ Figures from July 2016 to October 2016. Calculated using response to Q1 of the PCW RFI. Average of monthly percentages.

results page by visiting multiple PCWs,⁴² and so some consumers may be prepared to use the toggle to the Wide Results page instead as a way of seeing more than one results page.

- 1.38. As more consumers see more fulfillable tariffs under the partial remedy, conversion rates may increase. For example, MoneySuperMarket carried out a small-scale test of alternative results pages for four weeks in early 2017. This involved randomly allocating consumers between five different results pages (the current version and four alternatives). The closest equivalent to the partial remedy involved showing fulfillable tariffs on the results page, but with a dropdown to show cheaper tariffs in the Wide Results page. This increased conversion rates by a statistically significant amount.⁴³ This is evidence based on actual consumer decision-making (though only from a time-limited trial).
- 1.39. A higher conversion rate would increase the return on investment for PCWs, and therefore encourage them to do more to engage consumers (eg through investment in advertising their services), which should in turn stimulate switching. There is reason to believe that investment in engaging consumers can lead to higher switching rates – for example, the government-run ‘Power to Switch’ campaign in early 2015 led to a spike in switching rates.⁴⁴ Consumers who engage can save significant amounts of money, particularly if they have not done so recently. For example, the difference between the average standard variable tariff (SVT) and the cheapest available tariff was around £250 in March 2017.⁴⁵ There are still a large number of consumers who could benefit from engaging – in October 2016, 61% of non-PPM gas and electricity accounts were on SVTs.⁴⁶
- 1.40. There may especially be potential to engage consumers who have used PCWs in other sectors but not in energy. According to a recent survey for the CMA, 34% of consumers had ever used a comparison site to shop around for energy – this was lower than in motor insurance (61%), home insurance (41%), flights (40%) and hotels (40%).⁴⁷
- 1.41. The CMA found that consumers with characteristics that may make them more likely to be vulnerable (eg household income below £18,000, no qualifications, or living in social rented accommodation) were less likely to have switched supplier

⁴² See paragraph 1.95.

⁴³ MoneySuperMarket trial. MoneySuperMarket reported that the change in conversion rates was statistically significant at the 99% level. We note that this trial related only to one PCW and that there are differences between PCWs’ business models and their customer bases, which means that it cannot simply be extrapolated to the entire market and instead must be viewed as one input alongside others as part of a broad evidence base.

⁴⁴ Ofgem (2015) Retail Energy Markets in 2015, pp29-30.

⁴⁵ https://www.ofgem.gov.uk/sites/default/files/docs/2015/09/retail_energy_markets_in_2015_report_0.pdf

⁴⁶ <https://www.ofgem.gov.uk/data-portal/retail-market-indicators>

⁴⁷ <https://www.ofgem.gov.uk/data-portal/retail-market-indicators>

⁴⁷ Kantar Public (2017) Digital Comparison Tools: Consumer Research, Final report, p40. <https://assets.publishing.service.gov.uk/media/58e224f5e5274a06b3000099/dcts-consumer-research-final-report.pdf>

in the past three years, compared to consumers as a whole.⁴⁸ The CMA also found that consumers with these characteristics were less likely to have used PCWs to find information the last time they switched.⁴⁹ Consumers in vulnerable situations could therefore possibly benefit if the partial remedy led to them using PCWs more and switching more. However, we recognise that PCWs may not be relevant to all consumers – for example, changes to the regulation of PCWs will not be relevant to consumers without internet access. Other tools may help consumers in vulnerable situations to get a better deal, such as the database remedy.

- 1.42. There was a general opinion from PCWs that the partial remedy would increase conversion rates.⁵⁰ For example, one PCW thought that this would lead to fewer consumers becoming frustrated by unfulfillable tariffs and dropping out.⁵¹ (One PCW disagreed, saying that the partial remedy would lead to lower levels of consumer trust due to arguments about PCWs hiding deals⁵²). Two PCWs also said that the partial remedy could lead to increases in marketing investment.⁵³ We do not have firm evidence that investment would definitely take place as a result of the partial remedy, but we would not expect to have such guarantees in respect of a future policy change.

Higher engagement – conclusion

- 1.43. We consider that the partial remedy can lead to more consumer engagement. This is because PCWs are likely to have greater incentives to advertise their services to consumers than under the current Code rules, including as a result of having more fulfillable tariffs in the top results which consumers pay most attention to. However, the partial remedy could also potentially affect engagement if it reduced consumer trust in PCWs – we discuss this risk below (starting from paragraph 1.81).

Easier decision-making

- 1.44. As set out above, the partial remedy could increase PCWs' incentives to invest in advertising, and thereby increase their site traffic. As a consequence, this could also increase the incentives for PCWs to invest in innovating and developing their sites, if such investments involve fixed costs. PCWs would be trying to increase the proportion of site visitors who go on to switch (eg by developing simpler

⁴⁸ CMA (2016) Energy Market Investigation final report, paragraph 9.10.

<https://assets.publishing.service.gov.uk/media/5773de34e5274a0da3000113/final-report-energy-market-investigation.pdf>

⁴⁹ CMA (2016) Energy Market Investigation Final Report, paragraph 9.174 and figure 9.8

<https://assets.publishing.service.gov.uk/media/5773de34e5274a0da3000113/final-report-energy-market-investigation.pdf>

⁵⁰ Supported by four responses to Q3a of the PCW RFI and partially supported by one other response.

⁵¹ Response to Q3a of the PCW RFI.

⁵² Response to Q3a of the PCW RFI.

⁵³ Responses to Q3b of the PCW RFI.

consumer journeys). This would benefit consumers by helping them to make decisions more easily.

- 1.45. Three PCWs said that they could increase investment in their sites under the partial remedy – eg one PCW said that it has started to budget for investment in new site designs, technical capability and innovative journeys.⁵⁴ Innovation and site development may become increasingly relevant in future. As suppliers start to offer time of use and other smart tariffs, PCWs would need to invest to allow consumers to compare these tariffs through their sites.

Easier switching

- 1.46. The current arrangements provide little incentive for the cheapest suppliers (those at the top of any market listing) to sign commercial agreements with PCWs. (Paragraph 1.24 above provides evidence on the currently low levels of fulfillable tariffs at the top of the Wide Results page). To the extent that the partial remedy increases this incentive (eg through suppliers seeking to ensure that their tariffs are shown on the default view seen by all consumers), this should increase the choice of products available directly⁵⁵ through PCWs as fulfillable tariffs.
- 1.47. When a tariff is fulfillable, a consumer can switch directly through the PCW. If a tariff is unfulfillable, the consumer would have to contact the supplier separately, which would involve additional steps such as re-entering their details. If a greater number of suppliers make their tariffs fulfillable through PCWs, this would therefore make it easier for consumers to switch to cheap deals.⁵⁶ This would benefit consumers who use a PCW at present – a 2016 survey found that 47% of consumers who had switched in the past 12 months did so through an online price comparison service,⁵⁷ which is equivalent to approximately 2m consumers.⁵⁸ It would also benefit any consumers who start to use PCWs as a result of the partial remedy.
- 1.48. Easier switching could also reduce the potential for consumers to be put off from switching altogether. Only a minority of customers who use a PCW for information go on to switch (through any route). Using a 2016 survey, we estimate that around 18.9% of consumers were 'active' in the last 12 months (switched, changed tariff, or compared tariffs) and used a PCW for information.⁵⁹

⁵⁴ Responses to Q3b of the PCW RFI.

⁵⁵ As fulfillable tariffs.

⁵⁶ Some PCWs may make specific arrangements to help small suppliers be listed on their sites – see paragraph 1.120.

⁵⁷ TNS (2016), Consumer engagement in the energy market since the Retail Market Review. 2016 Survey Findings. Report prepared for Ofgem, p41.
https://www.ofgem.gov.uk/system/files/docs/2016/08/consumer_engagement_in_the_energy_market_since_the_retail_market_review_-_2016_survey_findings.pdf

⁵⁸ There were 4.4m electricity switches in 2016. (<https://www.ofgem.gov.uk/publications-and-updates/switches-nearly-30-millions-go-energy-shopping>) Using this figure excludes gas-only switches, but avoids double-counting of dual fuel switches.

⁵⁹ 37% of consumers were 'active' in the last 12 months (switched, changed tariff, or compared tariffs). Of these, 51% used a PCW to find out about deals. (TNS BMRB (2016), Consumer

In contrast, only around 8.1% of consumers switched and used a PCW for information.⁶⁰ This implies that around 10.8% of consumers used a PCW for information but did not switch (either through a PCW or in another way) – this is equivalent to approximately 3m consumers.⁶¹ Some of these consumers may have decided not to switch because they were satisfied with their current supplier. However, it is plausible that for others in this sizeable group of consumers, making it easier to switch to a greater range of tariffs through PCWs could be the factor that encourages them to switch.

- 1.49. Furthermore, analysis by the CMA shows that, compared to energy consumers, more than three times as many home insurance consumers who visit a comparison site make a purchase through a comparison site.⁶² While some energy consumers may search on a PCW and then switch through another route, the comparison with home insurance illustrates that there may be the potential for an increase in the proportion of consumers searching through PCWs who go on to switch.
- 1.50. While making tariffs fulfilable through PCWs would make it easier for consumers to switch, the partial remedy could also potentially increase commission rates, which could then be passed on to consumers. We discuss this risk below (in paragraph 1.102 onwards).

