A review of the Confidence Code – a Voluntary Code of Practice for Domestic Gas and Electricity Price Comparison Services

The Confidence Code
November 2009

Contents

About Consumer Focus

Consumer Focus is the independent champion for consumers in England, Wales, Scotland, and for postal consumers in Northern Ireland. We are the voice of the consumer and work to secure a fair deal on their behalf. We were created through the merger of energywatch, Postwatch and the National Consumer Council (including the Welsh and Scottish Consumer Councils). The new approach allows for more coherent consumer advocacy, with a single organisation speaking with a powerful voice and able to more readily bring cross-sector expertise to issues of concern.

www.consumerfocus.org.uk

Executive summary

The Confidence Code (the Code) is a voluntary code of practice for companies providing domestic gas and electricity price comparison services over the internet. The Code has now been operational for a year at Consumer Focus. The transition of the Code from energywatch to Consumer Focus involved an audit of all 12 accredited online price comparison websites. During 2009, two more sites gained accreditation, bringing the total number to 14.

During the year two events were held in order to review the existing operation of the Code. The first of these was a seminar to address specific issues that took place in March. This was followed by a meeting with the price comparison sites in September. The seminar aimed to review how the Code sits within the wider energy market and to ensure it remains responsive to market dynamics. The event was attended by stakeholders from across the energy industry. Issues such as seasonality and the introduction of new tariffs were debated at the meeting held in September.

This consultation paper provides an opportunity to review and address the relevant issues that have been identified throughout the year, and reinforce the work already carried out. The intended outcome of this review is to ensure that we gain stakeholder views, so we have a complete picture of the current areas of concern, along with recommendations for solving these issues that we can use to shape and strengthen the Code in the future.

In addition, Consumer Focus has now had the opportunity to explore the issues relating to online price comparison raised in Ofgem's *Energy Supply Probe – Proposed Retail Market Remedies* (the 'Probe').[1] This document reviews the process to date, invites further discussion on the issues highlighted and seeks the views of stakeholders in relation to the Code and any necessary amendments.

The document is written in language that is focussed at Service Providers and Energy Suppliers. The terminology used is for the interested parties and it does presume that readers have previous knowledge of the subjects involved. However, if anyone would like further details on any of the topics mentioned, contact Jenni Lucas at Consumer Focus.

[1] **http://www.ofgem.gov.uk/Markets/RetMkts/ensuppro/Pages/Energysupplyprobe.aspx**

Introduction

Background to the Code

The Code was originally launched by energywatch in 2002. Since then there have been a number of consultations aimed at strengthening it and ensuring that consumers have consistent access to impartial and accurate information from energy price comparison services. energywatch was abolished in September 2008 as a result of the Consumers, Estate Agents and Redress (CEAR) Act and in October 2008 Consumer Focus assumed responsibility for administering the Code.

The energy market in Great Britain today

Consumer Focus believes that the energy supply market, at present, is not functioning as well as it should. During the last year the energy market has seen domestic customers' bills remain high even though the wholesale price of energy has fallen dramatically.[2] Our supply markets are highly concentrated and consumers are thus vulnerable to abuse of market power. We have seen no sizeable competitive fringe develop to act as an effective constraint on the major firms and drive them to become more efficient, price keenly and offer innovative products and services. Some consumers have been subject to unfair pricing practices (for example Standard Credit customers' bills have not reflected the cost to serve them) by Suppliers for a number of years. The number of people falling into fuel poverty continues to increase.[3] There are some significant challenges facing the market, such as meeting climate change targets and maintaining security of supply.

With these costs falling on energy customers, bills will, in all likelihood, increase further in years to come.

Online price comparison and switching

Straightforward, transparent tariffs and billing are essential if consumers are to make informed choices when participating in the energy market. Currently, however, consumers face a complex market place in which Suppliers offer a vast range of constantly changing tariffs containing a plethora of discounts, cashback offers and loyalty card points. It is essential that this degree of choice is balanced with accessible information to empower consumers to make informed switching decisions.

Online price comparison is a valuable tool for consumers in terms of their ability to make informed choices. Ofgem recognises this in the Probe and has committed to working with Consumer Focus to increase consumer awareness of the potential benefits of switching. We are keen to raise the profile of the Code further and promote more widely the advantages of using accredited sites, such as their independence and impartiality and the fact that the results are not influenced by commercial considerations. The promotion of the Code is discussed in greater detail later in the paper.

