

# Decision on the partial implementation of the CMA's Whole of Market remedy & consulting on new Code requirements

## Decision & Consultation

**Publication date:** 3 July 2017  
**Response deadline:** 31 July 2017

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### Overview:

In August 2016, Ofgem published the Confidence Code Review 2016 consultation to respond to the Competition and Markets Authority's recommendation to remove the requirement on Ofgem-accredited price comparison websites (PCWs) to show a wide range of tariffs on the market (the whole of market - WoM - requirement) from the Confidence Code.

In this document, we set out our decision to partially implement the removal of the WoM Requirement, and consult on consequential Confidence Code wording outlined in Appendix 1, which aims to ensure consumers continue to trust the results of, and continue to use, accredited PCWs. We also highlight next steps on the Confidence Code's development, including allowing trials by accredited PCWs, and our intention to consult on the full removal of the WoM Requirement at the end of this year.

We welcome your views on our proposals. This consultation closes at 9am on 31 July 2017 and responses should be sent to [confidencecode@ofgem.gov.uk](mailto:confidencecode@ofgem.gov.uk).

# Associated documents

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Competition and Markets Authority, June 2016, Final Report  
<https://www.gov.uk/cma-cases/energy-market-investigation>

Ofgem, Confidence Code  
<https://www.ofgem.gov.uk/consumers/household-gas-and-electricity-guide/how-switch-energy-supplier-and-shop-better-deal/compare-gas-and-electricity-tariffs-ofgem-accredited-price-comparison-sites>

Ofgem, Confidence Code Review 2016  
[https://www.ofgem.gov.uk/system/files/docs/2016/08/whole\\_of\\_market\\_consultation.pdf](https://www.ofgem.gov.uk/system/files/docs/2016/08/whole_of_market_consultation.pdf)

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# Executive Summary

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On 24 June 2016 the Competition and Markets Authority (CMA) published the final report on its Energy Market Investigation. Amongst its recommendations was one that Ofgem should remove the requirement on price comparison websites (PCWs), that are members of the Ofgem-accredited Confidence Code, to show as their first results page (the default view), a wide range of tariffs on the market, irrespective of whether or not a consumer can switch to the tariff through the PCW. This requirement is often referred to as the whole of market (WoM) requirement. On 3 August 2016 we consulted on an interim stage which allowed accredited PCWs to show, as their first results page, only tariffs a consumer can switch to through their website, as long as a consumer can easily access a view of tariffs they can be switched to outside of their website.

Following the Confidence Code Review 2016 consultation and a period of evidence gathering and analysis, we have decided to:

- go forward with the proposals set out in the Confidence Code Review 2016 publication which allows accredited PCWs to have their default results page only show tariffs that can be entered into directly through their site provided consumers can easily access a results page which also includes tariffs which can be switched to outside of their site;
- consult on new Confidence Code wording to help address potential concerns consumers may have on whether to trust the results of PCWs by ensuring:
  - Accredited PCWs provide clear messaging to consumers about the market coverage of any results page which shows tariffs that can be entered into directly through their site;
  - Accredited PCWs provide clear messaging on what is covered in any results page which includes tariffs that cannot be switched to through their site; and
  - Accredited PCWs list tariffs in price order unless the consumer specifically asks for them to be ordered in some other way.

Subject to responses to the consultation within this document, Ofgem intend to implement new wording of the Code no later than mid-August to enact the above requirements. Full drafting of the proposed new Confidence Code wording can be found in Appendix 1 of this document. This approach is in accordance with the Confidence Code Change Process outlined in Appendix 3, which requires any proposed change in wording of the Confidence Code to be subject to consultation.

**Responses to this consultation on changes to the Confidence Code requirements are invited by 9am 31 July 2017, to be sent to [confidencecode@ofgem.gov.uk](mailto:confidencecode@ofgem.gov.uk).**

Based on our review of the evidence, we consider that these changes will lead to more consumer benefits than the status quo. Consumers will more easily be able to use PCWs to find a tariff they can switch to through a PCW, whereas at the moment many are put off from switching by the lack of fulfillable tariffs<sup>1</sup> on the first results page. Accredited PCWs will have greater incentives to invest in reaching consumers and providing new offers to them, and will be better able to show consumers the products that they are comfortable recommending. Suppliers will have greater incentives to work with PCWs, giving consumers easier access to cheap deals by switching directly through PCWs. At the same time, consumers should have more confidence in the transparency of PCWs' results, market coverage, business models, and commission arrangements.

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<sup>1</sup> A fulfillable tariff is one for which a PCW can facilitate the switch and is paid a commission for doing so. A PCW will receive no commission for displaying results for non-fulfillable tariffs. See Glossary

Between the date of this document's publication and the publication of our decision on the Code's new wording, which will be published in mid-August at the latest, Ofgem is permitting trials by Code-accredited sites. These trials are to help sites understand the best means of being compliant with the new Code requirements outlined in this document.

Subject to this consultation, once the new Code wording outlined in Appendix 1 has come into force, Ofgem will monitor the market to understand how the changes are working and their impact on consumers. Ofgem will also run a second wave of trials to further understand the benefits and risks of fully removing requirements in the Confidence Code that require PCWs to show non-fulfillable tariffs<sup>2</sup>.

Following the results of the monitoring, trials, and publication of the CMA's final report on its DCT market study, Ofgem will consult in the autumn of 2017 on removing the requirements in the Confidence Code that obligate PCWs to show non-fulfillable tariffs.

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<sup>2</sup> See Glossary

# 1. Background

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- 1.1. Ofgem's PCW Confidence Code sets out a number of requirements that PCWs must follow to become accredited members of the Code, and to display the Ofgem Confidence Code logo. The Code's aim is to help consumers feel confident that they are receiving an independent, transparent, accurate and reliable service when using an accredited site to switch energy suppliers. We monitor compliance with the Code via an auditing programme, and the ultimate sanction for non-compliance is removal of accreditation.
- 1.2. In June 2016, the Competition and Markets Authority (CMA) recommended that Ofgem remove the Whole of Market (WoM) requirement<sup>3</sup> from the Confidence Code, and introduce a requirement for PCWs accredited under the Confidence Code to be transparent over the market coverage they provide to energy customers.
- 1.3. In the Confidence Code Review 2016 consultation, Ofgem addressed the CMA's recommendation to remove the WoM Requirement. We did not consult on full removal of the WoM Requirement in the document. Before consulting on full removal of the WoM Requirement, 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. We therefore proposed an intermediate step requiring PCWs to ensure that fulfillable and non-fulfillable tariffs<sup>4</sup> can still be easily accessed by consumers on their site whilst allowing PCWs to display, as a default view, only those tariffs that could be switched to from the site (fulfillable tariffs). We also suggested changes to sections of the Code relevant to Personal Projection to ensure that it is in-line with current policy thinking.
- 1.4. In March 2017, the CMA noted in their Digital Comparison Tools (DCT) Market Update Paper: 'The main arguments for applying a Whole of the Market requirement are that it: (a) Improves consumer trust in DCTs because consumers expect to see comprehensive coverage on each DCT, (b) Reduces barriers to entry and expansion for small or niche suppliers, by enabling them to appear on DCTs and negotiate lower commission fees and thus provide lower prices to consumers'.<sup>5</sup>
- 1.5. Based on a survey supported by qualitative discussions with consumers the CMA conducted as part of its study, it found that only a minority of recent DCT users in the sectors it addressed thought the DCTs covered all suppliers, but that a large majority considered that the level of coverage was sufficient for their needs. It also said that, in the absence of the WoM Requirement, DCTs would be likely to facilitate entry for many suppliers, including small and niche ones.<sup>6</sup> It concluded: 'Our provisional view is that consumer trust and engagement, as well as effective competition, is better achieved by ensuring, where necessary, that DCTs are transparent about their market coverage than by requiring DCTs to provide a particular level of coverage'.<sup>7</sup>

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<sup>3</sup> When a PCW presents a consumer with Wide Results page (formerly referred to as the WoM view), it displays all tariffs within the market that are described under Requirement 2 of the code. Within Requirement 5 of the Code there are additional restrictions around filtering and display of Partial View, taken together, these requirements are commonly referred to as the WoM Requirement.

<sup>4</sup> See Glossary

<sup>5</sup> [Digital Comparison Tools market study: update paper, 28 March 2017](#) paragraph 8.38

<sup>6</sup> Ibid paragraph 8.39.

<sup>7</sup> Ibid paragraph 8.40

## 2. Our decision and reasons for it

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### Chapter Summary

This chapter sets out what evidence we gathered to inform our decision to go forward with the proposals set out in the Confidence Code Review 2016 consultation (once we have confirmed the new drafting of the Code set out in Appendix 1) and to give an update on Personal Projection and the Tariff Information Label.

### Evidence gathering

- 2.1. Alongside responses to the consultation, we have gathered a range of further information to help us make an informed decision.
- 2.2. We issued two Requests for Information (RFIs). One was issued to domestic suppliers; it included questions on their commercial agreements with PCWs, their costs of acquiring customers, and their attempts to use alternative routes to market. The second was sent to Code-accredited PCWs. This included questions on their investment, their conversion rates, and their commercial relationships with suppliers.
- 2.3. We also examined consumer research, both quantitative and qualitative, including the CMA's survey as part of its DCT study (see paragraph 1.5). We also took into account the following: an energy-specific survey commissioned by the CMA as part of its Energy market investigation, Ofgem's survey to evaluate the Retail Market Review (RMR) changes, and survey data commissioned by other parties. In terms of qualitative research, we commissioned a small-scale piece of research designed to improve our understanding of different options for providing messaging to consumers. We also drew on previous Ofgem qualitative research obtained through the Consumer First Panels<sup>8</sup>.
- 2.4. One PCW ran a trial in early 2017. This tested several alternative ways of presenting results to consumers, using the current Confidence Code rules as a control group. This trial was carried out for a four-week period, and related only to one PCW. As a result Ofgem is aware of the limitations of the findings of this trial; it is not representative of all PCWs and therefore cannot simply be extrapolated to the entire market and instead it was viewed as one input alongside others as part of a broad evidence base.
- 2.5. We also gathered additional information through discussions with stakeholders including suppliers, Code-accredited PCWs, other intermediaries, and consumer groups. We have discussed issues with Code-accredited PCWs collectively at scheduled meetings, and held a discussion with Ofgem's Consumer Progress Panel<sup>9</sup>. Finally, we have also carried out desk research, including monitoring the tariffs displayed on Code accredited PCWs.

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<sup>8</sup> Big Sofa (2015), Ofgem Consumer First Panel Year 6, Wave 4 – Third party Intermediaries & Price Comparison Site messaging, pp6-7 / Ipsos MORI (2016), Ofgem Consumer Panel wave 3: the performance of Price Comparison Tools, p4.