Exclusive deals

- 1.51. An exclusive deal is a tariff that is only available through a particular PCW. By using highly competitive exclusive deals to differentiate their offerings, PCWs could drive greater competition between suppliers and exert downward pressure on the prices available through the partial view. The CMA said this could include PCWs accepting lower commission rates in return for exclusivity.⁶³ This would benefit any consumers who have a preference for switching directly through the

engagement in the energy market since the Retail Market Review. 2016 Survey Findings. Report prepared for Ofgem, p33.

https://www.ofgem.gov.uk/system/files/docs/2016/08/consumer_engagement_in_the_energy_market_since_the_retail_market_review_-_2016_survey_findings.pdf).

⁶⁰ 15% of consumers switched in the past 12 months. (TNS BMRB (2016), Consumer engagement in the energy market since the Retail Market Review. 2016 Survey Findings. Report prepared for Ofgem, p40. https://www.ofgem.gov.uk/system/files/docs/2016/08/consumer_engagement_in_the_energy_market_since_the_retail_market_review_-_2016_survey_findings.pdf). Of these, 54% used a PCW for information. (TNS BMRB (2016), Consumer engagement in the energy market since the Retail Market Review. 2016 Survey Findings. Report prepared for Ofgem. Data Tables, p696. https://www.ofgem.gov.uk/system/files/docs/2016/08/consumer_engagement_survey_2016_-_data_tables_0.pdf).

⁶¹ There are approximately 28m domestic electricity consumers in Great Britain. (Ofgem (2016) Retail energy markets in 2016, p10.

https://www.ofgem.gov.uk/system/files/docs/2016/08/retail_energy_markets_in_2016.pdf).

⁶² CMA (2017), Digital Comparison Tools market study. Update paper: appendices, appendix 3, paragraph 6. <https://assets.publishing.service.gov.uk/media/58d9310940f0b606e7000036/dcts-update-paper-appendices.pdf>

⁶³ CMA (2016) Energy Market Investigation Final Report, paragraph 12.417.

<https://assets.publishing.service.gov.uk/media/5773de34e5274a0da3000113/final-report-energy-market-investigation.pdf>

PCW. These exclusive deals may or may not be cheaper than the current cheapest tariffs in the market.

- 1.52. There is currently little evidence of exclusive deals – tariff monitoring data only identifies ten exclusive deals since late April 2016, of which three were collective switches.⁶⁴ If the partial remedy leads to more consumers visiting a PCW (eg due to higher advertising), this could increase the potential number of new customers that a supplier could gain from having an exclusive deal shown as one of the top results.⁶⁵ It could therefore increase the incentive on suppliers to incur any costs of negotiating such deals.
- 1.53. We asked suppliers whether they are trying to negotiate more exclusive deals since the CMA's recommendation on WoM – only six suppliers said that they were. Three more large suppliers had tested using exclusive deals, but have since stopped.⁶⁶ PCWs had mixed views on whether the partial remedy would increase their incentive to sign exclusive deals. Four PCWs said that the partial remedy would lead to more exclusive deals, at least potentially.⁶⁷ For example, one PCW said that if the partial remedy increased conversion rates, they would have a greater ability to invest in traffic, and therefore suppliers would be more likely to provide exclusive deals.⁶⁸ However, four PCWs said that the partial remedy would not lead to an increase in exclusive deals.⁶⁹ For example, one PCW said that the partial remedy would not provide sufficient incentive on suppliers to sign exclusive deals.⁷⁰
- 1.54. There is a theoretical case that suppliers and PCWs may have stronger incentives to negotiate exclusive deals under the partial remedy, which may result in more exclusive deals, but we cannot be more definitive.

Advising customers

- 1.55. Compared to the current WoM requirement, the partial remedy would improve the ability of PCWs to show consumers the products they have checked. Previous research found that consumers assume that insurance products on a well-known PCW have been vetted⁷¹ – though we do not have evidence on the extent to which this does or does not apply in energy.

⁶⁴ Ofgem analysis. Last checked on 14 March 2017. Based on data collected by Energylinx.

⁶⁵ A supplier would also need to consider the switches that it would forgo through other PCWs as a result of providing a tariff on an exclusive basis. However, as noted in paragraph 1.25, there is evidence that consumers pay particular attention to the top results – this could mean that it is better to be in the top results on one PCW than to be in a lower position on a larger number of PCWs.

⁶⁶ Responses to Q8 of the supplier RFI. It is possible that that suppliers would only start trying to negotiate exclusive deals after any changes to the Code were confirmed, so this response is not conclusive on whether they would do so in future.

⁶⁷ Responses to Q5 of the PCW RFI.

⁶⁸ Response to Q5 of the PCW RFI.

⁶⁹ Responses to Q5 of the PCW RFI.

⁷⁰ Response to Q5 of the PCW RFI.

⁷¹ Atticus (for FCA), Price Comparison Websites: Consumer Market Research, June 2014, p33.

Potential benefits which we do not consider are likely

Niche PCWs

- 1.56. We considered whether the partial remedy could provide greater choice for consumers by enabling niche PCWs (eg focussing on green tariffs). However, the ability of a PCW to differentiate their tariff offerings in this way may be limited under the partial remedy, as it would still have to show the Wide Results page as an option (and therefore maintain a broad tariff database to support this). We therefore do not consider that the emergence of niche PCWs is a likely benefit of the partial remedy.

Similarly-priced tariffs

- 1.57. We also considered the effects of our recent removal of some of the Retail Market Review (RMR) rules, including the four-tariff rule.⁷² These changes allow suppliers to offer a greater range of tariffs, providing choice for consumers. However, it also opens up the possibility of suppliers creating a number of similar tariffs, in order to occupy multiple slots in PCWs' search rankings. This could potentially confuse consumers. The partial remedy would allow PCWs to avoid this in the default view seen by consumers.⁷³
- 1.58. Four PCWs told us that there were cases before the RMR where suppliers offered several similarly-priced tariffs.⁷⁴ The number of available tariffs increased by over 70% between 2008 and 2011,⁷⁵ although the source does not indicate whether this growth was due to similarly-priced tariffs which confused consumers.
- 1.59. However, in response to our RFI, only one PCW said that there was a current problem with similarly-priced tariffs after the removal of the four-tariff rule. One PCW provided screenshots showing a couple of cases where a supplier had more than one tariff, each with online and offline versions, in its top ten.⁷⁶ The tariffs in question were for materially different durations, and so this may not indicate a current problem. Separately, one PCW told us that a supplier with two brands had recently launched identically-priced tariffs. Nevertheless, it is possible that any pre-RMR issues could recur – for example, MoneySuperMarket said that there

<https://www.fca.org.uk/publication/research/price-comparison-website-consumer-research.pdf>

⁷² This followed a recommendation by the CMA. Ofgem (2016) Modification of electricity and gas supply licences to remove certain RMR Simpler Tariff Choices rules

<https://www.ofgem.gov.uk/ofgem-publications/104079>

⁷³ For example, if a supplier offered two tariffs with negligible differences, a PCW would (subject to any contractual terms with the supplier) have the ability to include only one of the tariffs in its partial view.

⁷⁴ Responses to Q5a of the PCW RFI.

⁷⁵ Ofgem (2011) The Retail Market Review – Findings and initial proposals, p22.

<https://www.ofgem.gov.uk/ofgem-publications/39708/rmrfinal.pdf>

⁷⁶ Response to Q5b of the PCW RFI.

was a risk of suppliers offering many similarly priced tariffs after the removal of the four tariff rule.⁷⁷

- 1.60. We asked PCWs whether the partial remedy would address any issues with similarly priced tariffs. Only two PCWs thought that it would partly do so. Both noted that they would still have to provide a Wide Results page under the partial remedy.⁷⁸ One PCW disagreed on balance that the partial remedy would help, due to the potential impact on trust if sites were seen as less transparent as a result of the partial remedy.⁷⁹ One PCW disagreed strongly.⁸⁰
- 1.61. We therefore do not consider that addressing confusion from similarly-priced tariffs is likely to be a significant benefit of the partial remedy, as there is little evidence of a current problem.

Consumer complaints

- 1.62. One PCW told us its most frequent complaint at present is about why it is showing products which it can't switch customers to. Under the partial remedy, the only customers who would see unfulfillable tariffs are those who have actively chosen to do so. However, PCWs can already use an upfront filter to ensure this. We also do not have other evidence suggesting that consumers are confused by the Wide Results page.

Assessment – consideration of potential costs

Code-accredited PCWs

- 1.63. In general, the intention of the partial remedy is to provide PCWs with greater flexibility. In particular, this option removes the requirement on Code-accredited PCWs to provide an upfront choice where they offer a partial view. This change should not result in costs to PCWs.
- 1.64. Accredited PCWs will continue to incur some costs to maintain a Wide Results page. Several PCWs said that there were costs of complying with the existing Code requirements, which had increased since the removal of the four tariff

⁷⁷ MoneySuperMarket response to Confidence Code Review 2016, pp4-5

https://www.ofgem.gov.uk/system/files/docs/2017/03/moneysupermarket_response.pdf

⁷⁸ Responses to Q5c of the PCW RFI.

⁷⁹ Response to Q5c of the PCW RFI.