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2 **http://www.ofgem.gov.uk/Markets/RetMkts/ensuppro/Documents1/August%20quarterly%20price%20report.pdf** p4

3 Annual report on fuel poverty statistics 2009 p53
http://www.decc.gov.uk/en/content/cms/statistics/fuelpov_stats/fuelpov_stats.aspx
DECC estimates there are currently 4m households in fuel poverty in England. This is equivalent to about 6.6m households in fuel poverty in the UK.

Section 1 – The provision of data

1.1 The provision of tariff data by Energy Suppliers to Service Providers

This issue of the price comparison sites not receiving accurate timely pricing data from Energy Suppliers has been brought to our attention by the Service Providers on numerous occasions over the past 12 months. An illustration of the problem is highlighted by our internal compliance tests which supported the claim that some Suppliers are not updating Service Providers with prices. During the 2008 audit by Revenue Assurance, the auditors found that some Service Providers had difficulty obtaining new tariff information from the Suppliers at times. The situation is exacerbated as Consumer Focus is rarely sent this tariff information in order to send it to Service Providers if required, although this situation is improving.

This issue also featured strongly at the seminar in March 2009 where sites reported that at present there is no agreed process for distributing tariff information to accredited Service Providers, and no agreed format for providing tariff data or further information. Frequency of tariff updates was highlighted and there were comments from the Service Providers that they are not given sufficient notice of tariff changes while Suppliers are not taking into consideration timings required to make the price changes live. Alongside this, it was reported that Suppliers were only carrying out minimal quality checks and did not have an agreed sign-off procedure in relation to the accuracy of tariffs displayed on Sites. We believe that when tariff information is issued by Suppliers it should be subject to quality checks and the material should contain average target price indicators along with details of any discount structure and its application.

At the March seminar Service Providers raised the idea of a central repository of tariff information for Service Providers to access updated and new tariff information. It was suggested that this would help to address some of the current shortfalls by ensuring information was available to all sites at the same time, and in an agreed format whenever new tariff data was made available. However, Suppliers said that it was likely that any new prices would only be provided once they were in the public domain due to commercial confidentiality.

Consumer Focus agrees that it is important for Service Providers to have access to timely, accurate data and we are committed to facilitating this. However there are unanswered questions about how a central repository of tariff information would be funded and managed. Alongside this, tariff information is arguably a competitive differentiator and we do not want to undermine work already carried out by Service Providers, especially in relation to historical tariff information.

Q1. Consumer Focus seeks views on the creation of a central repository of information. Who would hold and manage the data and how would this be funded? Who would be able to access it? Alternatively, what other actions could be taken to improve the provision of tariff information?

Section 2 – Energy Suppliers and the Code

While Consumer Focus will not become involved in any aspect of the commercial relationship between Service Providers and Suppliers, we will nevertheless consider all representations made that potentially impact on the effective operation of the Code.

The actions of Suppliers, including the marketing policies adopted and the configuration of product offerings, can have profound effects on price comparison sites and the provision of results to consumers. However, Suppliers are not under any obligation on how they interact with sites beyond the contractual commercial arrangements they have in place, ie, they are not bound in any way by the requirements of the Code as they are not accredited. While it is of course a Supplier's prerogative to develop and market products as it sees fit, Consumer Focus will always take an interest in how these policies may impact on the provision of independent price comparison, which is a valuable free tool for consumers and greatly assists the operation of the competitive energy market.

2.1 Inclusion of tariffs

We have received strong and repeated representations from Service Providers about Suppliers' policies on which tariffs can be displayed on price comparisons and/or switched to from the sites.

Currently, the Code requires all tariffs to be shown, except where Suppliers request the product not to be displayed, regardless of whether a switch can be facilitated from the price comparison site. Consumer Focus feels this is an essential element of the Code as it ensures consumers see all the deals available in the market. Recently, however, we have seen increasing numbers of products that are only available directly from the Supplier; there are many reasons for this, such as the limited nature of the product. This is not something we would encourage as it makes comparison and access to the best deals difficult for consumers and can hamper competition.

Service Providers have also raised concerns about deals that are only available direct and are reporting that this could be a means for Suppliers to obtain 'free' marketing of their product on comparison sites, while avoiding the need to pay commission for transfers. This is perhaps borne out by some of the correspondence we have seen from Suppliers that has cited the Code requirement to display all tariffs.