<sup>9</sup> [Minutes Consumer Progress Panel February 2017](#)

## Our decision

2.6. Following evidence gathering and analysis Ofgem has:

- decided not to go forward with Confidence Code changes in Requirement Seven proposed in the Confidence Code Review 2016 consultation, which would change the Code's approach to Personal Projection. We are continuing with the current wording of Requirement Seven, which will be reviewed again later in the year as part of further policy work on Personal Projection.
- decided to proceed with the proposals set out in the Confidence Code Review 2016 publication which allow accredited PCWs to show, as a default, a Partial View<sup>10</sup> provided consumers can easily access a Wide Results page<sup>11</sup>, and requires accredited PCWs to make it clear to consumers when they are seeing a Partial View, and;
- proposed new Confidence Code wording (subject to consultation) to help address concerns consumers may have on whether to trust the results of PCWs by ensuring:
  - Accredited PCWs provide clear messaging to consumers about the market coverage of a Partial View;
  - Accredited PCWs provide clear messaging on what is covered in a Wide Results page, and;
  - Accredited PCWs list tariffs in price order unless the consumer specifically asks for them to be ordered in some other way

## Reasons for our decision

### Personal Projection and Tariff Information Label

- 2.7. In our Confidence Code Review 2016 consultation, we highlighted that changes to the format of the Tariff Information Label (TIL) were being consulted on as part of the [Helping consumers make informed choices consultation](#), and concluded that the proposed changes to the TIL would not require changes to the wording of the Confidence Code. Responses to the Confidence Code Review 2016 consultation did not disagree with this. We have therefore not changed the wording of the Confidence Code in relation to the TIL. Full details of the final decision made to the TIL were confirmed in April 2017<sup>12</sup>.
- 2.8. In the Confidence Code Review 2016 consultation, we also proposed to replace the Personal Projection methodology with a number of pre-2015 Code requirements. This was to keep the Confidence Code in line with policy development on Personal Projection, and would have meant changes to the wording of Requirement Seven in the Confidence Code.
- 2.9. Most respondents to the Confidence Code Review 2016 consultation generally agreed with the proposal to remove the Personal Projection and to revert to the pre-2015 Code wording. However, they cautioned Ofgem about the risk of this resulting in different savings and costs being displayed by different PCWs. A significant number of respondents who broadly agreed with our proposals said there was a need for some level of prescription to ensure consistency when deriving estimated annual costs. A

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<sup>10</sup> See Glossary

<sup>11</sup> The Wide Results page (formerly referred to as the WoM view), displays all tariffs within the market that are described under Requirement 2 of the Confidence Code. For further information on why it has been referred to as the Wide Results page rather than the WoM view, see the Glossary definition.

<sup>12</sup> [Modification of electricity and gas supply licences to introduce five 'informed choices' principles and remove the majority of the prescriptive sales and marketing rules](#)

significant number of responses said that in the absence of prescription, careful monitoring and regulation would be required to ensure that consumers are able to accurately compare tariffs across the market.

- 2.10. The “Personal Projection: Updated thinking on the way forward” paper released on the same day as this publication outlines thinking from Ofgem on Personal Projection. The paper is looking at options to give suppliers and price comparison websites, room to come up with their own methodologies, while putting in place controls to ensure consumers are protected from bad practices. We expect to follow the “Personal Projection: Updated thinking on the way forward” paper up with a statutory consultation later in the summer and to issue a decision in the autumn.
- 2.11. As the approach to Personal Projection continues to be developed, the current wording of the Code in this area will continue rather than the wording proposed in the Confidence Code Review 2016 consultation. All responses made to the Confidence Code Review 2016 consultation in respect of our proposals on Personal Projections were considered as part of the proposals within the “Personal Projection: Updated thinking on the way forward” paper.
- 2.12. Going forward all proposed changes to the Confidence Code relevant to Personal Projection will be included as part of the follow up publication to the “Personal Projection: Updated thinking and intended way forward” paper. All parties interested in the development of Personal Projection, and their relevance to the Confidence Code are encouraged to view and respond to this paper and its follow up publication.

### **Proposals set out in the Confidence Code Review 2016 consultation and new Code requirements**

- 2.13. Ofgem see PCWs as an important part of the UK retail energy market as many consumers use PCWs to switch. We want this to continue, and believe our decision to go forward with proposals set out in the Confidence Code Review 2016 consultation<sup>13</sup> alongside new Confidence Code wording to help address concerns consumers may have on whether to trust the results of PCWs, will lead to more consumer benefits than the current arrangements. We believe these proposals will also help accredited PCWs remain to be seen as a trustworthy, impartial and an independent way of comparing energy deals.
- 2.14. Although an important means of switching, PCWs are not the only way that consumers can engage in the energy market. For consumers who do not use PCWs at present, Ofgem’s database remedy and further engagement prompts will aim to provide an alternative route to helping them engage. Our changes to the Code should therefore be viewed as part of a wider change agenda to make the market work better for consumers.

### **Potential benefits of our proposals**

- Increased consumer engagement

- 2.15. Our proposals will allow consumers to see fulfillable tariffs at the top of the first results page, which should help more consumers proceed to complete a switch. In turn, this

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<sup>13</sup> Proposals which allow accredited PCWs to show, as a default, a Partial View provided consumers can easily access a Wide Results page (see Glossary), and requires accredited PCWs to make it clear to consumers when they are seeing a Partial View (see Glossary)

will provide greater incentives for accredited PCWs to invest in attracting consumers to their site to switch. Further details of the evidence and analysis highlighting this potential benefit can be found in paragraphs 1.23 to 1.43 of "Confidence Code Review 2016: Impact Assessment for decision on partial remedy" published alongside this document.

- Easier decision making for consumers
- 2.16. As the Partial View will be more prominent under our proposals, this will provide greater incentives for suppliers to support PCWs, which could lead to an increase in fulfillable tariffs. Our proposals will also help PCWs show consumers products they have checked, which may provide useful information or comfort for consumers when deciding to switch. These factors mean consumers will have a wider range of products they can have confidence in and switch to easily. Further details of the evidence and analysis highlighting this potential benefit can be found in paragraphs 1.44 to 1.50, and 1.55 of "Confidence Code Review 2016: Impact Assessment for decision on partial remedy" published alongside this document.
- Increased savings for consumers
- 2.17. More consumers viewing the Partial View on accredited PCWs will create greater incentives for accredited PCWs negotiating exclusive deals with suppliers. This can facilitate competition between suppliers, and lead to lower prices becoming available to consumers as suppliers offer competitive exclusive deals with accredited PCWs. Further details of the evidence gathering and analysis highlighting this potential benefit can be found in paragraphs 1.51 to 1.54 of "Confidence Code Review 2016: Impact Assessment for decision on partial remedy" published alongside this document.

### **Potential risks to consumer trust**

- 2.18. Some responses to the Confidence Code Review 2016 consultation highlighted that consumers value the Wide Results page (formerly referred to as the WoM view), thus reducing its prominence may decrease the trust consumers have in PCWs.
- 2.19. A range of data highlighting the extent to which consumers value the Wide Results page and what they expect to see as part of the results page on a PCW was looked at to develop our response. We concluded that there was not a clear-cut view on the extent to which consumers value the current Wide Results page. Further details of the evidence and analysis highlighting this potential risk can be found in paragraphs 1.81 to 1.95 of "Confidence Code Review 2016: Impact Assessment for decision on partial remedy" published alongside this document.

### **Proposals to address consumer trust risks**

- 2.20. We consider that the most important thing is for consumers to have a clear understanding of the results they are seeing on accredited PCWs. This will help ensure consumers do not make switching decisions based on incorrect assumptions (which could lead to them paying more than they might otherwise have done). To address this we have proposed new additions to the Confidence Code to ensure that:
- There is clear messaging to consumers about the market coverage displayed by accredited PCWs on their Partial View;
  - There is clear messaging on what is covered on, and the limitations of, an accredited PCW's Wide Results page;

- That tariffs are listed in price order unless the consumer specifically asks for them to be ordered in some other way.

The consultation section of this document (Chapter 3) highlights why and how the Confidence Code needs to be changed to meet the above proposals, and consults on the new wording of the Code needed to bring our proposals into effect.

# 3. Consultation on proposed changes to the Confidence Code

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## Chapter Summary

This chapter sets out proposed changes to the Confidence Code to ensure:

- There is clear messaging to consumers about the market coverage displayed by accredited PCWs on their Partial View;
- There is clear messaging on what is covered on, and the limitations of, an accredited PCW's Wide Results page;
- That tariffs are listed in price order unless the consumer specifically asks for them to be ordered in some other way.

We have highlighted in underlined blue the changes to the Confidence Code drafting compared to the drafting in the Confidence Code Review 2016 consultation that will be needed to achieve these proposals and which we seek your views on.

## Clear messaging to consumers about the market coverage displayed on the Partial View

3.1. The Confidence Code currently requires an accredited PCW to show on the Consumer Journey<sup>14</sup> a list of suppliers, which they receive a commission from, a description of their business model, and to explain if and how, their commission arrangements with suppliers influence the tariffs being displayed on their results page. For ease of reference only we refer to this information in this document as the Relevant Information<sup>15</sup>. We think the provision of the Relevant Information goes some way to ensuring consumers understand the results they are seeing, but to strengthen this we are proposing:

- To adopt the proposal made in Confidence Code Review 2016 consultation that requires accredited PCWs to make it clear to consumers when they are seeing a Partial View.
- To place additional requirements in the Code to ensure:
  - consumers can clearly access the Relevant Information whilst on a Partial View results page.
  - further information is given to better ensure consumers are aware of the market coverage they are seeing whilst on a Partial View results page and ensure that this information is clear and accessible to consumers.

3.2. Below, you can find extracts of the Code as it was proposed in the Confidence Code Review 2016 consultation that put these changes into context, and amendments in underlined blue that aim to achieve the additional requirements proposed in 3.1.

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<sup>14</sup> the steps a consumer may take when using a Price Comparison Service, including the Price Comparison Service's energy homepage, the consumer data entry stage, and any other steps before an agreement is made on a specific tariff (see Glossary).

<sup>15</sup> The information accredited PCWs are obligated to provide as part of Requirement One (G), (H) and (I) which is; a list of suppliers which they receive a commission from, a description of their business model, and an explanation of and how their commission arrangements with suppliers influence the tariffs being displayed on their results page.

## Requirement one

(G) The Service Provider must clearly identify any supplier with whom it has a commission arrangement for switches completed through the Service Provider's Price Comparison Service. The requirement for clear identification shall be met where the supplier's name is listed as part of a single list which identifies all suppliers from whom the Service Provider receives a commission.

(H) The list required in (G) must be prominently displayed, or be accessible from a prominent and clearly-labelled link;

- i. [at least once](#) during the Consumer Journey; [and](#)
- ii. [on the Partial View results page](#).

(I) The Service Provider must provide, alongside the list required in (G), [\(wherever it appears\)](#):

i. a brief description of the Service Provider's business model if they take commission from suppliers. At a minimum, this description must state whether the Service Provider operates under a commission-based model; and

ii. a statement explaining if, and where applicable, how any commission arrangements from suppliers influence the tariffs displayed on the results page, including where a Service Provider provides consumers with the choice to view only tariffs that a consumer can switch to through the Service Provider's Price Comparison Service.

(J) Messaging to fulfil requirements (G) to (I) must be prominent, clear and intelligible.

## Requirement five

(G) At any point of filtering which may lead to a Partial View, the Service Provider must ensure that messaging around this choice is prominent, clear and intelligible, so that consumers are aware what view of the market they will see on the results page.