⁸⁰ Response to Q5c of the PCW RFI.

rule.⁸¹ However, these costs do not generally⁸² differ between options 1 and 2, and so we do not develop an estimate as part of this IA.

1.65. The mitigations introduced as part of option 2 may have some costs for accredited PCWs. We have not sought to quantify these costs, but we do not expect them to be significant, because:

- When PCWs show a view other than the Wide Results page, the Code already requires them to ensure that elements of their messaging are prominent, intelligible and clear. If they continue to show a partial view, PCWs will also have to provide a statement about their market coverage which is prominent, clear and intelligible. PCWs should therefore be accustomed to ensuring that their messaging meets these standards.
- PCWs already told us that they sort default results in price order.⁸³ Introducing an explicit requirement would therefore not require them to change their behaviour, and therefore should not result in costs.

1.66. If, as a result of option 2, suppliers are more willing to sign commercial agreements with PCWs, then PCWs may incur some costs in negotiating these agreements. However, this would be a commercial choice for PCWs, and PCWs would expect to receive benefits as a result of being able to offer a wider range of tariffs to consumers.

1.67. As the Code is a voluntary agreement, a PCW would therefore have the option of leaving the Code as a last resort. In this case, it would not be incurring any costs of complying with the Code requirements.

Suppliers

1.68. Suppliers are not Code members, and therefore the Code's requirements do not affect them directly. Any impacts are the result of the commercial agreements that suppliers choose to enter into with PCWs. Suppliers remain free to explore alternative routes to market instead of PCWs.

1.69. Some suppliers already have commercial agreements with PCWs and therefore already incur any associated costs like commission. The partial remedy would not change this. There is a risk that increased bargaining power on the part of PCWs leads to an increase in commission costs – we discuss this below in the risks section.

⁸¹ Response to Q4b of the PCW RFI. Response to Q3a of the PCW RFI. Response to Q2 of the PCW RFI.

⁸² Under option 2, we would no longer require PCWs to take all reasonable endeavours to show exclusive deals between a supplier and another PCW – this might slightly reduce the cost of providing a Wide Results page.

⁸³ Responses to Q6d of the PCW RFI.

- 1.70. Some suppliers do not currently have commercial agreements in place with PCWs. Some of these may choose to enter into commercial agreements with PCWs as a result of the partial remedy. If they do, there could be one-off costs of negotiating agreements, and then the ongoing costs of paying commission. The size of the commission cost varies depending on the PCW.⁸⁴ Suppliers only have to pay commission when a consumer switches through a PCW, and so the commission payment should be accompanied by a benefit in terms of a new customer acquisition.
- 1.71. While not paying commission may make it easier for suppliers to enter the market and make themselves known, we would expect reasonable marketing costs to be part of the cost base of an efficient supplier in a well-functioning market.
- 1.72. Any additional commission payments would be a cost to suppliers, but would also be a source of revenue to PCWs. These payments therefore represent a transfer between types of business, rather than a cost to businesses as a whole.

Consumers

- 1.73. While we expect the overall impact of Option 2 to be positive for consumers, some may be worse off. Option 2 could lead to higher bills for consumers who currently search on PCWs and then select cheaper unfulfillable tariffs. This could occur in two ways.
- 1.74. First, once the partial remedy is implemented, some suppliers who do not currently pay commission may start to do so. They may then increase their prices to reflect some or all of this commission cost, given that commission is a marginal cost to suppliers. However, suppliers may not increase prices if they are able to redirect marketing costs from other sources, or if they choose to absorb the commission cost. The effect on an individual supplier's prices will depend on factors like the expected proportion of acquisitions through PCWs for a particular tariff, and the length of time over which a supplier seeks to recover customer acquisition costs. For a consumer who wants to select the cheapest tariff in the market, their new bill⁸⁵ would depend on whether all suppliers start to pay commission, but in any event would not be expected to rise above the current cheapest fulfillable tariff.⁸⁶ Any upward pressure on prices could also be offset by other factors, such as any downward pressure on prices from exclusive deals.
- 1.75. Second, some individual consumers may get less good deals, if they were prepared to navigate to the website of a supplier who they could not switch to

⁸⁴ Analysis of responses to Q3 of the supplier RFI.

⁸⁵ At the expiry of its current contract – this policy change would not affect the price of existing contracts.

⁸⁶ Analysis in January showed that the average difference in annual bills across accredited PCWs between the cheapest tariff and the cheapest fulfillable tariff was £85.03. (Ofgem analysis based on spot checking PCWs on 24 January 2017. Annual consumption of 16,500kWh gas and 3,300kWh electricity; direct debit; post code SE20). However, this comparison will be strongly influenced by the value of the cheapest tariff in the market.

from a PCW, but did not realise what the partial view shows, or find it too difficult to switch to see the Wide Results page, despite the mitigations outlined below. If the consumer would have preferred to switch to the cheapest tariff in the market,⁸⁷ then the consumer would be paying more than they could have.⁸⁸

- 1.76. The impact on a consumer from being unaware of the Wide Results page would depend on difference in prices between the partial view and the Wide Results page. This may be small, based on the period before the 2015 changes. Previous Ofgem analysis from 2014 suggested that the price difference between fulfillable and unfulfillable tariffs was in the vast majority of cases between zero and £10.⁸⁹ One PCW also provided data showing that, before the 2015 Code changes, the maximum savings available to consumers through its partial view and Wide Results page were similar.⁹⁰
- 1.77. Under the partial remedy, consumers will remain able to select the Wide Results page which will be clearly signposted on the site and available without a consumer re-entering their details.⁹¹ We are proposing a market coverage requirement so that consumers are clear how much of the market they are seeing. This is intended to avoid consumers making switching/searching decisions on the basis of incorrect assumptions.
- 1.78. The number of consumers who use a PCW to search but who then switch through another means is smaller than the number who both search and switch through PCWs. We estimate that it could be as low as around 300,000 consumers. We calculate this estimate using information from the 2016 RMR evaluation survey.⁹²

⁸⁷ This assumes that the cheapest tariff was on the Wide Results page, and that the consumer was prepared to re-enter their details on the supplier's website.

⁸⁸ The consumer may still make a saving through switching through a PCW, compared to their current tariff, particularly where they are currently on a more expensive tariff.

⁸⁹ Ofgem analysis in 2014.

⁹⁰ The data compared the median maximum fulfillable savings with the median maximum savings.

⁹¹ Requirement five (i) in our proposed Code drafting from August 2016 would already require a PCW showing a partial view to 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 clear page or link'.

⁹² 15% of consumers switched in the past 12 months. (TNS BMRB (2016), Consumer engagement in the energy market since the Retail Market Review. 2016 Survey Findings. Report prepared for Ofgem, p40. https://www.ofgem.gov.uk/system/files/docs/2016/08/consumer_engagement_in_the_energy_market_since_the_retail_market_review_-_2016_survey_findings.pdf). Of these, 54% used a PCW for information. (TNS BMRB (2016), Consumer engagement in the energy market since the Retail Market Review. 2016 Survey Findings. Report prepared for Ofgem. Data Tables, p696. https://www.ofgem.gov.uk/system/files/docs/2016/08/consumer_engagement_survey_2016_-_data_tables_0.pdf). However, we need to subtract those consumers who switched through PCWs – as these consumers have already chosen to switch to a fulfillable tariff, which will not usually have been the cheapest tariff in the market. 47% of consumers who switched in the last 12 months used a PCW to switch. (TNS BMRB, Consumer engagement in the energy market since the Retail Market Review. 2016 Survey Findings. Report prepared for Ofgem, p28. https://www.ofgem.gov.uk/system/files/docs/2016/08/consumer_engagement_in_the_energy_market_since_the_retail_market_review_-_2016_survey_findings.pdf). 15% multiplied by the difference between 54% and 47% is just over 1% of all consumers. There are approximately 28m domestic electricity consumers in Great Britain. (Ofgem (2016) Retail energy markets in 2016, p10. https://www.ofgem.gov.uk/system/files/docs/2016/08/retail_energy_markets_in_2016.pdf).

This estimate represents the consumers who switched in the past 12 months, who used a PCW for information, but who did not switch through the PCW. Some of these consumers could be looking at the Wide Results page on PCWs and then switching to the cheapest supplier directly. However, some of these 300,000 consumers may have chosen to see the partial view on the PCW, in which case they would probably not be seeing the cheapest tariff at present. We also do not know what tariffs these customers selected – they would not necessarily have chosen the cheapest tariff. In this case the impact of the partial remedy would be smaller.

- 1.79. An increase in the prices of the cheapest tariffs in the market would affect some currently engaged consumers, who would end up paying higher prices than they would have done under the current Code rules. However, if more consumers switch to tariffs which are cheaper than their current tariffs as a result of PCWs having greater incentives to invest in engaging consumers, then the average price paid by consumers as a whole could still decrease.

Ofgem

- 1.80. We will need to monitor compliance with the new requirements. This forms part of our existing role as Code manager. At the same time, we will no longer have to assess compliance with requirements that are removed. We do not have a specific assessment of the administrative cost of the partial remedy, but we expect the net effect to be small.