We are also concerned about the consumer experience when trying to access deals that are only available from the Suppliers' websites, which are not subject to any of the protections offered by the Code and where we have seen potentially misleading information relating to products; for example, deals other than the one ranking top of the independent price comparison results being marketed as 'best deal' on the Supplier's website. There have also been concerns in the past over consumers' ability to actually obtain the prices being quoted by the time the transfer is completed.

Service Providers have suggested that the Code should be amended to allow them not to include tariffs that are only available by directly contacting a Supplier. To date, Consumer Focus has been extremely resistant to this, as it potentially undermines one of the unique aspects of accredited energy price comparison sites; that everything is visible to consumers. However, Service Providers now tell us that the current situation is untenable and could potentially threaten the viability of energy price comparison and Service Providers' ability to remain Code accredited. Clearly, after the success of the Code in driving improvements in the consistency and accuracy of energy price comparison, we would not want to see large numbers of sites operating outside the Code. That would not be in consumer interests in the long term.

Q2. What are your views on amendments to the Code to allow sites not to display tariffs that are only available directly from the supplier. What other initiatives could be adopted to address the situation described in section 2.1?

2.2 Supplier conduct and the Code

So far, this document has examined two areas of Supplier behaviour that can potentially impact on the provision of accurate, timely and comprehensive energy price comparisons to consumers.

We would now like to explore with Suppliers the creation of a set of principles that they will adopt when interacting with price comparison Service Providers. Many of these principles are already included in the new overarching standards of conduct. However, we feel that creating a framework around price comparison will help foster greater consumer confidence in switching and ensure Suppliers are held to the same rigorous standards as Service Providers.

The principle would cover issues such as:

- providing price updates to Consumer Focus in a timely manner
- ensuring all price comparison websites receive the same information at the same time, ie, tariff guidance including 'target' prices and explanation of discount structure
- ensuring post implementation quality checks are carried out
- a robust process for handling consumer complaints

Q3. What is the view on creating a set of principles for Suppliers to adopt when dealing with price comparison Service Providers? What would be included in these principles? Should a framework be created which places obligations on both Service Providers and Suppliers? What would be included in this?

Section 3 – Presentation of information on accredited price comparison websites

The way information is presented and how results are displayed on price comparison sites is of critical importance. In order for consumers to make an informed switching decision they rely on information being comprehensive, up to date and accurate. An article published by *The Daily Telegraph* in October 2009[4] highlighted the potential danger of price comparison sites returning inconsistent results and the damage this can do to the industry as a whole. Consumer Focus recognises that the consistency and accuracy of results is vital and we have increased our internal monitoring of accredited price comparison sites to ensure the accuracy of results, and we will continue to do so.

A number of issues have been raised about how calculations are carried out and the impact of different tariff structures, including what should and should not be included. This section looks at each of these areas in turn, ranging from seasonality to prompt pay discounts.

It should also be noted that the Probe has resulted in Ofgem introducing new licence requirements[5] on Suppliers to improve the quality of information to aid comparison and switching. These have been supplemented with a set of overarching standards of conduct that prevent Suppliers from selling consumers products that they don't understand or products that are unnecessarily complex or confusing. This may go some way to addressing some of the difficulties experienced to date in providing meaningful comparisons and Consumer Focus is committed to monitoring Supplier offerings against these new standards.

3.1 VAT and rounding

There are concerns that VAT is not being applied consistently across price comparison sites.

At the seminar in March there was a view that there is a need to explore the presentation of information and address any minor differences in calculations across the accredited websites, such as rounding and the use of decimal points.

There was a proposal for Service Providers to agree to calculate prices excluding VAT in order to address this issue. Service Providers pointed out the sheer volume of historical tariffs that would need to be changed, as well as the timeframes and costs associated with conducting this exercise. One suggestion discussed was calculating any new tariffs excluding VAT going forward, as opposed to recalculating all historical tariffs.

Q4. Consumer Focus seeks views on the best way to ensure consistency across the price comparison sites in relation to calculating VAT. Do you think moving to a method that excludes VAT is the most accurate way of showing this information or would rounding and the placement of decimal points resolve the issue? Are there other alternatives?