(H) At any point where the Service Provider displays a Partial View (either as a default or after a filter is applied), the Service Provider must, on the results page:

- i. 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 previous page or link; and
- ii. provide a clear and intelligible statement prominently on the results page explaining that the consumer is seeing a Partial View on the results page, and that they are able to access All Results.
- iii. [provide a prominent, clear and intelligible statement summarising the extent of the market coverage provided by the Partial View which is reflective of the service the customer is actually offered and is not misleading.](#)

(I) A Service Provider must test the prominence, clarity and intelligibility of the messaging required to fulfil requirements 5(G), (H)(i) and (H)(ii), with consumers and provide information on the test methodology, sample size and results of this testing to Ofgem.

3.3. Ofgem considered amending the Confidence Code so that as part of complying with Requirement 1 (G), (H) and (I), accredited PCWs would be required to test the prominence, clarity and intelligibility of the Relevant Information. We also considered

amending the Confidence Code so that as part of complying with Requirement Five (H)(iii), accredited PCWs would be required to carry out testing to understand how clearly consumers understood the extent of the market coverage provided in their Partial View. We concluded that:

- the results of such testing would be useful to understand whether actions of the accredited PCWs' have helped to achieve the policy goal of providing clear messaging to consumers about the market coverage of a Partial View,
  - but that it would not be proportionate to mandate additional testing requirements on accredited PCWs without further discussions.
- 3.4. Given the value of such testing to achieving the policy goal of providing clear messaging to consumers about the market coverage of a Partial View, Ofgem encourages accredited PCWs to conduct user testing to inform their approach to meeting Requirement Five (H)(iii) and Requirement One (G), (H) and (I). Statements that PCWs could run tests on could be, for example, the number or percentage of suppliers that is shown in the Partial View compared to all the suppliers that an accredited PCW is aware of in the market.
- 3.5. As part of monitoring the implementation of this document's proposals, Ofgem will review how PCWs have met these new Requirements and judge whether the approach taken by Code members has helped ensure consumers have a clear understanding of the market coverage of a Partial View.
- 3.6. Ofgem may request details of any consumer testing that was used to inform accredited PCWs approach to meeting these new Requirements. Information that indicates whether consumers do, or do not, have a clear understanding of what they are seeing on a PCW website will inform our approach to the Code going forward.

**Question 1: Do you agree that our proposed Code changes meets the policy goal of providing clear messaging to consumers about the market coverage of an accredited PCW's Partial View. If not, how should the Code be changed to meet this policy goal?**

### **Clear messaging on what is covered on, and the limitations of, an accredited PCW's Wide Results page**

- 3.7. To address the potential risk of consumers not being aware of what they are seeing, we have proposed new requirements in the Code to ensure:
- accredited PCWs do not describe their results pages or the signpost to their results pages as showing all offers on the market unless this is factually accurate.
  - accredited PCWs indicate what tariffs are excluded from a Wide Results page.
- 3.8. Below, you can find extracts of the Code as it was proposed in the Confidence Code Review 2016 consultation that put these changes into context and amendments in underlined blue that aim to achieve the additional requirements proposed in 3.7

#### *Requirement two*

(A) *(i) The Service Provider must use all reasonable endeavours to include price comparisons for all available domestic tariffs, where applicable for all available payment types, for licensed suppliers (including for any agents, affiliates, and brands operating under the licence of a supplier), for gas, electricity and dual fuel. The Service Provider is not required to show the following tariffs:*

- *social tariffs (ie tariffs where consumer eligibility is based upon social or financial circumstances, eg receipt of benefits); or*
- *tariffs which the supplier has requested the Service Provider to remove from its Price Comparison Service; or*
- *tariffs which are available only to consumers in a specified region, to consumers that are not within that specified region; or*
- *tariffs which are exclusive deals between a supplier and another Service Provider.*

*(ii) When signposting consumers to, or displaying any results page the Service Provider must not use wording that would in any way imply that it contains every possible tariff available from all suppliers via any means unless this statement is factually accurate. For the avoidance of doubt, descriptions that should not be used include, but are not limited to, wording to the effect of 'whole of market' or 'all tariffs'.*

*(iii) Any results page displaying Wide Results must identify the limitations of this view and communicate to consumers what categories of tariffs covered by Requirement two(A)(i) are not shown on the Wide Results page.*

- 3.9. Ofgem consider that it would not be proportionate to mandate accredited PCWs to carry out testing to determine their approach to meeting Requirement Two A(ii) and (iii) of the Code without further discussions. Nonetheless, we would encourage accredited PCWs to run testing to determine their approach to meeting Requirement Two A(ii) and (iii). The aim of this testing would be to help PCWs understand what messaging increases consumers' understanding of what is covered on, and the limitations of, their Wide Results page. Messaging that PCWs could run tests on could, for example, give an overview of types of tariffs that are not shown in their Wide Results page.
- 3.10. During our analysis Ofgem has heard, and accepts, that referring to the Whole of Market (WoM) view is potentially misleading to consumers, as most accredited PCWs do not show everything on the market. This is why we have changed the terminology used in this document and refer to the WoM view as the Wide Results page<sup>16</sup>. For the avoidance of doubt, we expect PCWs to not describe their Wide Results page as showing the whole market unless this is factually accurate.
- 3.11. As part of monitoring the implementation of this document's proposals, Ofgem will review how PCWs have met Requirement Two A(ii) and (iii). We will consider whether the approach taken by Code members has helped ensure consumers have a clear understanding of what is covered by an accredited PCW's Wide Results page.
- 3.12. To inform our view, we will request details of any consumer testing that was used to inform accredited PCWs' approaches to meeting Requirement Two A(ii) and (iii). Information that indicates whether consumers do, or do not, have a clear understanding of what an accredited PCW's Wide Results page covers will inform our approach to the Code going forward.

**Question 2: Do you agree that our proposed Code changes meets the policy goal of providing clear messaging on what an accredited PCW's Wide Results page covers. If not, how should the Code be changed to meet this policy goal?**

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<sup>16</sup> To avoid confusion, we have moved away from the term "WoM view" and the term "All Results" that was used in the Confidence Code Review 2016 consultation, and are using the phrase the "Wide Results page" to refer to both of these terms in this document. This is merely a drafting change and does not materially affect what was proposed in the Confidence Code Review 2016 consultation.

## Tariffs are listed in price order in any default view

3.13. We understand that in practice PCWs currently sort default results in price order unless a consumer chooses them to be listed another way. We propose changing the Code to reflect this practice with the following amendment:

*Requirement one*

*(F) 'Where a consumer chooses to search by price, or where a consumer does not choose what order their results should be in, results must be presented strictly by best cheapest price first'*

3.14. This, in conjunction with the previous proposals that aim to ensure consumers understand the results they are seeing on accredited PCWs, aims to ensure that consumers can trust results obtained from PCWs.

**Question 3: Do you agree that our proposed Code changes meets the policy goal of ensuring accredited PCWs list tariffs in price order in any default view. If not, how should the Code be changed to achieve this?**

## 4. Next steps

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### Chapter Summary

In this chapter, we set out details of trials for the proposed new Confidence Code requirements in Appendix 1, future trials to inform our approach to the Confidence Code in the future, monitoring of the Confidence Code in the future, and our plans for consulting on the full removal of the WoM Requirement in autumn 2017.

### Trials

#### First wave of trials (trailing this documents proposals)

- 4.1. Ofgem is allowing limited trialling by accredited PCWs, to help them work out how best to frame messaging on what customers are seeing. This will help them prepare for the formal implementation of the Confidence Code's new drafting that will be confirmed by mid-August at the latest.
- 4.2. **Who is able to trial and what are the timeframes** - From the publication of this document until we publish our new Code drafting in mid-August at the latest, we are allowing a period of trialling for all accredited PCWs. Accredited PCWs will not have to seek permission from Ofgem to participate in this trial.
- 4.3. **What accredited PCWs can do during the trials** - We expect trials to be consistent with our proposals in this document, and with the proposed new wording outlined in Appendix 1.
- 4.4. **Why we are running the trials** - The trials aim to give accredited PCWs the freedom to experiment with different approaches to being compliant with the proposed wording in Appendix 1, and to begin consumer testing so they can determine the best means of doing this.
- 4.5. **Compliance** - During the trial period, we will not prioritise enforcement of the existing Code wording where sites have demonstrated they are meeting the draft new Code wording outlined in Appendix 1. Ofgem reserves the right to halt any and all trials if we feel there is evidence of consumer harm.

#### Second wave of trials (to inform future policy development)

- 4.6. Following the introduction of the new Code drafting by mid-August at the latest, we will be monitoring accredited PCWs under the new Code wording to inform our approach to consulting on the full removal of the WoM Requirement. As one input to our policy thinking, we would like to obtain 'real-world' evidence of how consumers react to not having the WoM Requirement. We therefore plan to permit PCWs to carry out trials on the consumer impact and results of removing the WoM Requirement.
- 4.7. **Who is able to trial, and what are the timeframes and conditions** - To be eligible for the second wave of trials, all interested accredited PCWs must submit their initial plan for a trial to [confidencecode@ofgem.gov.uk](mailto:confidencecode@ofgem.gov.uk) by 12 July. This initial plan must demonstrate how their trial meets the draft criteria set out in paragraph 4.9 and 4.10.

The window for conducting these trials will likely be a four-week period in the months of August and September.

Our final criteria for the second wave of trials will be informed by discussions with accredited PCWs on their trial plans and wider stakeholders. If following discussions with Ofgem, accredited PCWs want to amend their trial plan, they can resubmit their plan after the initial submission date of July 12. Following discussions with accredited PCWs interested in conducting a trial, and wider stakeholders, Ofgem will publish the final criteria for all trials by mid-August at the latest.

We will confirm to each accredited PCW whether their plan for a trial can go ahead alongside publication of the final criteria by mid-August at the latest. If an accredited PCW's plan for a trial is not approved by that point, that accredited PCW may have the opportunity to resubmit a plan to us in line with the final criteria.

- 4.8. **Why are we running the trial** – Ofgem wants to understand the impact of removing the WoM Requirement from the Code, and whether consumers have a clear understanding of what they are seeing when viewing the results of accredited PCWs. We have set the time scales of the trials so the results can inform the detail of our consultation on full removal of the WoM Requirement in autumn 2017.
- 4.9. **Draft criteria for the trials** – We recognise that there will be differences in what is possible for individual sites. Nonetheless, it is important that these trials be conducted in a robust manner so that they provide meaningful evidence that informs Ofgem's approach to the Confidence Code. PCWs will be required to run at least one control group (seeing a Code-compliant view in line with new Code drafting announced in mid-August) and two test groups in their trials. Test groups should include a view with no Wide Results page, and a view with no Wide Results page but a link to information on the Citizens Advice comparison website<sup>17</sup>. We expect each trial to involve random and equal allocation of site visitors between the control group and the test groups. Accredited PCWs will be required to collect data, by for example an exit survey, on the trial participants' customer satisfaction, and understanding of what is being presented to them across the control group and the different test groups. Trials must also collect data on consumer behaviour whilst on the control and test groups (e.g., how many toggle to the Wide Results page).
- 4.10. Initial trial plans submitted to Ofgem by July 12 must:
- Outline their test groups.
  - Outline how the trial has established a random and equal allocation of site visitors between the control group and the test groups.
  - Explain what data is being collected on consumers across the control group and test groups, and how it is being collected to determine:
    - levels of customer satisfaction across each group
    - levels of understanding of what is being presented to them across each test group.
  - Confirm that as part of any control group or test group they will provide:
    - clear messaging to consumers about the market coverage of their results page and;
    - will list tariffs in price order unless the consumer specifically asks for them to be ordered in some other way.
  - Confirm that they will collect information for the trial's control group and test groups on, number of consumers, conversion rate, proportion of consumers toggling to see

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<sup>17</sup> <https://energycompare.citizensadvice.org.uk/>

the Wide Results page (for the control group), proportion of consumers clicking through for information about the Citizens Advice comparison service (for the relevant test group); and subdivide this information by customer characteristics provided during the search process (e.g. payment method).