Assessment – consideration of potential risks

Consumer trust risks

- 1.81. Many consumers engage in the energy market using PCWs. A 2016 survey shows that 51% of consumers who had switched supplier, changed tariffs or compared tariffs in the previous 12 months had used an online price comparison tool.⁹³ If consumers' trust in PCWs fell as a result of the partial remedy such that they stopped using them, then it could be harder for them to find a good energy deal. Engagement is also important for the market as a whole, as it helps to provide competitive pressure on suppliers to provide good deals for consumers.
- 1.82. The current WoM requirements were introduced in 2015 following concerns that PCWs were 'hiding' the best deals. These were highlighted, for example, by a report on PCWs from the Energy and Climate Change Select Committee. The committee said that consumer confidence and trust in the energy sector and suppliers had been low for a number of years and that it was alarmed by press

⁹³ TNS BMRB (2016), Consumer engagement in the energy market since the Retail Market Review. 2016 Survey Findings. Report prepared for Ofgem, p33.
https://www.ofgem.gov.uk/system/files/docs/2016/08/consumer_engagement_in_the_energy_market_since_the_retail_market_review_-_2016_survey_findings.pdf

reports that deals were being hidden.⁹⁴ At the time of our decision, we said that clarity on what consumers are seeing through PCWs was important to maintain trust and confidence.⁹⁵ There was evidence that some consumers did not trust PCWs. 12% of consumers surveyed for the CMA said they were not confident that they would be able to get the right energy deal using a PCW because they did not trust or believe PCWs.⁹⁶

- 1.83. PCWs have some commercial incentives to build trust and confidence in their brands, so as to encourage consumers to return to their sites (whether for energy or other products). However, they also have incentives to raise their conversion rates, which could include benefitting from any lack of clarity for consumers.
- 1.84. Consumers may not need to trust PCWs completely to use them. For example, engaged consumers may make a critical assessment of information presented by different sources in the market, and use this to help select a product. The benchmark is whether consumers trust PCWs sufficiently to use them.⁹⁷

Evidence suggesting that there is a risk

- 1.85. There is some evidence which suggests that consumers may value the Wide Results page. 70% of respondents to a recent Citizens Advice survey said that it was essential or very important that PCWs show all available energy tariffs and suppliers in the market, with a further 20% saying it was quite important.⁹⁸ Similarly, The Big Deal said polling showed that 86% of British people say that energy switching sites should automatically ensure every user sees the lowest price tariff regardless of whether they receive a commission or not from the supplier, and only 3% disagreed.⁹⁹ Previous Ofgem qualitative consumer research from 2015 indicated that most panellists (not many of whom had used a PCW to

⁹⁴ Energy and Climate Change Committee (2015), Protecting consumers: Making energy price comparison websites transparent, p8.

<https://www.publications.parliament.uk/pa/cm201415/cmselect/cmenergy/899/899.pdf>

⁹⁵ Ofgem (2015) Confidence Code Review – Decision, paragraph 3.14.

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

⁹⁶ CMA (2016) Energy Market Investigation Final Report, paragraph 9.173. This survey was carried out in autumn 2014 – ie before the 2015 Code changes. <https://assets.publishing.service.gov.uk/media/5773de34e5274a0da3000113/final-report-energy-market-investigation.pdf>

⁹⁷ As noted in paragraph 1.95, evidence shows many consumers already cross-check PCWs instead of relying on a single source.

⁹⁸ Research by GfK for Citizens Advice. The precise question was: 'If you were to switch or consider switching in the near future, how important is it that price comparison websites show all available energy tariffs and suppliers in the market?'

⁹⁹ The Big Deal response to Confidence Code Review 2016, p3.

https://www.ofgem.gov.uk/system/files/docs/2017/03/the_big_deal.pdf

Based on a YouGov survey from February 2015. Research conducted by YouGov on behalf of The Big Deal. Total sample size was 2,175 adults. Fieldwork was undertaken between 6 to 9 February 2015. The survey was carried out online. The figures have been weighted and are representative of all GB adults (aged 18+). The precise question was: 'To what extent do you agree or disagree with the statement: Energy switching sites should automatically ensure every user sees the lowest priced tariffs whether they receive a commission fee from the supplier or not'.

(<https://thebigdeal.com/blog/New-poll-trust-PCWs>)

switch energy suppliers) would prefer to start with a Wide Results page, including offers that the PCW was not able to switch them to.¹⁰⁰

- 1.86. These surveys carried out for Citizens Advice and The Big Deal involved research with consumers in general, rather than specifically those who use PCWs. When considering the impact of the partial remedy, we are particularly interested in the impact on customers who use PCWs at present or those who might be more likely to start using them (eg those who already use PCWs in other sectors). For consumers who do not use PCWs at present, the CMA database remedy will encourage disengaged consumers to become more active and provide them with an additional tool to compare tariffs. This will complement any changes to the Code.
- 1.87. Limited data from three PCWs suggests that a majority of consumers actively choose to see the Wide Results page when presented with an upfront filter, and may therefore value the Wide Results page. On average 52% of one PCW's customers and 75% of another PCW's customers chose to see the Wide Results page at some stage in their journey when they had been presented with an upfront filter question. 62% of a third PCW's customers selected the Wide Results page initially from the upfront filter.¹⁰¹ The partial remedy would maintain the ability of these consumers to see the Wide Results page, provided that there is clear signposting.
- 1.88. Some evidence from CMA consumer research also suggested that energy consumers who use PCWs have a positive experience relative to those in other sectors. For example, 73% of consumers who had used an energy PCW in the past three months said that the results presented were fully matched to their needs – this was higher than the figure across all PCWs (65%).¹⁰² Energy consumers who had switched using PCW in the past three months were also more likely to think that comparison sites helped them to make a much better choice, compared to in other sectors.¹⁰³ However, we do not have evidence that the current WoM rules contribute to this. As noted above, the partial remedy retains the Wide Results page for those consumers who find it helpful.
- 1.89. There may be some energy-specific trust issues arising from the fact that the quote provided by the PCW is only an estimate of the actual cost that a consumer will pay, unlike in other sectors (eg motor insurance) where the price is fixed. One reason why energy quotes are estimates is that actual energy costs depend on consumption; another is that some energy tariffs are variable, and so prices may change over the course of a year. This could potentially make it harder for

¹⁰⁰ Big Sofa (2015), Ofgem Consumer First Panel Year 6, Wave 4 – Third party Intermediaries & Price Comparison Site messaging, pp6-7.

https://www.ofgem.gov.uk/sites/default/files/docs/2015/06/panel_4_report_-_tpipcwfinal.pdf

¹⁰¹ Calculations based on responses to Q1 of the PCW RFI, as well as additional data.

¹⁰² CMA (2017) Digital comparison tools market study – Update paper, figure 5.9. Based on a consumer survey by Kantar Public. <https://assets.publishing.service.gov.uk/media/58da7afce5274a06b000003c/dct-update-paper.pdf>

¹⁰³ Kantar Public (2017) Digital Comparison Tools: Consumer Research, Final report, p160. <https://assets.publishing.service.gov.uk/media/58e224f5e5274a06b3000099/dcts-consumer-research-final-report.pdf>

consumers to evaluate whether they received correct information, and therefore to trust the PCW.

- 1.90. Some PCWs have suggested that consumer trust (and PCWs' reputations) could be damaged if a consumer has a poor experience with a tariff they saw on the Wide Results page, as the PCW may be seen to have 'recommended' (by listing on their website) suppliers who they don't have a relationship with. Both the options under consideration in this IA include a Wide Results page. However, as discussed above in the benefits section, the partial remedy would increase the prominence of the partial view, which shows the tariffs from suppliers the PCW has a relationship with.

Evidence suggesting that there is not a risk

- 1.91. It is not clear that the WoM requirement is essential for consumers to trust PCWs. Other sectors do not have a WoM requirement,¹⁰⁴ yet consumers generally use PCWs at similar or higher levels than in energy,¹⁰⁵ suggesting that there is sufficient trust. 2013 research for Consumer Futures suggested that 94% of PCW users across sectors thought that they were 'very' or 'fairly' reliable.¹⁰⁶ Across sectors, 79% of consumers who are aware of PCWs trust them (a lot or a fair amount) to provide accurate and reliable information.¹⁰⁷
- 1.92. Survey evidence also suggests that the proportion of all consumers (not just PCW users) who do not trust PCWs is similar in energy to other sectors. Recent research showed that 16% of consumers surveyed disagreed with the statement 'I trust such websites & services' in relation to energy PCWs.¹⁰⁸ This was similar to the overall figure across sectors (13%).¹⁰⁹
- 1.93. A recent survey for the CMA found that 82% of recent PCW users across sectors, which other than energy do not show WoM, thought that market coverage was sufficient.¹¹⁰ For energy 87% of respondents thought they saw sufficient suppliers

¹⁰⁴ The Ofcom Price Accreditation Scheme does include a market coverage requirement. Accredited members of the Scheme need to list a reasonably comprehensive number of suppliers, including key players, with an expectation that the suppliers listed cover 90% of the market. However, unlike in energy, the largest PCWs are not accredited under this scheme.

¹⁰⁵ The sectors with lower use of PCWs than in energy were travel insurance, broadband and credit cards. CMA (2017), Digital comparison tools market study – Update paper, figure 5.1. Based on a consumer survey by Kantar Public. <https://assets.publishing.service.gov.uk/media/58da7afce5274a06b000003c/dct-update-paper.pdf>

¹⁰⁶ RS Consulting for Consumer Futures (2013), Price comparison websites: consumer perceptions and experiences, page v. <http://webarchive.nationalarchives.gov.uk/20140728011208/http://www.consumerfutures.org.uk/files/2013/07/Price-Comparison-Websites-Consumer-perceptions-and-experiences.pdf>

¹⁰⁷ CMA, Digital comparison tools market study – Update paper, figure 5.15. Based on a consumer survey by Kantar Public. <https://assets.publishing.service.gov.uk/media/58da7afce5274a06b000003c/dct-update-paper.pdf>

¹⁰⁸ Firebrand (2017), Customers in Britain 2017, Q21b.