[4] **http://www.telegraph.co.uk/finance/personalfinance/consumertips/household-bills/6282985/Price-comparison-websites-give-different-results-when-asked-for-the-cheapest-deals.html**

[5] **http://www.ofgem.gov.uk/MARKETS/RETMKTS/ENSUPPRO/Documents1/Standards%20of%20conduct%20for%20suppliers%20in%20the%20retail%20energy%20market.pdf**

3.2 Tariff variations

There are many different tariff variations offered in the energy market. The Ofgem Probe[6] recognised that some consumers have difficulty when trying to compare tariffs and become confused. This confusion often stems from the vast range of tariff structures available and the sheer number of tariffs to choose from, some which are frequently multiple versions of the same tariff. Alongside this, the Probe recognised that some consumers can find it difficult to understand information on price comparison websites and the pricing factsheets.[7]

At the March seminar, Service Providers raised their concerns in relation to the abundance of tariff variations, especially tariffs using the same core tariff unit rates, with add-ons and incentive/reward and billing options. Concerns were mainly around the issue that these tariffs were overpopulating the results tables, leading to consumer confusion. In order to promote consumer confidence there is a clear need to prevent different variations of the same tariff occupying more than one position on the results table. Tariffs may offer slightly different benefits, such as Airmiles or Nectar points, but they do not offer the consumer real choice. Furthermore, the inclusion of several tariffs offered by the same supplier can lead to the perception that a price comparison site is biased towards a certain supplier, which does little to improve confidence. For this reason, Consumer Focus believes that only one tariff should be displayed, with any variation in terms of added features being listed in the tariff information section or in another suitable place.

Meanwhile, Ofgem has stated its intention to monitor progress in addressing tariff confusion. The Probe states, 'through tariff complexity and the number of tariffs on the market, we will consider whether to take more formal action.'[8]

In addition, the introduction of the tariff name on bills, which forms part of Ofgem's package of retail remedies from the Probe, will help consumers understand which tariff they are on. This is key is for consumers being able to make an accurate comparison using a price comparison website.

Q5. Recognising that Ofgem is monitoring how tariff confusion is addressed, how should the Code deal with different variations of the same core tariff that can dominate the results tables?

[6] **http://www.ofgem.gov.uk/Markets/RetMkts/ensuppro/Documents1/Energy%20Supply%20Probe%20-%20Initial%20Findings%20Report.pdf**

[7] **http://www.ofgem.gov.uk/Markets/RetMkts/ensuppro/Documents1/Energy%20Supply%20Probe%20-%20Initial%20Findings%20Report.pdf** p190

[8] **http://www.ofgem.gov.uk/Markets/RetMkts/ensuppro/Documents1/Retail%20package%20-%20decision%20document.pdf** p18

3.3 Green tariffs

The existing Code provision states that Green tariffs must be included on the results page. Service Providers have expressed views on the need for a consistent method for Green tariff listings. Earlier this year Ofgem introduced guidelines in preparation for the rollout of a Green Tariff accreditation scheme, which is planned to launch in early 2010.

Early next year, when the accreditation scheme has been introduced, Consumer Focus will work with relevant stakeholders in order to establish how this will impact on the provision of price comparisons.

Q6. We propose that there are no changes to the current arrangements within the Code on Green tariffs pending the introduction of the new accreditation scheme. Do you agree, if not what alternatives should be considered?

3.4 Seasonal consumption and calculations

There are two calculations required in the provision of an accurate price comparison. Firstly determining the consumer's annual usage, and from this calculating forecast spend and potential savings against different deals. For the purposes of this section we will call the first calculation the *base calculation* and the second the *forecast spend calculation.*

Base calculation

The Code is silent on the subject of base calculations. Perhaps as a result there has been a degree of inconsistency in the way Service Providers determine the base calculation. Most Sites do not apply a seasonal adjustment when consumers input quarterly spend; it is assumed that all quarters are equal. However, one Site asks for the time of year that generated the quarterly cost and applies a seasonal weighting to this to determine the annual spend and consumption level. This difference produces inconsistent results across Sites on forecast spend and hampers consumer confidence.

Arguably, applying a seasonal weighting provides a more realistic annual consumption estimate. However, it is dependent on consumers having access to the bill period when making the comparison and the bill being based on accurate meter readings.

Forecast spend calculation

Currently, when Service Providers calculate the forecast annual spend for a household the calculation again assumes that a consumer's usage is the same every month. Clearly this is not the case as consumers use different amounts of energy at different times of year. This can become a particular problem when dealing with two-tier tariffs and discount structures driven by monthly or quarterly consumption.