- Confirm that they will provide Ofgem with all results of their trial within five working days of the trial ending.

4.11. **Compliance** – During the trial period for any sites whose trial has been approved, and upon condition of an accredited PCW complying with the terms of its trial as agreed with Ofgem, Ofgem will not prioritise enforcement of certain sections of the Confidence Code that relate to the WoM Requirement. For the avoidance of doubt, all other aspects of the Code outside of the WoM Requirement will remain in force and enforceable in the usual manner. Ofgem reserves the right to halt all trials if we feel there is evidence of widespread consumer harm.

## Monitoring

4.14 We want to understand what happens after the introduction of our proposals, for the following reasons:

- To examine the impact on consumers.
- To ensure the results are benefiting consumers.
- To verify that our measures to mitigate any unintended consequences are effective.
- To contribute to our evidence base when consulting on the full removal of the WoM Requirement in autumn 2017.

4.15 At the point of consulting on removal of the WoM Requirement, we aim to have information on the initial impacts of this document's proposals. We will therefore use monitoring of this document's proposals as one input on what to include in our consultation on removing the WoM Requirement, alongside other sources.

## Full removal of the WoM Requirement

### Additional inputs to consulting on the full removal of the WoM Requirement

4.16 We understand that the CMA plans to publish its final report for its DCT market study at the end of September. This is an important milestone for the regulation of PCWs, so we want to be able to consider these findings when formulating our way forward.

4.17 We will also continue to consider how to amend/re-design the existing audit framework for the Confidence Code, so that we have an approach capable of providing assurance without a WoM Requirement in place in the Confidence Code. The current audit approach involves comparing results from different accredited PCWs – this may no longer be sufficient if some PCWs do not show a Wide Results page.

### Timing

4.18 Subject to the points above, and the outputs of monitoring and trials, we intend to consult on removing the WoM Requirement in autumn 2017. In this consultation, we would seek views from all interested parties on our proposal, as well as the proposed Code drafting necessary to implement our proposal.

4.19 Following the consultation on full removal of the WoM Requirement, we will take into account the responses received and intend to publish our decision on whether to remove the WoM Requirement in Q1 of 2018.

# Appendices

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# Appendix 1 – Proposed Code drafting

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This Appendix shows the Confidence Code as it would look with the proposals of this document taken into consideration. The purple text shows both the changes proposed in the Confidence Code Review 2016 consultation that Ofgem have decided to implement and the additional requirements proposed in the current document, which are subject to consultation. For further breakdown on the changes of the Confidence Code, view Appendix 2. Appendix 2 highlights differences between the drafting of the Code as it stands currently, as proposed in the Confidence Code Review 2016 consultation, and as proposed in this document.

# 1. Definitions

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This section sets out the defined words and expressions used in the Confidence Code and gives their definitions next to them.

<b>Wide Results</b>	means all tariffs within the scope of requirement 2A(i) taking into consideration any opt-in filters selected by the consumer.
<b>Consumer Journey</b>	means the steps a consumer may take when using a Price Comparison Service. Such steps include the Price Comparison Service's energy homepage, the consumer data entry stage, and any other steps before an agreement is made on a specific tariff.
<b>Historic Tariffs</b>	means those tariffs that have legacy customers on them but are no longer available to new customers.
<b>Personal Projection</b>	means the estimated annual cost of a tariff calculated using the methodology set out in the definition of Estimated Annual Costs in Standard Licence Condition 1.
<b>Partial View</b>	means a view of only those tariffs the consumer can apply to switch to or enter into contracts for, via the Service Provider's Price Comparison Service.
<b>Price Comparison Service</b>	means an internet-based price comparison service for domestic gas and electricity consumers, which can be a website or app.
<b>Relevant Cheapest Evergreen Tariff</b>	has the same meaning as defined in Standard Licence Condition 1.
<b>Service Provider</b>	means the provider of a Price Comparison Service.
<b>Standard Licence Conditions</b>	means the standard licence conditions for gas and electricity suppliers which are available at <a href="https://www.ofgem.gov.uk/licences-codes-and-standards/licences/licence-conditions">https://www.ofgem.gov.uk/licences-codes-and-standards/licences/licence-conditions</a> .
<b>Tariff Information Label</b>	has the same meaning as defined in Standard Licence Condition 1.

## 2. The requirements

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### Requirement one – Independence and impartiality

- (A) The Service Provider must be independent of any gas or electricity supplier. It can take commission from suppliers but this must not influence how it provides any information or data to consumers.

A Service Provider will be considered independent of any gas or electricity supplier when it is not an affiliate or related undertaking of any supplier or of a company that is an affiliate of any energy supplier.

- (B) A Service Provider must provide impartial advice, not advice that is biased in favour of or against any particular gas or electricity supplier.

A Service Provider will be treated as completely impartial only if it is not intended to operate, and does not have the effect of operating in practice, in a way that is biased in favour of or against any particular supplier.

- (C) The Service Provider must not present any information or data in such a way that is deemed by Ofgem to be, or potentially to be, misleading or confusing to consumers.

- (D) Where a consumer cannot automatically switch to their chosen supplier through the Service Provider's Price Comparison Service, the Service Provider must not recommend an alternative supplier.

- (E) Advertisements from energy suppliers, their agents, affiliates, or brands operating under the licence of a supplier must not be displayed on the home/main page or on the energy price comparison pages of the Service Provider's Price Comparison Service.

- (F) Where a consumer chooses to search by price, or where a consumer does not choose what order their results should be in, results must be presented strictly by cheapest price first.

#### *Commission arrangements messaging*

- (G) The Service Provider must clearly identify any supplier with whom it has a commission arrangement for switches completed through the Service Provider's Price Comparison Service. The requirement for clear identification shall be met where the supplier's name is listed as part of a single list which identifies all suppliers from whom the Service Provider receives a commission.

- (H) The list required in (G) must be prominently displayed, or be accessible from a prominent and clearly-labelled link;

- i. at least once during the Consumer Journey; and
- ii. on the Partial View results page.

- (I) The Service Provider must provide, alongside the list required in (G), (wherever it appears):
- i. a brief description of the Service Provider's business model if they take commission from suppliers. At a minimum, this description must state whether the Service Provider operates under a commission-based model; and
  - ii. a statement explaining if, and where applicable, how any commission arrangements from suppliers influence the tariffs displayed on the results page, including where a Service Provider provides consumers with the choice

to view only tariffs that a consumer can switch to through the Service Provider's Price Comparison Service.

- (J) Messaging to fulfil requirements (G) to (I) must be prominent, clear and intelligible.

## Requirement two – Tariffs and price comparisons

- (A) (i) The Service Provider must use all reasonable endeavours to include price comparisons for all available domestic tariffs, where applicable for all available payment types, for licensed suppliers (including for any agents, affiliates, and brands operating under the licence of a supplier), for gas, electricity and dual fuel. The Service Provider is not required to show:
- social tariffs (ie tariffs where consumer eligibility is based upon social or financial circumstances, eg receipt of benefits); or
  - tariffs which the supplier has requested the Service Provider to remove from its Price Comparison Service; or
  - tariffs which are available only to consumers in a specified region, to consumers that are not within that specified region; or
  - tariffs which are exclusive deals between a supplier and another Service Provider.
- (ii) When signposting consumers to, or displaying any results page the Service Provider must not use wording that would in any way imply that it contains every possible tariff available from all suppliers via any means unless this statement is factually accurate. For the avoidance of doubt, descriptions that should not be used include, but are not limited to, wording to the effect of 'whole of market' or 'all tariffs'.
- (iii) Any results page displaying Wide Results must identify the limitations of this view and communicate to consumers what categories of tariffs covered by Requirement two(A)(i) are not shown on the Wide Results page.
- (B) The Service Provider must use all reasonable endeavours to include information on Historic Tariffs for the purposes of comparison if a consumer's current tariff is a Historic Tariff.
- (C) A Service Provider must notify Ofgem in the event of being asked by an energy supplier to remove a tariff from its Price Comparison Service, which to the best of that Service Provider's knowledge is still available to consumers.
- (D) A Service Provider must provide a copy of the Tariff Information Label, accessible either within or from the main results page, for each tariff displayed on the main results page.
- (E) A Service Provider may include price comparisons for meters other than single rate and Economy 7 meters at its discretion.
- (F) A Service Provider is responsible for obtaining, updating and ensuring the accuracy of all data displayed on its Price Comparison Service covering all licensed supplier tariffs (including those of its agents, affiliates and any associated brands).
- (G) Service Providers must ensure that the length of the comparison period defaults to 12 months from the date of comparison; however filters can be created for other comparison periods.

## Requirement three – Control and management

- (A) The Service Provider must manage and control its Price Comparison Service and use its own tariff database and calculator.
- (B) A Service Provider will be treated as managing its Price Comparison Service where:
- i. it has full control over the information content provided on the Price Comparison Service and how that content is presented; or
  - ii. it has that degree of control referred to in (i), even where the Price Comparison Service is maintained by a third party on behalf of the Service Provider.
- (C) However, where:
- i. a Price Comparison Service is maintained by a third party; and
  - ii. that third party also maintains a Price Comparison Service on behalf of any other Service Provider (whether accredited by Ofgem or not),

the Service Provider will be treated as managing the Price Comparison Service only where that third party maintains the Price Comparison Service entirely independently of the Price Comparison Service of the other provider. But, in any event, the Price Comparison Service may not be maintained by a third party that also manages another Ofgem accredited Price Comparison Service.

- (D) A Service Provider may make its tariff database and calculator available to third parties. Where it does so:
- i. the third party may state that it uses the Service Provider's calculator or tariff database and state that the Service Provider is accredited to the Confidence Code, but the third party must not use the Confidence Code logo;
  - ii. the Service Provider's arrangements with the third party must provide that the third party may only make such statements in (i) if it has followed the same rules as the Service Provider for making the comparisons and meets the requirements of the Confidence Code; and
  - iii. the Service Provider is responsible for ensuring that the third party complies with the arrangements in (ii). Any failure by the third party to meet the requirements of the Confidence Code can be determined as a breach of the Confidence Code by the Service Provider.

## Requirement four – Payment methods

- (A) A Service Provider must provide consumers with an explanation of the following payment methods:
- Standard credit by cash/cheque;
  - Monthly and quarterly Direct Debit;
  - Prepayment meter.