¹⁰⁹ Firebrand (2017), Customers in Britain 2017. Q21.

¹¹⁰ Kantar Public (2017) Digital Comparison Tools: Consumer Research, Final report, p65. <https://assets.publishing.service.gov.uk/media/58e224f5e5274a06b3000099/dcts-consumer-research-final-report.pdf>

(and a further 7% thought they saw too many).¹¹¹ Among energy consumers, the CMA survey showed that only 8% of recent energy PCW users thought that the PCW covered all suppliers.¹¹² This suggests that there is low consumer awareness of the current WoM requirement.

- 1.94. Across sectors, many consumers are already prepared to evaluate the information they receive from PCWs critically. Consumers who took part in Ofgem Consumer First Panels in March 2016 already had the underlying view that not all companies are covered by each PCW (in general – not energy specific).¹¹³ Qualitative research for the CMA also suggested that consumers across its study sectors commonly assume that PCWs are showing partial market coverage. The common assumption was that PCWs were covering around two thirds of suppliers.¹¹⁴ Previous research for the FCA in relation to insurance also found that three-quarters of respondents disagreed with the statement that PCWs cover the whole market, although they still thought that PCWs covered enough of the market for this not to be a concern.¹¹⁵
- 1.95. Instead of relying on WoM, consumers can use more than one PCW (multi-homing) if they want to cross-check results before switching. The CMA found that 59% of consumers already multi-homed when shopping around for energy.¹¹⁶ One PCW also provided data showing that around 20% of users select the Wide Results page first and then toggle to see the partial view.¹¹⁷ This suggests consumers are already able to navigate between the two views.

Impact of including mitigations

- 1.96. As part of the partial remedy (option 2), we are proposing to include mitigations to help address any remaining concerns about consumer trust.
- 1.97. The first mitigation is for PCWs to provide clear messaging to consumers about the market coverage of their partial views. This would be in line with views from participants in the March 2016 Consumer First Panel, who felt that where PCWs

¹¹¹ Kantar Public (2017) Digital Comparison Tools: Consumer Research, Final report, p66. <https://assets.publishing.service.gov.uk/media/58e224f5e5274a06b3000099/dcts-consumer-research-final-report.pdf>

¹¹² Kantar Public (2017) Digital Comparison Tools: Consumer Research, Final report, p64. <https://assets.publishing.service.gov.uk/media/58e224f5e5274a06b3000099/dcts-consumer-research-final-report.pdf>

¹¹³ Ipsos MORI (2016), Ofgem Consumer Panel wave 3: the performance of Price Comparison Tools, p4. https://www.ofgem.gov.uk/system/files/docs/2016/06/ofgem_consumer_panel_wave_3_pct_090616_final.pdf

¹¹⁴ CMA (2017) Digital comparison tools market study – Update paper, paragraph 5.49. Based on qualitative consumer research by Kantar Public. <https://assets.publishing.service.gov.uk/media/58da7afce5274a06b000003c/dct-update-paper.pdf>

¹¹⁵ Atticus (2014), Price Comparison Websites: Consumer Market Research, prepared for the FCA, p31. <https://www.fca.org.uk/publication/research/price-comparison-website-consumer-research.pdf>

¹¹⁶ CMA (2016) Energy Market Investigation Final Report, Appendix 9.3, paragraph 72 <https://assets.publishing.service.gov.uk/media/576bcbd4ed915d622c00007b/appendix-9-3-price-comparison-websites-and-collective-switching-fr.pdf>

¹¹⁷ Data covers 2016.

do not cover the whole of the market, then they should be transparent about the deals covered.¹¹⁸ It is also in line with the CMA's recommendation on market coverage. We consider that the most important thing is for consumers to be clear about the results they are seeing, so that they do not make switching decisions on the basis of incorrect assumptions, which could lead to mistrust. Provided consumers understand that PCWs will show them a selection of the market as a default, they will then still be able to select the Wide Results page if they wish.

- 1.98. We are not seeking to prescribe particular wording. We commissioned small-scale qualitative research on potential messaging to consumers. This found a tension between informing consumers and ensuring that messages were not off-putting, particularly when taking into account consumers' different levels of understanding of PCWs.¹¹⁹ This suggests that iterative development of messaging may be required, which we consider PCWs are best-placed to undertake.
- 1.99. The second mitigation is for PCWs to provide clear messaging on what their Wide Results page covers. The Wide Results page does not include all tariffs under the current Code rules, as it does not include collective switches, social tariffs and tariffs which a supplier has requested are removed. In August, we also proposed that PCWs would not be required to show exclusive deals between suppliers and other PCWs. Given these omissions, our proposed mitigation will ensure that consumers are clear about what they are seeing in the Wide Results page. This will help avoid any risks to consumer trust from consumers being unaware that they are not seeing all tariffs in the Wide Results page.
- 1.100. The third mitigation is for PCWs to list tariffs in price order in any default view. This will address any perception that commission influences order of deals in the default view under the partial remedy. Citizens Advice recently highlighted the risk for PCWs to show deals in an order which emphasises those where they receive commission. Citizens Advice recommended that deals should be sorted by the price that the consumer would have to pay, rather than by commission.¹²⁰ All PCWs responding to the relevant question said that they currently sort default results in price order,¹²¹ so this mitigation simply ensures that the Code drafting explicitly reflects this current practice.

Conclusion

- 1.101. We do not have clear-cut evidence about the extent to which consumer trust in PCWs is driven by the current Wide Results page. We note that this requirement is not present in other sectors, where recent PCW users are satisfied with the

¹¹⁸ Ipsos MORI (2016), Ofgem Consumer Panel wave 3: the performance of Price Comparison Tools, p7. https://www.ofgem.gov.uk/system/files/docs/2016/06/ofgem_consumer_panel_wave_3_pct_090616_final.pdf

¹¹⁹ Community Research (2017), Ofgem Price Comparison Website (PCW) Research - Testing message options. (Unpublished). This involved interviewing 20 energy consumers who had previously used PCWs.

¹²⁰ Citizens Advice (2017) The Future of Digital Comparison Tools, pp13-14. [https://www.citizensadvice.org.uk/Global/CitizensAdvice/Consumer%20publications/FutureofDigitalComparisonTools%20\(1\).pdf](https://www.citizensadvice.org.uk/Global/CitizensAdvice/Consumer%20publications/FutureofDigitalComparisonTools%20(1).pdf)

¹²¹ Responses to Q6d of the PCW RFI.

coverage provided. We consider that the most important thing is for consumers to be clear about the results they are seeing, so that they do not make switching decisions on the basis of incorrect assumptions. We have developed mitigations to address this, and under the partial remedy, consumers will remain able to select the Wide Results page.

Competition risks

- 1.102. There is a risk to efficient competition if suppliers (especially smaller suppliers) have difficulty getting listed by larger PCWs, have to pay higher rates of commission, or have to accept contracts with restrictive clauses as a result of the partial remedy. This could create barriers to entry or growth for suppliers, ultimately harming consumers. We have heard concerns about larger PCWs having bargaining power over smaller suppliers. For example, Ovo said that there was the potential for supplier exit by those who cannot afford to pay higher commission.¹²²
- 1.103. Before considering the potential for changes in bargaining power as a result of the partial remedy, we look at the shares of supply for PCWs at present, using data collected from suppliers on their number of customer acquisitions. By providing information on the importance of PCWs to suppliers at present, these shares of supply help us to focus our bargaining power analysis.
- 1.104. There were some difficulties in obtaining data from suppliers on a consistent basis, so there are significant caveats attached to this data. In particular, the total number of customer acquisitions in this data¹²³ is around 25% higher than the number of external switches reported in Ofgem's published switching data. Factors contributing to this discrepancy include:
- Suppliers' data may include information on new customers who joined them following a change of tenancy, as well as those joining following a change of supplier. Two suppliers explicitly told us that this was included.¹²⁴
 - Similarly, there may be switches between products (or between a supplier and its white label brand) from existing customers, which would also not be recorded in external switching data.¹²⁵

¹²² Ovo response to CMA DCT market study statement of scope, paragraph 2.6.
<https://assets.publishing.service.gov.uk/media/585281e1ed915d0aeb0000ae/ovo-energy-dct-sos-response.pdf>

¹²³ This is after adjustments to clarify suppliers' reporting of dual fuel acquisitions. Three suppliers recorded a dual fuel acquisition with a two in the dual fuel column – we have divided their number of dual fuel acquisitions by two to account for this. Two suppliers included dual fuel customers on an individual fuel basis. For these suppliers we included only electricity acquisitions to avoid double counting.

¹²⁴ Response to Q2a of the supplier RFI. Response to follow-up query.

¹²⁵ Responses to follow-up queries.