In order to address this issue, in October 2009 Consumer Focus requested Service Providers' views on how forecast spend should be calculated based on seasonal consumption patterns. In their responses, Service Providers pointed out that consistency is needed across all sales channels, including Supplier direct sales, such as doorstep and website. Based on the responses it is clear that we cannot make a decision on the calculation of forecast annual spend on seasonal consumption patterns without agreement from Suppliers. We believe this is an industry decision that needs to be explored further with relevant stakeholders. However, it is important that there is consistency across sites, in both the base and forecast spend calculations.

Q7. Consumer Focus seeks views on whether calculations based on seasonal consumption should be introduced for both base and forecast spend, and if so, how it should be rolled out across all sales channels.

3.5 Discounts

Discounts applied in the 13th month

There have been concerns from Service Providers about how to display recurring loyalty discounts that are applied after 12 months. Currently, the payment of annual discounts for Direct Debit, Dual Fuel or any other annually paid discount differs according to supplier. In order to agree a way forward and determine how these should be shown by price comparison websites, we asked suppliers what their policies are, as well as how these are communicated to their customers. For example, some discounts are paid in the 13th month after 12 months of continuous supply while others are paid out to customers after each full year on a direct debit payment plan.

Consumer Focus wants to ensure it is clear to consumers how and when these discounts are made. We want to ensure that consumers understand upfront that if they cancel their contract, and switch supplier within a year, they will not benefit from these discounts.

Q8. How should these types of discounts be used in an online price comparison? Consumer Focus would like views on whether discounts that are applied in the 13th month should be included in the annual forecast spend calculations.

Limited term discount

There has been considerable confusion from both Suppliers and Service Providers over the last year concerning the definition of discounts that are offered 'for a limited time only'. We appreciate that there needs to be clarity around this issue.

The Code states:

- the factors that a Service Provider uses to base its calculations on **should** include: discounts that are paid annually (eg, loyalty discounts)
- the factors that a Service Provider uses to base its calculations on **should not** include: introductory sign up offers, one-time discounts/special offers or other promotional discounts that may be for a limited time only

There are concerns that consumers may not be benefitting fully from this clause (7.1). This can be illustrated in examples when discounts are available for a whole year or longer; a recent example was a reduced tariff guaranteed for 15 months. Following informal consultation on this matter we have adopted an interim position of showing time limited discounts that last a year, as it was felt this would potentially be a significant factor for consumers in making a choice. However, we are also mindful that when the discount expires it may not be obvious to consumers and there is no obligation on suppliers to alert consumers at the end of a discount period. This is therefore, arguably, a de facto price increase that consumers are not aware of, and therefore may not consider switching to a better deal.

With input from stakeholders, we would like to determine what information would most benefit consumers in relation to limited term discounts. We are aware that this clause may prevent consumers accessing the best deal, as limited period discounts are not included in the price calculations and therefore consumers could be missing out on potential savings. This said, discounts can obviously be shown in additional notes.

In relation to this, Consumer Focus notes that some discounts offered are included in the unit prices of the tariff. Embedding the discount in the tariff structure can make it extremely difficult to establish what the actual discount percentage is.   We need to consider how these differ from the discounts mentioned previously and how we take these in to account when administering the Code.

Q9. Considering the length of time it takes to transfer supplier (can take between four and eight weeks), and the fact that the consumer will not be able to take advantage of the discount until they have switched to the new tariff, how long should the limited discount term be before it is shown? Or should limited term discounts be excluded from calculations altogether as the current Code requires? How should discounts that are already embedded in the tariff be treated, compared to discounts that are separate from the unit price?

3.6 Termination fees

As with discounts, we are increasingly seeing termination fees feature in energy supply contracts and adequate visibility of these is essential. Consumer Focus wants to ensure that consumers are aware that on some tariffs, they could be liable to incur an early termination fee. Understanding what is included in the terms and conditions of the contract is key when signing up.

Issues have been raised by Service Providers about how termination fees are displayed on results tables and indeed if they should be factored in to calculations, especially as they relate to discounted tariff structures. There have also been questions around consumers who are making comparisons where their existing tariff attracts an early termination fee, eg, fixed/capped price deal, and if and how this should be factored into calculations, ie, should the termination fee be deducted from the potential savings.

Q10. How should termination fees be shown in results and are there any circumstances when termination fees should be included in calculations?

3.7 Fixed price tariffs

There have been concerns raised about the way fixed price tariffs are displayed and calculated. Currently, Service Providers are not comparing fixed price tariffs in a consistent manner. There are various reasons for this, including the issue mentioned above about early termination fees and how they factor in potential savings figures.