## Requirement five – Results and filters

### *Opt-in filters*

- (A) Taking filters into account, a price comparison provided to a consumer must list (on a single page) no fewer than 10 of the cheapest tariffs available in the region where the consumer wants supply. The prices must include VAT (and state that they do so).
- (B) A Service Provider may provide filters so that consumers may search results based on different criteria selected by the consumer (eg the different types of tariff available or an energy supplier's service rating etc), but these must be opt-in only.
- (C) A Service Provider must clearly explain the potential impact to consumers who select an opt-in filter, so that consumers are fully aware of the effect and limitations this may have on the results.
- (D) Where the Service Provider provides a filter for green or environmental tariffs, it must explain the methodology for filtering these tariffs. Green results should be displayed by order of fuel mix then price.
- (E) A Service Provider must provide a facility or follow-through page(s) so that consumers have the ability to view a list of their price comparison results free from any opt-in filters selected.

### *The display of a Partial View*

- (F) A Service Provider may (subject to requirement 5(G) below) display a Partial View as a default option or by offering a filter option before the results page.
- (G) At any point of filtering-which may lead to a Partial View, the Service Provider must ensure that messaging around this choice is prominent, clear and intelligible, so that consumers are aware what view of the market they will see on the results page.
- (H) At any point where the Service Provider displays a Partial View (either as a default or after a filter is applied), the Service Provider must, on the results page:
  - i. ensure that the consumer can quickly and easily access the page that shows the Wide Results without re-entering their details or going back to a previous page or link;
  - ii. provide a clear and intelligible statement prominently on the results page explaining that the consumer is seeing a Partial View on the results page, and that they are able to access the Wide-Results; and
  - iii. provide a prominent, clear and intelligible statement summarising the extent of the market coverage provided by the Partial View which is reflective of the service the customer is actually offered and is not misleading.
- (I) A Service Provider must test the prominence, clarity and intelligibility of the messaging required to fulfil requirements 5(G), (H)(i) and (H)(ii) with consumers and provide information on the test methodology, sample size and results of this testing to Ofgem.

## Requirement six – Quality of service and signposting to information

### *Quality of service*

- (A) The Service Provider may assign ratings to a supplier's performance and invite the consumer to consider quality of service issues, including any such supplier service ratings.
- (B) The Service Provider may assign supplier performance ratings provided they either:
  - i. send their methodology to Ofgem for review; or
  - ii. use ratings adopted by other recognised consumer organisations (eg Citizens Advice).
- (C) In developing a supplier ratings methodology and, where appropriate, when using supplier ratings, a Service Provider should adhere to the following principles:
  - i. the methodology should be evidence-based and objective;
  - ii. the methodology should be applied consistently across suppliers;
  - iii. the resultant ratings should offer a comprehensive coverage of suppliers. Where a supplier is not assigned a rating, where appropriate, it should be clear that this is not necessarily an indication of poor performance;
  - iv. the data used should be statistically significant;
  - v. the rating values should be refreshed at least once every 12 months and the last updated date should be displayed to consumers; and
  - vi. explanatory messaging around the ratings should be clear and objective.
- (D) If a Service Provider either:
  - i. has applied their current supplier ratings methodology prior to 25 March 2015;
  - ii. plans to apply any supplier ratings for the first time; or
  - iii. plans to amend any existing supplier ratings methodology,it should provide Ofgem with evidence and an explanation of how its methodology meets the principles in (C).

### *Energy efficiency information*

- (E) A Service Provider must, on the homepage or during the Consumer Journey, provide signposting to independent sources of advice on energy efficiency matters that will be of benefit to all energy consumers. At a minimum, we require that the following sources should be clearly signposted by the Service Provider:
  - i. Energy Saving Trust;
  - ii. Government energy grants calculator; and
  - iii. Citizens Advice.
- (F) This signposting should be prominent, clear and intelligible, so that consumers are aware what information is available within these sources.

### *Warm Home Discount scheme*

- (G) A Service Provider must, during the Consumer Journey, alert relevant consumers to the possibility that if they move to certain suppliers, they could lose support from government energy support schemes such as the Warm Home Discount benefit. This

messaging may include signposting to relevant websites.

## Requirement seven – Accuracy and updating tariffs

- (A) Prices and price comparisons must be accurate and state when they were last updated.
- (B) A Service Provider must state the date that its Price Comparison Service and database has been updated.
- (C) Ofgem may review any new form of tariff and issue Service Providers a formal direction as to how such a tariff should be treated in relation to compliance with the Confidence Code. The formal direction shall have effect as if it were part of this document.

### *Estimating the consumer's consumption*

- (D) A Service Provider can estimate a consumer's current spend if the consumer is unable to provide certain information. For example, a Service Provider can estimate consumption by asking questions about the size of property, number of bedrooms, etc. In these cases, it should be clear that this information is estimated.

However, Service Providers must emphasise to consumers the importance of entering accurate information to get the best comparison and should encourage consumers to input their annual consumption figures in order to do this.

### *Calculation methodology and assumptions*

- (E) Where a Service Provider provides a comparison for a time period, the estimated costs of all tariffs (including a consumer's current tariff) must be calculated as a default using the methodology based on the definition of Estimated Annual Costs in Standard Licence Condition 1.
- (F) Where provided, estimated annual costs must be referred to as a 'Personal Projection'.
- (G) A Service Provider may, if it wishes, provide an additional alternative methodology to calculate estimated costs for the consumer's current tariff and, where applicable, estimated savings, but this methodology must not be used as a default.

### *Calculation messaging*

- (H) At a minimum, a Service Provider must provide a link or message on the results page explaining how estimated costs of tariffs are calculated, including:
  - (i) that, if the consumer's fixed term tariff is coming to an end within 12 months from the date of calculation, the Personal Projection methodology assumes that the consumer will take no action and be rolled onto their current supplier's Relevant Cheapest Evergreen Tariff when their fixed term tariff ends;
  - (ii) details of any alternative methodology where offered; and
  - (iii) that the consumer may incur a termination fee if switching to a new tariff.
- (I) Where a Service Provider displays an estimate of the savings a consumer could make by switching to a tariff, as a minimum, a Service Provider must provide a link or messaging on the results page explaining how the savings figure is calculated, including:

- i. what two figures are used to calculate savings and assumptions behind these figures; and
  - ii. that the savings figure is an estimate only, and will change if the consumer's situation changes.
- (J) If an alternative methodology is offered under (G), the consumer must be provided with a link on the results page allowing the consumer to switch from the default methodology to the alternative and vice versa.
- (K) Messaging to fulfil requirements (H), (I) and (J) must be prominent, clear and intelligible.

#### *Updating tariffs*

- (L) A Service Provider must use all reasonable endeavours to:
- update tariffs;
  - add tariffs for a new supplier;
  - correct any errors/issues highlighted by Ofgem;
  - add new tariff information in a manner that complies with the Confidence Code.
- (M) A Service Provider must add new tariff information as soon as possible, but no later than two working days after the details and confirmation of the effective date being provided to it by the relevant energy supplier (or Ofgem), or from the tariff being made available to consumers, whichever is the latter.
- (N) A Service Provider should not include a new tariff on their Price Comparison Service more than six weeks before it becomes available to consumers.
- (O) For the purposes of requirement (N), where the tariff is new because of changes in price of an existing tariff, the date it is 'available to consumers' is to be determined as the date that the price change takes effect.
- (P) A Service Provider must inform Ofgem immediately of any circumstance that prevents it from complying with requirements (L), (M), (N) or (O). Ofgem will consider each individual case on its own merits and determine whether the Service Provider has used all reasonable endeavours to comply with the requirement or is in breach of the Confidence Code.

#### *Displaying current tariff and spend details*

- (Q) A Service Provider must display the details of a consumer's current tariff, based on the information the consumer has entered, in the format of a Tariff Information Label. The Tariff Information Label must be accessible either within or from the main results page.
- (R) A Service Provider must give the consumer a Personal Projection before the consumer completes a switch to a tariff through the Service Provider's Price Comparison Service.

## **Requirement eight – Audits and monitoring**

- (A) The Service Provider must comply with an annual audit done by an auditor independent of the Service Provider, working according to terms of reference supplied by Ofgem. The cost of each audit will be borne by the Service Provider,

unless otherwise advised by Ofgem prior to commencement.

- (B) The Service Provider must comply with audits and monitoring undertaken internally by Ofgem.
- (C) The Service Provider must provide the auditor with access to its premises and to its systems, and all other assistance, that the auditor reasonably requests.
- (D) The Service Provider must provide Ofgem with any information and assistance that it reasonably requests.

## **Requirement nine – Complaint handling**

- (A) The Service Provider must establish and operate an effective consumer complaint and enquiry handling procedure and respond to any complaint or enquiry within seven working days of receipt.
- (B) A Service Provider must provide Ofgem with a contact name and number for complaint referrals received in relation to the Service Provider. A Service Provider must acknowledge a complaint referred by Ofgem within two working days and the Service Provider must use all reasonable endeavours to resolve this complaint within seven working days. Ofgem should be copied into any response to the consumer.

## Appendix 2 – Revised Code drafting

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This Appendix shows the changes to the Confidence Code:

Red underlined text represents insertions proposed in the Confidence Code Review 2016, which will be implemented by latest mid-August 2017

~~Red strike through text~~ represents deletions proposed in the Confidence Code Review 2016, which will be implemented by latest mid-August 2017.

Blue underlined text represents insertions as proposed in this current consultation, which Ofgem seeks your views on.

~~Blue strike through text~~ represents deletions as proposed in the current consultation, which Ofgem seeks your views on.

**Green text** represents areas of the Code that were subject to proposals in the Confidence Code Review 2016 which Ofgem are not progressing at this point in time (relating to Personal Projection) and therefore the Confidence Code remains in its original form. Please refer to the Confidence Code Review 2016 for the text of the changes that are not being progressed.

# 1. Definitions

---

This section sets out the defined words and expressions used in the Confidence Code and gives their definitions next to them.

<del>All-Wide Results</del>	<u>means all tariffs within the scope of requirement 2A(i) taking into consideration any opt-in filters selected by the consumer.</u>
<b>Consumer Journey</b>	means the steps a consumer may take when using a Price Comparison Service. Such steps include the Price Comparison Service's energy homepage, the consumer data entry stage, and any other steps before an agreement is made on a specific tariff.
<b>Historic Tariffs</b>	means those tariffs that have legacy customers on them but are no longer available to new customers.
<b>Personal Projection</b>	<u>means the estimated annual cost of a tariff calculated using the methodology set out in the definition of Estimated Annual Costs in Standard Licence Condition 1.</u>
<b>Partial View</b>	<u>means a view of only those tariffs the consumer can apply to switch to or enter into contracts for, via the Service Provider's Price Comparison Service.</u>
<b>Price Comparison Service</b>	means an internet-based price comparison service for domestic gas and electricity consumers, which can be a website or app.
<b>Relevant Cheapest Evergreen Tariff</b>	<u>has the same meaning as defined in Standard Licence Condition 1.</u>
<b>Service Provider</b>	means the provider of a Price Comparison Service.
<b>Standard Licence Conditions</b>	means the standard licence conditions for gas and electricity suppliers which are available at <a href="https://www.ofgem.gov.uk/licences-codes-and-standards/licences/licence-conditions">https://www.ofgem.gov.uk/licences-codes-and-standards/licences/licence-conditions</a> .
<b>Tariff Information Label</b>	has the same meaning as defined in Standard Licence Condition 1.