- Suppliers' data may also include switches that were not completed (eg due to consumers cancelling the switch during the cooling off period or due to objections).¹²⁶

1.105. Bearing these caveats in mind, the data from suppliers suggests that PCWs vary significantly in size. Looking at data between September 2014 and October 2016, we found several PCWs with significant market shares. As this data was provided by suppliers, it includes all customer acquisitions facilitated by these PCWs, whether these were through an accredited site or through a white label.¹²⁷

1.106. Our finding was in line with the CMA's analysis in its Energy Market Investigation. The CMA said that, of the switches through ten major PCWs for which it received switching data, two PCWs accounted for around 70% of switches in 2014.¹²⁸

1.107. Looking at the overall importance of the PCW route to market, the data from suppliers suggests that between September 2014 and October 2016, customer acquisitions through PCWs¹²⁹ accounted for 35% of all customer acquisitions by suppliers.¹³⁰ Given the caveats noted above, this may be an underestimate of the importance of PCWs. As cited previously, a 2016 consumer survey for Ofgem found that 47% of consumers who had switched in the past 12 months used an online price comparison service.¹³¹ In aggregate, PCWs are therefore an important route to market, but at least half of consumers are acquired through other routes.

1.108. PCWs also run collective switches. Including these collective switches does not significantly alter the overall number of switches for which PCWs are responsible.¹³²

1.109. Given this market share information, we are primarily interested in whether larger PCWs have bargaining power, and whether this would increase as a result of the partial remedy.¹³³ We can exclude the possibility that other PCWs have

¹²⁶ Responses to follow-up queries.

¹²⁷ A white label is a comparison service which uses the tariff database and calculator of an accredited PCW.

¹²⁸ CMA Energy Market Investigation Final Report, appendix 9.3, paragraph 27.

<https://assets.publishing.service.gov.uk/media/576bcbd4ed915d622c00007b/appendix-9-3-price-comparison-websites-and-collective-switching-fr.pdf>

¹²⁹ Includes accredited and non-accredited PCWs. Does not include collective switches.

¹³⁰ Analysis of responses to Q2a of the supplier RFI. These figures do not include consumers who use PCWs as a source of information before switching through another means – we do not have information on this from the supplier RFI. Includes accredited and non-accredited PCWs. Does not include collective switches.

¹³¹ TNS (2016), Consumer engagement in the energy market since the Retail Market Review. 2016 Survey Findings. Report prepared for Ofgem, p41.

https://www.ofgem.gov.uk/system/files/docs/2016/08/consumer_engagement_in_the_energy_market_since_the_retail_market_review_-_2016_survey_findings.pdf

One factor contributing to the difference may be a different classification used in the survey question (for example there was no separate option for collective switch).

¹³² Analysis of responses to Q2a of the supplier RFI.

¹³³ As noted above, higher commission rates do not prove that a PCW has bargaining power, as we would also need to take into account a PCW's costs.

bargaining power, given their small shares of both the PCW route to market and the overall volume of new customer acquisitions.

- 1.110. However, any bargaining power of larger PCWs in relation to suppliers may partly depend on the importance of the PCW route to market for that supplier. PCWs represented a greater proportion of acquisitions by small suppliers (40%) than for all suppliers. Individual smaller suppliers (including recent entrants) appear to have different degrees of reliance on PCWs – ranging from 0% to 100% of acquisitions directly through PCWs.¹³⁴
- 1.111. A few small suppliers gained a significant proportion of all their customer acquisitions through an individual PCW. One small supplier gained 70% of customers through one PCW,¹³⁵ while 56% of another supplier's acquisitions were through one PCW.¹³⁶ Two further suppliers also gained over 40% of all customers through one PCW.¹³⁷ Where a PCW represents a large proportion of acquisitions for a particular supplier, this could plausibly increase the chances that its bargaining power could increase as a result of the partial remedy. However, the supplier would be free to develop commercial relationships with other PCWs in response.
- 1.112. Some suppliers had few or no switches through PCWs, but a large number through their own website. In some cases, it is plausible that this may represent consumers finding these suppliers through the Wide Results page on PCWs – ie an indirect reliance on PCWs as a source of switches. Of the suppliers with a high proportion of acquisitions through their own site, three suppliers have no agreements with PCWs,¹³⁸ while four suppliers have three or fewer agreements.¹³⁹
- 1.113. This hypothesis is supported by some suppliers' responses to the RFI. One supplier told us that 'Traffic to our own website has been driven largely by the PCWs through indirect referrals'.¹⁴⁰ Another supplier said that it acquired '368 customers via our own website - although the customer signed up through our own website they only found our tariff on a comparison website and then searched for our own website to sign up with us'.¹⁴¹ This supplier only spent a total of £6,500 on marketing over the period from Q3 2015 to Q4 2016,¹⁴² which supports the view that it is relying on indirect referrals from PCWs.
- 1.114. However, some other small suppliers who had a high proportion of acquisitions through their own website spent money on marketing, meaning that they may not (only or largely) be attracting customers as a result of the Wide Results page. For example, one supplier told us it spent £1.04m on marketing in 2016,

¹³⁴ Analysis of responses to Q2a of the supplier RFI.

¹³⁵ Response to Q2a of the supplier RFI.

¹³⁶ Response to Q2a of the supplier RFI.

¹³⁷ Responses to Q2a of the supplier RFI.

¹³⁸ Analysis of responses to Q2a and Q3 of the supplier RFI.

¹³⁹ Analysis of responses to Q2a and Q3 of the supplier RFI.

¹⁴⁰ Response to Q2b of the supplier RFI.

¹⁴¹ Response to Q2b of the supplier RFI.

¹⁴² Response to Q7a of the supplier RFI.

covering its own website and inbound sales.¹⁴³ Another supplier said that it spent £15k a quarter on inbound advertising and £40k per quarter on marketing through its own website.¹⁴⁴

1.115. Our analysis suggests that it is not likely that medium or large suppliers have a high indirect reliance on PCWs (via consumers who search on PCWs and then switch directly). Three medium suppliers had a negligible proportion of acquisitions through PCWs.¹⁴⁵ However, one of these suppliers has a specific business model based on referral marketing,¹⁴⁶ and the other two suppliers made the majority of their acquisitions through outbound sales.¹⁴⁷ We therefore do not consider that they are indirectly dependent on PCWs for acquisitions. Large suppliers gained relatively few customers through their own website¹⁴⁸ – this suggests that any customers who search on PCWs and then switch directly make up a small proportion of their acquisitions.

Commission rates

1.116. The partial remedy would allow a PCW to reduce the prominence of tariffs from suppliers who do not pay them commission. Currently a supplier could decide not to sign an agreement with a PCW, and instead be shown through the Wide Results page. We do not know how the number of consumers seeing the Wide Results page will change under the partial remedy – but there is a possibility that fewer customers will click through to see the Wide Results page than the number who select this view at present through an upfront filter. If this happened, a supplier's fallback option (of relying on being displayed on Wide Results page) would be weaker, which could increase the bargaining power of a larger PCW when negotiating a commission agreement.

1.117. The change in bargaining power as a result of the partial remedy would therefore appear to depend on:

- The cost of the alternative routes to market, and whether these are capable of delivering switches at scale. We discuss these supply-side alternatives below (from paragraph 1.121 onwards).
- The proportion of consumers who check more than one source of information before switching (either by multi-homing across several PCWs, or by looking at other sources). We discuss these demand-side factors below (from paragraph 1.131 onwards).
- The proportion of customers who will still choose to see the Wide Results page. We do not know how this will change. However, through our

¹⁴³ Response to Q7a of the supplier RFI.

¹⁴⁴ Response to Q7a of the supplier RFI.

¹⁴⁵ Responses to Q2a of the supplier RFI.

¹⁴⁶ Response to Q2b of the supplier RFI.

¹⁴⁷ Response to Q2a and Q2b of the supplier RFI. Response to Q2a of the supplier RFI.

¹⁴⁸ Analysis of responses to Q2a of the supplier RFI.

mitigations to address consumer trust risks, it will be clear and easy for consumers to toggle to the Wide Results page, if they wish to do so.

- 1.118. However, our analysis found little evidence that smaller suppliers who do pay commission currently receive worse commission terms than other sizes of suppliers. We asked suppliers for information about their current commercial agreements with PCWs. The average commission rate across agreements varied little by size of supplier – the average for small suppliers was only £0.17 per fuel switched higher than for large suppliers.¹⁴⁹ There were also few differences in average commission rates by supplier size when looking at individual PCWs, particularly large ones.
- 1.119. Instead, our analysis indicated that commission rates vary more by PCW, rather than by supplier. Our analysis, and responses from several suppliers,¹⁵⁰ suggested that some PCWs can charge higher commission rates. Higher commission rates do not necessarily indicate that these PCWs are earning higher profits than other PCWs. This would depend on the costs of the different PCWs. We do not have information on this.
- 1.120. We also received a small amount of evidence suggesting that certain larger PCWs have some ability at present to achieve more favourable non-price terms than other PCWs. The areas where some suppliers said certain larger PCWs had been able to require particular terms were: payment for a minimum proportion of leads from the PCW, even where they do not result in a completed switch;¹⁵¹ reporting requirements;¹⁵² and credit terms.¹⁵³ One supplier also said that it had tried to implement changes to reflect changes to the Debt Assignment Protocol, but a specific larger PCW had not treated this as a high priority.¹⁵⁴ However, we also received evidence that certain larger PCWs may make some efforts to help smaller suppliers enter the market. For example, some suppliers provided information about agreements where the commission is tiered: with a lower rate for an initial number of switches,¹⁵⁵ or with an element of the commission paid later on the anniversary of a customer joining.¹⁵⁶ One PCW said that it adapts its terms for new entrants, for example providing flexible payment terms and commission structures.