Consumer Focus would like to establish a consistent method of calculating and displaying price comparison for consumer on fixed rate tariffs. There are various issues that need to be considered and the time left to run on the fixed deal needs to be taken into consideration. Most Service Provides calculate the potential savings using prices based on 12 months of the fixed rate tariff, even when it is due to finish in less than 12 months. Others have adopted an approach whereby they use the actual time left on the fixed rate and either the Suppliers standard rate, or another tariff rate, for the remainder of the period not covered by the fixed price.

Q11. What elements should be obligatory in Fixed Price calculations?

3.8 Prompt pay discounts

Almost all Suppliers now offer discounts if the bill is paid within a specified period. These are known as prompt pay discounts. At present, prompt pay discounts are not included in the factors that a Service Provider uses when making its calculations, as they depend on a consumer behaving in a certain way.

At the seminar in March, Service Providers expressed concern on this issue and asked for guidance on how these tariffs should be calculated and displayed. One suggestion put forward to address this issue is that prompt pay should be defined as a new payment method rather than a discount, and handled like Direct Debit, Quarterly Cash/Cheque or pre-payment.

Q12. Should Service Providers include prompt payment discounts as a separate payment method? What other factors should be considered in the calculation and display of prompt pay discounts?

Section 4 – Independent Gas Transporters (IGTs)

Concerns have been raised about what mechanisms are in place for consumers to identify whether they are on an independent gas transporter (IGT) network, and what help can be provided by industry and other stakeholders to make this clearer.

It has been estimated that the number of consumers connected to IGT networks will reach roughly one million in the next few years.[9] The Energylinx website offers information for consumers to help them identify whether they are on an IGT network.[10]

One suggestion put forward at the March seminar was for Service Providers to ask the question during the first stage of the comparison in order to establish if the consumer is aware that they are on an IGT network. This would allow the Service Provider to alert consumers to the fact that they may experience longer switching times or be subject to additional charges. Other suggestions for Service Providers to establish whether consumers are on an IGT network included the development of a postcode 'look up' system or a means of identifying consumers using the Meter Point Reference Number on the application pages. It was suggested that Suppliers should work with accredited sites to help highlight potential IGT network customers. Another proposal was for Ofgem to insist that IGT information is put on consumers' bills, to alert them to the fact that they are on an IGT network. Service Providers commented that further consumer education is needed in this area.

Q13. What do you think would be the most effective mechanism for identifying IGT consumers and how can this be implemented?

[9] http://www.ofgem.gov.uk/Networks/GasDistr/IGTReg/Pages/IGTReg.aspx
[10] http://www.energylinx.co.uk/independent_gas_transporters.htm

Section 5 – Vulnerable Consumers

In the Probe, Ofgem recognised that many consumers face a struggle in relation to rising energy prices, highlighting that vulnerable consumers are especially hard hit:

> 'A typical household's energy bill has more than doubled since early 2004 and many households are now struggling to pay their bills. Energy price rises have come at a time when household budgets are under pressure from the rising cost of food, petrol, mortgages and other essentials. Vulnerable consumers and those in fuel poverty are particularly impacted. During such times, it is essential consumers can have confidence in the operation of competitive energy markets.'[11]

As part of the proposed retail market remedies in the Probe, Ofgem highlighted its 'statutory duty to protect consumers, with particular regard to the interests of the vulnerable.'[12] Ofgem made clear its intention to help vulnerable consumers who are currently not able to switch Suppliers due to outstanding debts. It outlined the steps required to achieve this, by 'permitting them to switch where a debt is the result of supplier error; increasing the threshold below which PPM customers are free to switch supplier and transfer debt to the new supplier, from £100 to £200; and giving them longer to repay their debt while still retaining their right to switch supplier and avoid a retrospective price increase.'[13]

Ofgem is committed to removing obstacles vulnerable consumers face in engaging with the market and switching to a better deal. Consumer Focus supports Ofgem and wants to work with stakeholders to ensure vulnerable consumers are able to participate in the energy market, have access to support and can make informed switching decisions.

5.1 Social Tariffs

Recognising the difficulties in establishing eligibility, the current Code provision states that Service Providers are not required to show social tariffs in results. Consequently vulnerable consumers are potentially missing out on getting the best deal. Questions were raised at the March seminar over whether social tariffs were suitable for price comparison websites and there were concerns from Suppliers that if mass switching was to be facilitated then social tariffs could become unsustainable.