## 2. The requirements

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### Requirement one – Independence and impartiality

- (K) The Service Provider must be independent of any gas or electricity supplier. It can take commission from suppliers but this must not influence how it provides any information or data to consumers.

A Service Provider will be considered independent of any gas or electricity supplier when it is not an affiliate or related undertaking of any supplier or of a company that is an affiliate of any energy supplier.

- (L) A Service Provider must provide impartial advice, not advice that is biased in favour of or against any particular gas or electricity supplier.

A Service Provider will be treated as completely impartial only if it is not intended to operate, and does not have the effect of operating in practice, in a way that is biased in favour of or against any particular supplier.

- (M) The Service Provider must not present any information or data in such a way that is deemed by Ofgem to be, or potentially to be, misleading or confusing to consumers.

- (N) Where a consumer cannot automatically switch to their chosen supplier through the Service Provider's Price Comparison Service, the Service Provider must not recommend an alternative supplier.

- (O) Advertisements from energy suppliers, their agents, affiliates, or brands operating under the licence of a supplier must not be displayed on the home/main page or on the energy price comparison pages of the Service Provider's Price Comparison Service.

- (P) Where a consumer chooses to search by price, [or where a consumer does not choose what order their results should be in](#), results must be presented strictly by [best cheapest price first](#).

#### *Commission arrangements messaging*

- (Q) The Service Provider must clearly identify any supplier with whom it has a commission arrangement for switches completed through the Service Provider's Price Comparison Service. The requirement for clear identification shall be met where the supplier's name is listed as part of a single list which identifies all suppliers from whom the Service Provider receives a commission.

- (R) The list required in (G) must be prominently displayed, or be accessible from a prominent and clearly-labelled link;
- [at least once](#) during the Consumer Journey; [and](#)
  - [on the Partial View results page](#).

- (S) The Service Provider must provide, alongside the list required in (G), [\(wherever it appears\)](#):
- a brief description of the Service Provider's business model if they take commission from suppliers. At a minimum, this description must state whether the Service Provider operates under a commission-based model; and
  - a statement explaining if, and where applicable, how any commission arrangements from suppliers influence the tariffs displayed on the results page, including where a Service Provider provides consumers with the choice

to view only tariffs that a consumer can switch to through the Service Provider's Price Comparison Service.

- (T) Messaging to fulfil requirements (G) to (I) must be prominent, clear and intelligible.

## Requirement two – Tariffs and price comparisons

- (H) (i) The Service Provider must use all reasonable endeavours to include price comparisons for all available domestic tariffs, where applicable for all available payment types, for licensed suppliers (including for any agents, affiliates, and brands operating under the licence of a supplier), for gas, electricity and dual fuel. The Service Provider is not required to show:
- social tariffs (ie tariffs where consumer eligibility is based upon social or financial circumstances, eg receipt of benefits); or
  - tariffs which the supplier has requested the Service Provider to remove from its Price Comparison Service; or
  - tariffs which are available only to consumers in a specified region, to consumers that are not within that specified region; or
  - tariffs which are exclusive deals between a supplier and another Service Provider.
- (ii) When signposting consumers to, or displaying any results page the Service Provider must not use wording that would in any way imply that it contains every possible tariff available from all suppliers via any means unless this statement is factually accurate. For the avoidance of doubt, descriptions that should not be used include, but are not limited to, wording to the effect of 'whole of market' or 'all tariffs'.
- (iii) Any results page displaying Wide Results must identify the limitations of this view and communicate to consumers what categories of tariffs covered by Requirement two(A)(i) are not shown on the Wide Results page.
- (I) The Service Provider must use all reasonable endeavours to include information on Historic Tariffs for the purposes of comparison if a consumer's current tariff is a Historic Tariff.
- (J) A Service Provider must notify Ofgem in the event of being asked by an energy supplier to remove a tariff from its Price Comparison Service, which to the best of that Service Provider's knowledge is still available to consumers.
- (K) A Service Provider must provide a copy of the Tariff Information Label, accessible either within or from the main results page, for each tariff displayed on the main results page.
- (L) A Service Provider may include price comparisons for meters other than single rate and Economy 7 meters at its discretion.
- (M) A Service Provider is responsible for obtaining, updating and ensuring the accuracy of all data displayed on its Price Comparison Service covering all licensed supplier tariffs (including those of its agents, affiliates and any associated brands).
- (N) Service Providers must ensure that the length of the comparison period defaults to 12 months from the date of comparison; however filters can be created for other

comparison periods.

### **Requirement three – Control and management**

- (E) The Service Provider must manage and control its Price Comparison Service and use its own tariff database and calculator.
- (F) A Service Provider will be treated as managing its Price Comparison Service where:
- i. it has full control over the information content provided on the Price Comparison Service and how that content is presented; or
  - ii. it has that degree of control referred to in (i), even where the Price Comparison Service is maintained by a third party on behalf of the Service Provider.
- (G) However, where:
- i. a Price Comparison Service is maintained by a third party; and
  - ii. that third party also maintains a Price Comparison Service on behalf of any other Service Provider (whether accredited by Ofgem or not),

the Service Provider will be treated as managing the Price Comparison Service only where that third party maintains the Price Comparison Service entirely independently of the Price Comparison Service of the other provider. But, in any event, the Price Comparison Service may not be maintained by a third party that also manages another Ofgem accredited Price Comparison Service.

- (H) A Service Provider may make its tariff database and calculator available to third parties. Where it does so:
- i. the third party may state that it uses the Service Provider's calculator or tariff database and state that the Service Provider is accredited to the Confidence Code, but the third party must not use the Confidence Code logo;
  - ii. the Service Provider's arrangements with the third party must provide that the third party may only make such statements in (i) if it has followed the same rules as the Service Provider for making the comparisons and meets the requirements of the Confidence Code; and
  - iii. the Service Provider is responsible for ensuring that the third party complies with the arrangements in (ii). Any failure by the third party to meet the requirements of the Confidence Code can be determined as a breach of the Confidence Code by the Service Provider.

### **Requirement four – Payment methods**

- (B) A Service Provider must provide consumers with an explanation of the following payment methods:
- Standard credit by cash/cheque;
  - Monthly and quarterly Direct Debit;
  - Prepayment meter.

## Requirement five – Results and filters

### *Opt-in filters*

- (F) Taking filters into account, a price comparison provided to a consumer must list (on a single page) no fewer than 10 of the cheapest tariffs available in the region where the consumer wants supply. The prices must include VAT (and state that they do so).
- (G) A Service Provider may provide filters so that consumers may search results based on different criteria selected by the consumer (eg the different types of tariff available or an energy supplier's service rating etc), but these must be opt-in only.
- (H) A Service Provider must clearly explain the potential impact to consumers who select an opt-in filter, so that consumers are fully aware of the effect and limitations this may have on the results.
- (I) Where the Service Provider provides a filter for green or environmental tariffs, it must explain the methodology for filtering these tariffs. Green results should be displayed by order of fuel mix then price.
- (J) A Service Provider must provide a facility or follow-through page(s) so that consumers have the ability to view a list of their price comparison results free from any opt-in filters selected.

### *The display of a Partial View*

#### ~~Filters limiting the results to tariffs the consumer can switch to through the Service Provider's Price Comparison Service~~

- (F) A Service Provider may (subject to requirement 5(G) below) display ~~only those tariffs the consumer can switch to by using the links on the Service Provider's Price Comparison Service only if the Service Provider meets the requirements outlined in (G), (H) and (I). If a Service Provider does not meet these requirements, it must display all the results as a default a Partial View as a default option or by offering a filter option before the results page.~~<sup>18</sup>
- (G) ~~Where a Service Provider does not display all the results as a default, the Service Provider must, a~~At the any point of filtering:
  - ~~— (i) require consumers to actively choose whether they wish to view all the results or only tariffs they can switch to via the Service Provider's Price Comparison Service;~~
  - (ii) ensure that the latter option in (i) is not pre-selected as a filter; and
  - ~~(iii) which may lead to a Partial View, the Service Provider must~~ ensure that messaging around this choice is prominent, clear and intelligible, so that consumers are aware what view of the market they will see on the results page.
- (H) ~~Where all the results are not shown to the consumer~~At any point where the Service Provider displays a Partial View (either as a default or after a filter is applied), the Service Provider must, on the results page:
  - iv. ensure that the consumer can quickly and easily access the page that shows ~~a~~All of the the Wide rResults without re-entering their details or going back to

<sup>18</sup> ~~All the results' means all tariffs available to the consumer in the market, taking into consideration the tariffs to be included for price comparison by Requirement 2(A) and any opt-in filters selected by the consumer.~~

a previous page or link; ~~and~~

- v. provide a clear and intelligible statement prominently on the results page explaining that the consumer is seeing a ~~p~~Partial ~~market v~~View on the results page, and that they are able to access ~~a~~All of the ~~the~~ Wide ~~r~~Results; ~~and~~
- vi. provide a prominent, clear and intelligible statement summarising the extent of the market coverage provided by the Partial View which is reflective of the service the customer is actually offered and is not misleading.

- (I) A Service Provider must test the prominence, clarity and intelligibility of the messaging required to fulfil requirements 5(G), ~~and~~ (H)(i) and (H)(ii) with consumers and provide information on the test methodology, sample size and results of this testing to Ofgem.

## Requirement six – Quality of service and signposting to information

### *Quality of service*

- (H) The Service Provider may assign ratings to a supplier's performance and invite the consumer to consider quality of service issues, including any such supplier service ratings.
- (I) The Service Provider may assign supplier performance ratings provided they either:
  - i. send their methodology to Ofgem for review; or
  - ii. use ratings adopted by other recognised consumer organisations (eg Citizens Advice).
- (J) In developing a supplier ratings methodology and, where appropriate, when using supplier ratings, a Service Provider should adhere to the following principles:
  - i. the methodology should be evidence-based and objective;
  - ii. the methodology should be applied consistently across suppliers;
  - iii. the resultant ratings should offer a comprehensive coverage of suppliers. Where a supplier is not assigned a rating, where appropriate, it should be clear that this is not necessarily an indication of poor performance;
  - iv. the data used should be statistically significant;
  - v. the rating values should be refreshed at least once every 12 months and the last updated date should be displayed to consumers; and
  - vi. explanatory messaging around the ratings should be clear and objective.
- (K) If a Service Provider either:
  - i. has applied their current supplier ratings methodology prior to 25 March 2015;
  - ii. plans to apply any supplier ratings for the first time; or
  - iii. plans to amend any existing supplier ratings methodology,it should provide Ofgem with evidence and an explanation of how its methodology meets the principles in (C).

### *Energy efficiency information*

- (L) A Service Provider must, on the homepage or during the Consumer Journey, provide

signposting to independent sources of advice on energy efficiency matters that will be of benefit to all energy consumers. At a minimum, we require that the following sources should be clearly signposted by the Service Provider:

- i. Energy Saving Trust;
- ii. Government energy grants calculator; and
- iii. Citizens Advice.