Supply-side

- 1.121. On the supply side, there are a number of alternative routes to market.¹⁵⁷ Taken together these alternatives are significant, given that only about half of switches

¹⁴⁹ Analysis of responses to Q3 of the supplier RFI. Includes all agreements live on 31 October 2016, except two with non-standard structures. Simple average across agreements.

¹⁵⁰ Responses to Q4b of the supplier RFI.

¹⁵¹ Response to Q3 of the supplier RFI; responses to Q3 and Q4a of the supplier RFI.

¹⁵² Response to Q4a of the supplier RFI. Response to Q4b of the supplier RFI.

¹⁵³ Response to Q4a of the supplier RFI.

¹⁵⁴ Response to Q4a of the supplier RFI.

¹⁵⁵ Response to Q3 of the supplier RFI.

¹⁵⁶ Response to Q3 of the supplier RFI.

¹⁵⁷ Including acquisitions through a supplier's website, inbound sales and collective switches.

take place through PCWs at present.¹⁵⁸ This set of alternatives would not change due to the partial remedy. However, if a supplier offers fulfillable tariffs through a PCW at present, this might indicate that it considers that PCWs have some advantages over alternative routes to market that it does not use at present (either in terms of cost, or in terms of the volume of switches possible). Alternative routes to market may therefore not fully constrain the ability of PCWs to increase commission rates under the partial remedy.

- 1.122. There are several alternative routes to market which result in a material number of switches at present. This suggests that the issue is more likely to be the cost of alternative routes to market, rather than the ability to gain significant volumes. Based on our analysis of data from suppliers, the following routes each accounted for at least 10% of customer acquisitions: inbound, outbound, and supplier websites.¹⁵⁹ (The same caveats apply to this data as the market share information above).¹⁶⁰ Collective switches made up a further 7% of customer acquisitions – but their use varied noticeably by supplier size. Collective switches made up 10% of customer acquisitions for large suppliers, but below 3% for small suppliers and for medium suppliers.¹⁶¹ It is therefore possible that small and medium suppliers find it more difficult to acquire customers through collective switches (eg if large suppliers are better able to process a large volume of new customers at once).
- 1.123. We asked suppliers about the costs of the different routes to market they use at present. We wanted to test whether PCWs were the most cost-effective route to market, and to understand the costs of alternative routes to market.
- 1.124. The data available does not allow us to develop a robust average across suppliers.¹⁶² Instead, we look at the number of suppliers for whom particular routes were the cheapest (per acquisition). Table 1 below suggests that the most common cheapest route was a supplier's website, followed by inbound sales.¹⁶³ Only five suppliers had PCWs as their cheapest route to market. However, PCWs were the most common second cheapest route to market.
- 1.125. The supplier website category will include customers who search on PCWs and then switch through suppliers' websites, including after seeing a tariff listed on the Wide Results page. Given that a supplier can be listed on the Wide Results page for free, it may not be surprising that this is a cheap route to market for many suppliers. However, this will still be relevant under the partial remedy to the extent that some consumers choose to look at the Wide Results page and

¹⁵⁸ See paragraph 1.32.

¹⁵⁹ Analysis of responses to Q2a of the supplier RFI. Data covers September 2014 to October 2016.

¹⁶⁰ See paragraph 1.104.

¹⁶¹ Analysis of responses to Q2a of the supplier RFI. Data covers September 2014 to October 2016.

¹⁶² In particular, some suppliers appear to have provided cost data on a per fuel basis, while others provided it on a per customer basis.

¹⁶³ Only 11 suppliers included a value for collective switches. This means that for the majority of suppliers who used collective switches to gain customers, this was either their cheapest or second cheapest route to market.

then switch through suppliers. In addition, for suppliers who do not use PCWs, their websites were not generally their cheapest route to market. Of the suppliers who did not provide a cost for PCWs but who did respond to this question, four had their cheapest route as 'other', while the remaining two had their cheapest route as their own websites.¹⁶⁴

1.126. This data suggests that PCWs may be among the cheapest routes to market, but does not suggest that they are the only cheap route available. We therefore tentatively conclude that other routes may be cost-competitive with PCWs, at least to some extent.

Table 1: Number of suppliers for whom a given route to market was cheapest, second cheapest, or third cheapest (per acquisition)

	Cheapest route	Second cheapest	Third cheapest
Collective switch	4	3	3
Inbound	7	6	1
Other	5	3	1
Outbound	1	1	3
PCW	5	8	11
Supplier's website	15	5	2

Source: Analysis of responses to Q2c of the supplier RFI. Not all suppliers responded to this question. Some suppliers only had one or two routes to market, so the total number of suppliers differs between columns. Where several routes to market had the same price for a supplier, they have each been ranked as the cheapest.

1.127. We also asked suppliers about their experience of trying to use other routes to market. Some small and medium suppliers said that they were trying to expand their use of alternative routes to PCWs. One supplier told us that it was starting to grow alternative channels (such as telesales, face to face sales and a TV campaign) instead of increasing its spending on PCWs. It said that this could 'be more cost effective and provide us a basis for a more transparent relationship with customers'.¹⁶⁵ Another supplier said that it had participated in two successful collective switches,¹⁶⁶ while four suppliers said that they had not encountered any difficulties with alternative routes to market.¹⁶⁷

1.128. Some suppliers provided examples of where they had tried other routes to market unsuccessfully. Individual suppliers said that the following routes had not

¹⁶⁴ Analysis of responses to Q2c of the supplier RFI.

¹⁶⁵ Response to Q6a of the supplier RFI.

¹⁶⁶ Response to Q6a of the supplier RFI.

¹⁶⁷ Responses to Q6a of the supplier RFI.

given them sufficient volumes of sales: telesales,¹⁶⁸ affiliates/referrals,¹⁶⁹ leaflet drops,¹⁷⁰ and face to face sales.¹⁷¹ The supplier mentioning face to face sales also said that they had a high cost,¹⁷² while another supplier said that it was difficult to assure service for face to face sales.¹⁷³ A supplier also said that collective switches were difficult when they did not take into account the non-price benefits of its tariff.¹⁷⁴ This shows that alternative routes to market may have some limitations, at least for certain suppliers.

1.129. Several suppliers told us that they were looking into additional routes to market in light of the CMA proposal on WoM.¹⁷⁵ For example, one supplier said that it started Pay Per Click and Facebook advertising in July 2016 and was planning to expand its direct marketing in 2017.¹⁷⁶ A few other suppliers said that they were exploring alternative routes, but not as a result of the CMA's remedy.¹⁷⁷ While this does not yet provide strong evidence that these alternative routes to market will be successful, it does at least indicate that there are options which suppliers feel are worth exploring.

1.130. New developments may also help to constrain any bargaining power of PCWs. The CMA said that 'concierge' services (where consumers pay a fixed fee) provided an alternative route to market where a supplier did not have to pay commission.¹⁷⁸ The ability of suppliers to offer exclusive deals may also act as a partial constraint on the ability of larger PCWs to increase commission rates. The supplier would be able to offer an exclusive deal price that reflected the lower commission costs of a rival PCW.

Demand-side

1.131. On the demand side, the CMA's survey found that 59% of energy consumers who had used a PCW were looking at more than one PCW (multi-homing).¹⁷⁹ If a larger PCW tried to increase its commission rate, and a supplier delisted from its site as a consequence, multi-homing customers would still be able to switch to the supplier's tariffs through other PCWs. This would constrain the ability of PCWs to raise commission to some extent, as the PCW would forego revenues when multi-homing consumers switched through another PCW.

¹⁶⁸ Response to Q6a of the supplier RFI.

¹⁶⁹ Response to Q6a of the supplier RFI.

¹⁷⁰ Response to Q6a of the supplier RFI.

¹⁷¹ Response to Q6a of the supplier RFI.

¹⁷² Response to Q6a of the supplier RFI.

¹⁷³ Response to Q6a of the supplier RFI.

¹⁷⁴ Response to Q6a of the supplier RFI.

¹⁷⁵ Nine responses to Q6b of the supplier RFI.

¹⁷⁶ Response to Q6b of the supplier RFI.

¹⁷⁷ Four responses to Q6b of the supplier RFI.

¹⁷⁸ CMA response to Confidence Code 2016, paragraph 30.

https://www.ofgem.gov.uk/system/files/docs/2017/03/cma_response.pdf

¹⁷⁹ CMA (2016) Energy Market Investigation Final Report, Appendix 9.3, paragraph 73.