One suggestion is that vulnerable consumers are directed to the 'help finder' on the Consumer Focus website. This allows consumers to find out about what grants, discounts and free energy help and assistance they are entitled to, based on their circumstances. This could involve things such as help with paying energy bills, household bills including debts, advice on making homes energy efficient and financial support from Government. The Energy Made Clear initiative from the Energy Retail Association also directs advice workers and consumers to where they can obtain support provided by Suppliers.[14]

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[11] **http://www.ofgem.gov.uk/Markets/RetMkts/ensuppro/Documents1/Probe%20summary.pdf** p4

[12] **http://www.ofgem.gov.uk/Markets/RetMkts/ensuppro/Documents1/Retail%20package%20-%20decision%20document.pdf** p3

[13] **http://www.ofgem.gov.uk/Markets/RetMkts/ensuppro/Documents1/Retail%20package%20-%20decision%20document.pdf** p2

[14] **http://www.energymadeclear.co.uk/#Help-for-Vulnerable-Customers**

Consumer Focus help finder:
http://www.consumerfocus.org.uk/en/content/cms/Energy_Help___Advice/Helping_Households/Help_finder/Help_finder.aspx

Q14. Given that the eligibility criteria for social tariffs is difficult to establish for standard comparisons, Consumer Focus would be keen for the price comparison sites, and indeed Suppliers, to link to the help finder eligibility checker on the Consumer Focus website in order to help vulnerable consumers participate more effectively in the energy market and we would welcome views on this. Are there other initiatives in this area to help target the assistance available to vulnerable consumers?

Section 6 – Pre Payment Meters (PPMs)

Pre Payment Meter tariffs (PPMs) are not consistently featured on price comparison websites and only some Suppliers allow Service Providers to facilitate switching. Service Providers have commented that on occasion they have been asked by Suppliers to remove PPM tariffs from sites. The opportunity for PPM customers to compare and switch to alternative Suppliers is therefore limited. When PPM customers do switch, it is mainly in response to direct sales activity by the Big Six. Ofgem found that PPM customers are unlikely to consider a wide range of alternative Suppliers when switching and often they switch to more expensive deals.[15]

In the Probe, Ofgem makes clear its intention to get rid of the obstacles that currently prevent some PPM consumers from switching. For example, it has increased the 'threshold below which PPM customers are free to switch supplier and transfer debt to the new supplier, from £100 to £200.'[16] Ofgem also view accredited price comparison websites as a key tool for consumers to engage in the market with the changes to doorstep selling.

The Code states that all available tariffs, for all payment methods, must be included for comparison on accredited sites. However, there were comments made at the March seminar concerning meter compatibility issues across the different Suppliers, especially on electricity.

Q15. What actions should be taken to improve comparisons and switching for PPM customers?

15**http://www.ofgem.gov.uk/Markets/RetMkts/ensuppro/Documents1/Probe%20summary.pdf** p9

16 **http://www.ofgem.gov.uk/Markets/RetMkts/ensuppro/Documents1/Retail%20package%20-%20decision%20document.pdf** p2

Section 7 – Extending the Code and additional information for consumers

7.1 Extending the Confidence Code to include non-domestic pricing sites

Ofgem has tasked Consumer Focus with responsibility for exploring an extension of the Code to include internet price comparison for non-domestic consumers. Ofgem stated that they will work with us to help develop this proposal.

Consumer Focus agrees with Ofgem that there is a need for a tool similar to the Confidence Code to aid confident switching in the non-domestic sector. However, we have some concerns that we raised in our response to Ofgem's Probe consultation in May 2009.[17] These were around the difficulty in comparing contracts and the sheer variety of contract terms and bespoke packages, which make it extremely difficult to provide a straight-forward numeric comparison for businesses.

We are happy to explore the extension of the Confidence Code to the non-domestic sector and how we can overcome the issues mentioned above. It is also worth noting that the Utilities Intermediaries Association (UIA) have a Code of Practice[18] that brokers/TPIs can sign up to, which includes online brokerage.

Q16. Consumer Focus seeks views on the proposal to extend the Code to non-domestic energy price comparisons and would like input from stakeholders concerning the development of such a Code.