(M) This signposting should be prominent, clear and intelligible, so that consumers are aware what information is available within these sources.

#### *Warm Home Discount scheme*

(N) A Service Provider must, during the Consumer Journey, alert relevant consumers to the possibility that if they move to certain suppliers, they could lose support from government energy support schemes such as the Warm Home Discount benefit. This messaging may include signposting to relevant websites.

## **Requirement seven – Accuracy and updating tariffs**

(E) Prices and price comparisons must be accurate and state when they were last updated.

(F) A Service Provider must state the date that its Price Comparison Service and database has been updated.

(G) Ofgem may review any new form of tariff and issue Service Providers a formal direction as to how such a tariff should be treated in relation to compliance with the Confidence Code. The formal direction shall have effect as if it were part of this document.

#### *Estimating the consumer's consumption*

(H) A Service Provider can estimate a consumer's current spend if the consumer is unable to provide certain information. For example, a Service Provider can estimate consumption by asking questions about the size of property, number of bedrooms, etc. In these cases, it should be clear that this information is estimated.

However, Service Providers must emphasise to consumers the importance of entering accurate information to get the best comparison and should encourage consumers to input their annual consumption figures in order to do this.

#### *Calculation methodology and assumptions*

(E) Where a Service Provider provides a comparison for a time period, the estimated costs of all tariffs (including a consumer's current tariff) must be calculated as a default using the methodology based on the definition of Estimated Annual Costs in Standard Licence Condition 1.

(F) Where provided, estimated annual costs must be referred to as a 'Personal Projection'.

(G) A Service Provider may, if it wishes, provide an additional alternative methodology to calculate estimated costs for the consumer's current tariff and, where applicable, estimated savings, but this methodology must not be used as a default.

### Calculation messaging

- (H) At a minimum, a Service Provider must provide a link or message on the results page explaining how estimated costs of tariffs are calculated, including:
- (i) that, if the consumer's fixed term tariff is coming to an end within 12 months from the date of calculation, the Personal Projection methodology assumes that the consumer will take no action and be rolled onto their current supplier's Relevant Cheapest Evergreen Tariff when their fixed term tariff ends;
  - (ii) details of any alternative methodology where offered; and
  - (iii) that the consumer may incur a termination fee if switching to a new tariff.
- (I) Where a Service Provider displays an estimate of the savings a consumer could make by switching to a tariff, as a minimum, a Service Provider must provide a link or messaging on the results page explaining how the savings figure is calculated, including:
- iii. what two figures are used to calculate savings and assumptions behind these figures; and
  - iv. that the savings figure is an estimate only, and will change if the consumer's situation changes.
- (J) If an alternative methodology is offered under (G), the consumer must be provided with a link on the results page allowing the consumer to switch from the default methodology to the alternative and vice versa.
- (K) Messaging to fulfil requirements (H), (I) and (J) must be prominent, clear and intelligible.

### Updating tariffs

- (L) A Service Provider must use all reasonable endeavours to:
- update tariffs;
  - add tariffs for a new supplier;
  - correct any errors/issues highlighted by Ofgem;
  - add new tariff information in a manner that complies with the Confidence Code.
- (M) A Service Provider must add new tariff information as soon as possible, but no later than two working days after the details and confirmation of the effective date being provided to it by the relevant energy supplier (or Ofgem), or from the tariff being made available to consumers, whichever is the latter.
- (N) A Service Provider should not include a new tariff on their Price Comparison Service more than six weeks before it becomes available to consumers.
- (O) For the purposes of requirement (N), where the tariff is new because of changes in price of an existing tariff, the date it is 'available to consumers' is to be determined as the date that the price change takes effect.
- (P) A Service Provider must inform Ofgem immediately of any circumstance that prevents it from complying with requirements (L), (M), (N) or (O). Ofgem will consider each individual case on its own merits and determine whether the Service Provider has used all reasonable endeavours to comply with the requirement or is in breach of the Confidence Code.

### Displaying current tariff and spend details

- (Q) A Service Provider must display the details of a consumer's current tariff, based on the information the consumer has entered, in the format of a Tariff Information Label. The Tariff Information Label must be accessible either within or from the main results page.

(R) A Service Provider must give the consumer a Personal Projection before the consumer completes a switch to a tariff through the Service Provider's Price Comparison Service.

## **Requirement eight – Audits and monitoring**

- (E) The Service Provider must comply with an annual audit done by an auditor independent of the Service Provider, working according to terms of reference supplied by Ofgem. The cost of each audit will be borne by the Service Provider, unless otherwise advised by Ofgem prior to commencement.
- (F) The Service Provider must comply with audits and monitoring undertaken internally by Ofgem.
- (G) The Service Provider must provide the auditor with access to its premises and to its systems, and all other assistance, that the auditor reasonably requests.
- (H) The Service Provider must provide Ofgem with any information and assistance that it reasonably requests.

## **Requirement nine – Complaint handling**

- (C) The Service Provider must establish and operate an effective consumer complaint and enquiry handling procedure and respond to any complaint or enquiry within seven working days of receipt.
- (D) A Service Provider must provide Ofgem with a contact name and number for complaint referrals received in relation to the Service Provider. A Service Provider must acknowledge a complaint referred by Ofgem within two working days and the Service Provider must use all reasonable endeavours to resolve this complaint within seven working days. Ofgem should be copied into any response to the consumer.

## Appendix 3 – Change process

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Any future changes to the Code will involve the following:

- Ofgem to outline issue with recommendations;
- Send recommendations to Service Providers to get their views;
- Ask for supplier views if required (depending on issue);
- Response to be returned to Ofgem in agreed timeframe;
- Ofgem to make definitive ruling and alert all interested parties.

## Appendix 4 – Consultation Questions

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**Question 1:** Do you agree that our proposed Code changes meets the policy goal of providing clear messaging to consumers about the market coverage of an accredited PCW's Partial View. If not, how should the Code be changed to meet this policy goal?

**Question 2:** Do you agree that our proposed Code changes meets the policy goal of providing clear messaging on what an accredited PCW's Wide Results page covers. If not, how should the Code be changed to meet this policy goal?

**Question 3:** Do you agree that our proposed Code changes meets the policy goal of ensuring accredited PCWs list tariffs in price order in any default view. If not, how should the Code be changed to achieve this?

# Appendix 5 – Summary of Confidence Code Review 2016 responses

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**Q1. Do you agree that we should implement the proposed removal of some of the changes we made to strengthen the WoM Requirement in the 2015 Code review? If not, please: • explain why • suggest and explain any alternative proposals**

The responses received were varied and generally focused on the respondent's view of the removal of the WoM Requirement. Generally, those respondents who were supportive of the removal of the WoM Requirement supported our proposals; however, there was strong support to implement the full removal of the WoM Requirement immediately.

Those respondents who were not supportive of the removal of the WoM Requirement were generally reluctant to accept any move away from the current rules. However, there was support for taking an intermediate step in order to fully consider any unintended consequences that the move away from the status quo may present.

**Our response:** Having undertaken evidence gathering and analysis, and assessing responses to the Confidence Code Review 2016 consultation, Ofgem has decided to move forward with proposals set out in the Confidence Code 2016 Review publication which allow accredited PCWs to show, as a default, a partial view provided consumers can easily access a Wide Results page. We have highlighted the potential risks and benefits of taking this approach compared to the status quo in detail in "Confidence Code Review 2016: Impact Assessment for decision on partial remedy" published alongside this document. Chapter 2 of this document provides further detail on the rationale for our position.

**Q2: With reference to Table 2<sup>19</sup>, do you agree with our rationale, and proposed policy changes around the partial default view? If not, please: • explain why • suggest and explain any alternative proposals**

As per question 1, those respondents who supported the removal of the WoM Requirement were supportive of our policy proposals. One of the respondents supportive of the policy proposal to allow sites to show a partial default view stated that they were not convinced that allowing PCWs to show the partial view as a default will help avoid potential gaming by suppliers. Respondents who did not agree with the removal of the WoM Requirement did not agree that sites should be allowed to show a partial view as the default view.

**Our response:** As in Confidence Code Review 2016 consultation, we propose to allow PCWs to show the partial view as a default. Chapter 2 provides the rationale for

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<sup>19</sup> Table 2 on page 17 of the [Confidence Code Review 2016](#) sets out our proposal for the WoM filter requirements.

our position. Having considered the issue, as set out in “Confidence Code Review 2016: Impact Assessment for decision on partial remedy” published alongside this document, we do not consider that helping to avoid confusion from similarly-priced tariffs (gaming) is likely to be a significant benefit of the partial remedy, as there is little evidence of a current problem.

**Q3: With reference to Table 2, do you agree with our rationale, and proposed policy changes around the WoM filter choice? If not, please: • explain why • suggest and explain any alternative proposals**

The majority of respondents supportive of our proposal to take an intermediate step in question 1 were supportive of our policy changes around the WoM filter choice. However, one supplier that was supportive of moving away from the status quo disagreed with our proposal to allow accredited sites to pre-tick filter options - it argued that allowing PCWs to pre-tick the view that a consumer would prefer to see did not help consumers make informed choices.

Respondents who advocated the immediate removal of the WoM Requirement did not believe a WoM filter choice should remain.

**Our response:** As in the Confidence Code Review 2016 consultation, we propose to allow PCWs using filters to pre-tick filter options. Under our proposed changes, we would expect many PCWs to present the partial view as a default. In this case, the decision whether to allow PCWs to pre-tick filters becomes less important, as fewer consumers would see a filter, and therefore any potential consumer impact would be smaller. We also propose a number of measures in Chapter 3 of this document, and within “Confidence Code Review 2016: Impact Assessment for decision on partial remedy” published alongside this document which will help consumers make informed choices.

**Q4: With reference to Table 2, do you agree with our rationale, and proposed policy changes around the WoM filter wording/testing? If not, please: • explain why • suggest and explain any alternative proposals**

In the absence of a WoM Requirement, respondents were supportive of our proposed changes around the market view filter wording and test requirements around this wording. However, one supplier stated that wording was likely to have limited impact. It said that if a site has high marketing spend and is accredited by Ofgem then the consumer assumption would be that they are seeing the full view of all available domestic tariffs.

One PCW stated that Ofgem should test any sites where it has concerns about its messaging to consumers, rather than accredited sites carrying out testing. Another PCW stated that its preference is for an approach based on transparency and clarity of market coverage.

**Our response:** In the Confidence Code Review 2016 consultation, Ofgem proposed to retain requirements around messaging on the Partial View and testing whether it was prominent, clear and intelligible. We consider that retaining these testing requirements can support the effectiveness of messaging to consumers and provides

protections against consumers being misled. We consider that PCWs are best placed to carry out testing. We are also proposing a requirement for PCWs to provide clear messaging to consumers about the market coverage of any partial view.

**Q5: Do you agree that sites should test the prominence, clarity and intelligibility of their messaging with consumers and that Ofgem should monitor this? If not, please: • explain why • suggest and explain any alternative proposals**

Generally, respondents agreed with our proposals requiring accredited PCWs to test site messaging and for Ofgem to monitor this. One PCW suggested that messaging should be tested through customer feedback from the live environment (rather than through testing before wording is used in the live environment).