<https://assets.publishing.service.gov.uk/media/5773de34e5274a0da3000113/final-report-energy-market-investigation.pdf>

- 1.132. Similarly, consumers who check other sales channels may also constrain the ability of PCWs to raise commission to some extent, as the PCW would have to consider the risk that a consumer switched through another route. The latest CMA survey showed that 13% of energy consumers who recently shopped around using a PCW used one PCW and also looked at other sales channels. In comparison, 26% of energy consumers who recently shopped around using a PCW used one PCW and no other sales channels.¹⁸⁰
- 1.133. However, the CMA expressed concerns in its Private Motor Insurance market investigation that even a minority of customers using only one PCW were likely to be a material source of market power in their negotiations with insurance providers.¹⁸¹ A supplier who decided not to pay a higher commission rate and was therefore delisted from a larger PCW would no longer have access to single-homing customers who meet all of the following criteria: have a preference for that PCW, do not toggle to view the Wide Results page and do not search for energy tariffs through routes other than PCWs. Multi-homing would also have some costs for consumers in terms of time spent searching.
- 1.134. There may also be impacts from wider changes to consumer engagement as a result of the CMA remedies. For example, if more consumers start to engage and consider different sources of information, then this could also limit the bargaining power of larger PCWs. At this stage, we do not know what impact the CMA remedies will have.

Conclusion on commission rates

- 1.135. We cannot exclude the possibility that larger PCWs would have an increase in bargaining power as a result of the partial remedy, which could allow them to increase their commission rates. However, any such ability would be constrained by: the existence of other routes to market (including other PCWs) which appear to be cost-competitive to some extent, consumer multi-homing, and the continued existence of the Wide Results page.

Listing

- 1.136. In general, we would expect any increase in bargaining power as a result of the partial remedy to materialise through an increase in commission levels, rather than through PCWs selecting which suppliers to list on their partial views. For a given level of commission, a PCW should have some incentive to agree terms with as many suppliers as possible, in order to expand the choice it offers to consumers.

¹⁸⁰ CMA (2017), Digital comparison tools market study – Update paper, figure 5.8. Based on a consumer survey by Kantar Public. <https://assets.publishing.service.gov.uk/media/58da7afce5274a06b000003c/dct-update-paper.pdf>

¹⁸¹ CMA Private Motor Insurance market investigation final report, paragraph 8.13. https://assets.publishing.service.gov.uk/media/5421c2ade5274a1314000001/Final_report.pdf

- 1.137. A PCW might not seek to negotiate an agreement with a supplier in certain situations. A PCW might consider that any fixed costs of negotiating an agreement would not be outweighed by the benefits to it (eg if it expected very low volumes). A PCW might also have concerns about a supplier, for example in terms of customer service or financial resilience. In either case, a PCW is free at present to decide which suppliers to list on its partial view, and we would not expect the partial remedy to change the PCW's consideration of these factors.
- 1.138. We also do not have significant evidence that PCWs are currently refusing to enter into commercial arrangements based on the size of suppliers. Suppliers only reported a small number of cases where they said that PCWs had declined to enter into a commercial relationship. Only one supplier provided evidence that a PCW had declined to enter into a commercial relationship with them for size reasons (as the PCW expected PPM switching volumes to decline after the introduction of the PPM price cap).¹⁸² Two further suppliers suggested that PCWs had potentially not sought to work with them because they were small suppliers, but did not provide evidence size was the reason.¹⁸³ One supplier said that PCWs had been unwilling to work with it, but did not say that it was because of its size.¹⁸⁴
- 1.139. The Big Deal provided another reason why PCWs might not enter into a commercial agreement with certain suppliers. It said that PCWs will get a higher conversion rate if they have deals from well-known brands, so they want to have these brands at the top of their tables.¹⁸⁵ Consumer research for the FCA found that some consumers who saw too many results from unknown insurers might start a search on a different PCW, especially those who were more cautious. However, this research related to consumer decision-making, and did not say anything about PCWs' commercial decisions.¹⁸⁶ Under this hypothesis, working with a narrower panel of suppliers might mean that the PCW lost some potential switches from multi-homing customers focussed on finding the cheapest price, but increased its number of switches from consumers who are more confident with a known supplier. Adopting this strategy could affect the ease of entry to the market for suppliers.
- 1.140. A PCW is free to choose which suppliers it wants to enter into a commercial agreement with. If a PCW thought that showing a narrower selection of well-known suppliers would increase its conversion rate, then its incentive to do this could be stronger under the partial remedy. This is because its listing decisions would determine which suppliers were shown on the default view seen by all consumers visiting its site (as opposed to just those consumers actively selecting the partial view at present). However, the fact that the majority of energy PCW users multi-home would increase the costs of this strategy. There may also be countervailing pressures – uSwitch told us that some consumers have a strong

¹⁸² Response to Q4a of the supplier RFI and e-mail appendix.

¹⁸³ Response to Q4b of the supplier RFI; Response to Q5 of the supplier RFI.

¹⁸⁴ Response to Q4a of the supplier RFI.

¹⁸⁵ The Big Deal response to Confidence Code Review 2016, p3.

https://www.ofgem.gov.uk/system/files/docs/2017/03/the_big_deal.pdf

¹⁸⁶ Atticus (for FCA), Price Comparison Websites: Consumer Market Research, June 2014, p34.

<https://www.fca.org.uk/publication/research/price-comparison-website-consumer-research.pdf>

preference for suppliers other than the largest, which will encourage PCWs to work with these suppliers.¹⁸⁷

- 1.141. We therefore do not consider that the partial remedy will have a particular impact on PCWs' willingness to list smaller suppliers, for a given commission rate.

MFNs

- 1.142. We also considered the specific risk of larger PCWs imposing restrictive Most Favoured Nation (MFN) clauses which limit suppliers' ability to sell at lower prices: either through their own websites (narrow MFNs), or through their own websites and other PCWs (wide MFNs). Such clauses could lead to higher prices for consumers.
- 1.143. The CMA found that wide MFNs were harmful in its Private Motor Insurance market investigation and banned them.¹⁸⁸ We asked suppliers whether PCWs had sought to impose conditions limiting the supplier's ability to offer different prices on its own website or through other PCWs.¹⁸⁹
- 1.144. If PCWs' bargaining power increases as a result of the partial remedy, it is possible that this could increase their ability to insert such clauses. We will therefore take this into account in our monitoring activity. We consider that monitoring is an appropriate and proportionate approach to this risk given the responses we received to our RFI.

Risk of certain consumer groups not being served by PCWs

- 1.145. We considered whether the partial remedy could mean that certain consumer groups (eg customers with prepayment meters) might not be served by PCWs. Under the partial remedy, PCWs would still have to offer the Wide Results page. Given they would already be incurring any costs of uploading tariffs to the Wide Results page, they would appear to have no incentive to stop offering these tariffs through their partial view, if a supplier was prepared to pay commission. Several PCWs also told us that they would continue to serve all customer groups.¹⁹⁰ We also note that the current rules do not compel suppliers to make a range of deals fulfillable, so the partial remedy does not change this. We therefore do not consider that this is a risk under the partial remedy.

¹⁸⁷ uSwitch response to Confidence Code Review 2016, p6.

https://www.ofgem.gov.uk/system/files/docs/2017/03/uswitch_response.pdf

¹⁸⁸ CMA Private Motor Insurance market investigation final report, paragraphs 8.119 and 12.128(a).

https://assets.publishing.service.gov.uk/media/5421c2ade5274a1314000001/Final_report.pdf

¹⁸⁹ We asked suppliers: 'In negotiations, have any PCWs sought to impose conditions (whether you have accepted them or not) that would have the effect of limiting your ability to offer different and /or lower prices on your site, or other PCWs? How did you determine whether to accept these conditions or not?'

¹⁹⁰ Four responses to Q9 of the PCW RFI.

Impact on sustainability

- 1.146. We have considered the impact of this policy on sustainability. In the short-term, we do not consider that there is a particular impact. Some tariffs seek to deliver environmental benefits, but we have not identified a reason why the partial remedy would have a particular impact on these tariffs compared to others. As noted above, we do not consider that the partial remedy would be likely to encourage the development of niche PCWs like 'green-only' PCWs.
- 1.147. In the medium-term, intermediaries are likely to have a significant role. In a world with much more data available from smart meters, consumers will need innovative and trusted intermediaries to help them make use of this information and find a good deal. For example, half-hourly settlement may lead to a growth in smart tariffs (eg time of use tariffs). These tariffs could have sustainability benefits – eg by facilitating the integration of increased amounts of renewable generation on the network. Consumers would need tools to compare these, using their smart meter data as an input to provide tailored results.
- 1.148. In order to deliver this future, intermediaries (including PCWs) will need to innovate and invest. By increasing the incentives on PCWs to innovate and invest, the partial remedy would provide a first step towards this. However, there may be further changes to the regulatory framework for PCWs in the medium and long-term. This may limit the extent to which this particular policy change determines the future impact of PCWs on sustainability.

Conclusion – preferred option

- 1.149. Based on the evidence reviewed above, we consider that the partial remedy (option 2) would benefit consumers by helping them to switch to a better deal more easily. PCWs would have greater incentives to invest in reaching consumers and providing new offers to them, and would be better able to show consumers the products that they are comfortable recommending. Suppliers would have greater incentives to work with PCWs, giving consumers easier access to cheap deals by switching directly through PCWs.
- 1.150. At the same time, consumers would remain protected through the Code. There are many existing requirements which will remain unchanged (eg the requirements on PCWs to be independent and accurate). Consumers would still be able to quickly and easily see a Wide Results page through the PCW if they want to. We are proposing to bolster the protections for consumers through additional mitigations. In particular, it would be more transparent than ever to customers what it is they are seeing. These mitigations would address potential risks in relation to consumer trust and consumer decision-making.
- 1.151. As set out in the main document, we are consulting on the revised Code drafting. Subject to responses to this consultation, we intend to change the wording of the Code to implement our policy changes.