**Our response:** We propose to retain the requirement for PCWs to test messaging with their customers. As outlined in Chapter 3 of this document we considered mandating additional testing requirements on accredited PCWs as part of our new Code requirements that are subject to this document's consultation. We concluded that this would not be proportionate without further discussions. We have not sought to specify the precise way in which PCWs should carry out testing.

**Q6: With reference to Table 3<sup>20</sup>, do you agree that the proposed Code wording reflects our proposals? If not, please: • explain why • suggest and explain any alternative proposals**

Most respondents agreed that the proposed code wording reflects the changes proposed in the consultation. One PCW disagreed that sites should be able to exclude exclusive deals made between other PCWs and suppliers from the WoM view. The PCW argued this would undermine trust and restrict consumers to switching through particular PCWs.

**Our response:** As set out in Chapter 3, we have proposed additional changes to the Code drafting to help address potential concerns consumers may have on whether to trust the results of PCWs. We have not changed our Confidence Code Review 2016 proposal in relation to exclusive deals as we recognise that there are practical challenges in obtaining exclusive deal information from competitor websites.

**Q7: Do you agree with our rationale, and proposed policy changes around the removal of Personal Projection? If not, please: • explain why • suggest and explain any alternative proposals**

Most respondents generally agreed with the proposal to remove the Personal Projection and to revert to the pre-2015 Code wording. However, they cautioned Ofgem about the risk of this resulting in different savings and costs being displayed by different PCWs. A significant number of respondents who broadly agreed with the proposals said there was a need for some level of prescription to ensure consistency

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<sup>20</sup> Table 3 on page 19 of the [Confidence Code Review 2016](#) sets out the Code changes that would implement our proposals for WoM filter requirements.

when deriving estimated annual costs. A significant number of respondents said that in the absence of prescription, careful monitoring and regulation would be required to ensure that consumers are able to accurately compare tariffs across the market.

The minority of respondents favoured maintaining the Personal Projection methodology, potentially with amendments. One respondent in particular believed that the methodology should be maintained and be adapted to reflect a wider range of tariff structures and discounts. They believed that, over time, Ofgem could adapt the formula once there is greater understanding of the impact of new innovative tariffs.

A couple of respondents considered that Ofgem should take a principles-based approach for PCWs. They said this would be consistent with the proposals for suppliers in the consultation 'Helping Consumers Make Informed Choices'.

***Our response to questions 7-10:*** We have set out details for our decision on Personal Projection and Tariff Information Label in Chapter 2 of this document.

**Q8: Do you agree with our rationale, and proposed policy changes about including the pre-2015 code content on factors an accredited price comparison website should and should not include when deriving a consumer's estimated annual costs? If not, please: • explain why • suggest and explain any alternative proposals**

A number of respondents emphasised the need to have a consistent policy approach for both PCWs and suppliers, although respondents did not agree as to how to achieve this consistency.

Respondents generally favoured one of the options below.

- Consistent approach: certain respondents favoured PCWs being given the same flexibility as suppliers and extending the high-level principles to PCWs.
- Consistent results: certain respondents favoured a level of prescription to ensure that the savings and costs results displayed across PCWs and suppliers should be consistent.
- Some level of guidance: there was a mix view from respondents on what factors should and should not be included when calculating savings and costs, but a number all agreed with some level of guidance.

One respondent stated that PCWs should be given the same flexibility as suppliers, and Ofgem should accept that savings and costs would be displayed differently on individual sites. Some respondents also stated that further guidance on how discounts should be displayed would be helpful.

**Q9: With reference to Table 4<sup>21</sup>, do you agree that the proposed Code wording reflects our proposals? If not, please: • explain why • suggest and explain any alternative proposals**

Whilst some respondents did not agree with the proposals, most agreed that the revised Code wording reflects Ofgem's proposals. A small number of respondents felt that specific exclusions stated in the proposed Code wording could limit the development of new innovative tariffs and that PCWs should not be prevented from including introductory one time discounts or discounts that depend on the consumer behaving in a certain way. One respondent suggested that it should be up to PCWs to determine whether such discounts are included, and removing prescription would enable suppliers and PCWs to test the effectiveness and accuracy of different approaches.

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

Respondents agree that no changes are required to the TIL references within the Code. Respondents generally agree that TIL remains a useful comparison tool for consumers to make informed switching decision.

**Q11: Do you agree that these initiatives<sup>22</sup> are out of scope for this review and that we should monitor their progress to be aware of potential impacts in the future of these initiatives?**

Most respondents agreed that the initiatives named in the consultation were out of scope and agreed that their progress should be monitored. A significant number of respondents were particularly keen on monitoring the increased access to consumer data that PCWs will have, to ensure that consumers have the appropriate protections.

**Our response to questions 11-12:** Ofgem is continuing to develop our approach to the ECOES and DES central databases, Midata, smart metering and half-hourly settlement and their impact on the Confidence Code.

**Q12: Do you believe there are any other initiatives we should be keeping abreast of to ensure a joined-up approach to our policy development work?**

Respondents suggested keeping abreast of the following:

- Smart metering, as the technology and the data being retrieved could enhance the process of comparing tariffs and suppliers.

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<sup>21</sup> Table 4 in the Confidence Code Review 2016 consultation sets out the Code changes that would implement changes in relation to Personal Projection.

<sup>22</sup> Chapter 4 of the Confidence Code Review 2016 consultation mentioned a number of other initiatives. These were access to the ECOES and DES central databases, Midata, smart metering and half-hourly settlement.

- The delivery of Project Nexus, as this will, when concluded, deliver a similar level of competitive benefit to the introduction of universal half-hourly settlement in electricity.

Respondents also suggested that we should carry out work on:

- Future regulation of TPIs. Some respondents suggested that Ofgem should continue its work on a regulatory framework for TPIs.
- Non-domestic TPI Code of Practice. Some respondents suggested this work stream should be resumed.

# Appendix 6 - Glossary

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## C

### Confidence Code

Ofgem's Price Comparison Website (PCW) Confidence Code sets out a number of requirements on PCWs to allow them to be an accredited member of the Code and display the Ofgem Confidence Code logo.

The Code aims to help consumers feel confident that they are receiving an independent, transparent, accurate and reliable service when using an accredited site to switch. Ofgem monitor compliance with the Code via an auditing programme, and the ultimate sanction for non-compliance is removing accreditation.

### Competition and Markets Authority (CMA)

A non-ministerial government department responsible for promoting competition, and preventing and reducing anti-competitive activities within the United Kingdom.

## F

### Fulfillable tariffs

A fulfillable tariff is one for which a PCW can facilitate the switch and is paid a commission for doing so. A PCW will receive no commission for displaying results for non-fulfillable tariffs.

## N

### Non-fulfillable tariffs

A fulfillable tariff is one for which a PCW can facilitate the switch and is paid a commission for doing so. A PCW will receive no commission for displaying results for non-fulfillable tariffs.

## O

### Ofgem

Office of Gas and Electricity Markets. A non-ministerial government department and an independent National Regulatory Authority, recognised by EU Directives. The government regulator of gas and electricity markets in Great Britain.

## P

### Partial View

When a PCW presents a consumer with a Partial View, it displays a subset of all tariffs within the market. A Partial View often contains tariffs, which result in the PCW being paid commission if the consumer switches via the PCW; such a Partial View is also known as a list of 'fulfillable tariffs'. Within the Confidence Code, this consultation is proposing to introduce a definition of Partial View, which means a

view of only those tariffs the consumer can apply to switch to or enter into contracts for, via the Service Provider's Price Comparison Service.

### Personal Projection (PP)

The estimated cost of energy to a consumer over a 12-month period, based on a specified methodology and the best available information about that consumer's consumption.

### Price Comparison Website (PCW)

A website that provides its users with the ability to compare (and possibly switch) their energy supply contract. For the purpose of this document, we include apps within this definition.

## R

### Relevant Information

The information accredited PCWs as obligated to provide as part of Requirement One (G), (H) and (I) - a list of suppliers which they receive a commission from, a description of their business model, and an explanation if and how their commission arrangements with suppliers influence the tariffs being displayed on their results page.

### Retail Market Review (RMR)

Ofgem launched the Retail Market Review in 2010 to investigate concerns that the energy market was not working effectively for consumers. As a result of this, we introduced a range of reforms aimed at making the retail market simpler, clearer and fairer for consumers.

## S

### Switching

The process of changing gas or electricity supplier, or changing to a new tariff with the same supplier.

## T

### Tariff

The charges for supply of electricity/gas combined with all other terms and conditions that apply, or are in any way linked, to a particular type of contract for the supply of electricity/gas to a domestic customer.

### Tariff Information Label (TIL)

A table of key facts that would allow consumers to compare the price and non-price features of energy tariffs on a like-for-like basis.

### Third Party Intermediary (TPI)

Third party intermediaries (TPIs) are organisations or individuals that give energy related advice and / or information, aimed at helping users to buy energy and/or manage their energy needs, and facilitate switches. TPIs include switching sites, energy brokers and any company that offers support with energy procurement.

## **W**

### WoM Requirement

When a PCW presents a consumer with a Wide Results page, it displays all tariffs within the market that are described under Requirement Two of the code. Within Requirement Five of the Code there are additional restrictions around filtering and display of Partial View, taken together, these requirements are commonly referred to as the WoM Requirement.

### Wide Results

Means all tariffs within the scope of Requirement 2A(i), taking into consideration any opt in filters selected by the consumer.

This does not mean it shows everything on the market. To avoid confusion, we have moved away from the term "WoM view" and the term "All Results" that was used in the Confidence Code Review 2016 consultation, and are using the phrase the "Wide Results page" to refer to both of these terms in this document. This is merely a drafting change and does not materially affect what was proposed in the Confidence Code Review 2016 consultation.

# Appendix 7 - Feedback on this consultation

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We want to hear from anyone interested in this document. Send your response to the person or team named at the top of the front page.

We've asked for your feedback in each of the questions throughout it. Please respond to each one as fully as you can.

Unless you mark your response confidential, we'll publish it on our website, [www.ofgem.gov.uk](http://www.ofgem.gov.uk), and put it in our library. You can ask us to keep your response confidential, and we'll respect this, subject to obligations to disclose information, for example, under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004. If you want us to keep your response confidential, you should clearly mark your response to that effect and include reasons.

If the information you give in your response contains personal data under the Data Protection Act 1998, the Gas and Electricity Markets Authority will be the data controller. Ofgem uses the information in responses in performing its statutory functions and in accordance with section 105 of the Utilities Act 2000. If you are including any confidential material in your response, please put it in the appendices.

## **General feedback**

We believe that consultation is at the heart of good policy development. We are keen to hear your comments about how we've conducted this consultation. We'd also like to get your answers to these questions:

1. Do you have any comments about the overall process of this consultation?
2. Do you have any comments about its tone and content?
3. Was it easy to read and understand? Or could it have been better written?
4. Were its conclusions balanced?
5. Did it make reasoned recommendations for improvement?
6. Any further comments?

Please send your comments to [stakeholders@ofgem.gov.uk](mailto:stakeholders@ofgem.gov.uk)