7.2 Telesales

There are calls to explore options for developing an accreditation scheme for telesales comparison activity. Consumer Focus is aware that there are concerns, and there have been unsubstantiated allegations, about mis-selling and the impartiality of some telesales brokerage services. However, complaints in the area have been minimal. Nevertheless, it may be that misleading sales activity is occurring but consumers are unaware that it is happening to them. For example, the introduction of the energysure code in 2003 for supplier direct doorstep selling saw the volume of complaints fall greatly. However, the Ofgem Probe provided evidence to suggest mis-selling was still taking place, albeit in more subtle forms. In research for the Probe, Ofgem found that 42 per cent of those who did switch following direct doorstep sales activity moved to more expensive tariffs.[19] It is unlikely that the consumers concerned were aware of this, so did not complain. There is a possibility that a similar kind of mis-selling is happening in the telesales channel.

Consumer Focus believes that further analysis needs to be carried out to establish whether there is consumer detriment in this area, and what the potential is for extending the Code.

[17] **http://www.consumerfocus.org.uk/en/content/cms/Consultation_Respons/Consultation_Respons.aspx**
[18] **http://www.uia.org.uk/Code_of_practice.htm**
[19] **http://www.ofgem.gov.uk/Markets/RetMkts/ensuppro/Documents1/Energy%20Supply%20Probe%20-%20Initial%20Findings%20Report.pdf** p7

Q17. We would welcome views on both the scope of the problems in telesales activity (including evidence where available) and what should be done to address the issue.

Section 8 – Average consumption levels

The average consumption levels used across the industry are no longer perceived to be an accurate reflection for low, medium and high consumer consumption profiles. Ofgem is planning on consulting on average domestic usage statistics later this year. The current figures should therefore remain as they are while Ofgem carries out the consultation.

We encourage stakeholders to respond to the Ofgem consultation on average consumption levels.

Section 9 – Raising awareness of the switching process and promoting confidence in price comparison and switching sites

In the Probe, Ofgem confirmed that it sees the Code as a valuable tool and reiterated its commitment to work with us and industry to promote consumer confidence in the energy market. Ofgem stated, 'We stand ready to work with Consumer Focus and the industry to promote the Confidence Code.'[20]

Through our work with the Energy Retail Association on their Peace of Mind Guarantee,[21] Consumer Focus is fully committed to working with Ofgem and other stakeholders to help promote increased consumer confidence in switching and the use of independent price comparison websites.

We are improving the visibility of the Code as part of our consumer empowerment work with advice providers such as Citizens Advice and Help the Aged/Age Concern. Another initiative we plan pursuing with Ofgem, DECC[22] and Citizens Advice is the Energy Best Deal campaign,[23] which aims to raise awareness about energy savings and help in paying bills among all consumers, but focusing particularly on low income consumers and frontline workers helping such clients.

Alongside this, Consumer Focus will be raising the profile of the Code with Government agencies and other relevant stakeholders. We are in the process of redeveloping the website which will make the Code more prominent and accessible. We are drafting a 'how to make an effective switch' guide for consumers which will be available on the Consumer Focus website. We would welcome ideas that respondents may wish to contribute.

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[20] **http://www.ofgem.gov.uk/Markets/RetMkts/ensuppro/Documents1/Retail%20package%20-%20decision%20document.pdf** p21

[21] **http://www.energy-retail.org.uk/switchingsupplier.html**

[22] Department of Energy and Climate Change

[23] This campaign is dependent on sufficient funding

Section 10 – Ofgem Probe

10.1 Undue price discrimination

On 1 September 2009 Ofgem introduced two new Standard Licence Conditions, firstly, requiring cost reflectivity between payment methods and secondly, preventing undue discrimination in terms and conditions offered to customers. Consumer Focus supports the introduction of Licence Conditions to address undue discrimination because the existing model of competition has not benefited all customers, although we need to see how the proposals work in practice and be sensitive to any unintended consequences.

In terms of new products coming onto the market, Consumer Focus will be taking an interest in discount structures and other offers in relation to the licence conditions on undue discrimination on price and in regards to cost reflectivity of payment methods.

10.2 Annual statement

Another outcome of the Probe is that Suppliers have to make improvements to customers' quarterly bills and will be required by licence to send customers an annual statement of their energy usage. Ofgem stated in the Probe that they 'continue to believe that this will bring real benefits to consumers in encouraging them to consider whether they are receiving a good deal and to think about switching to another supplier or a better deal with their current supplier.'[24]

Under the new proposals, each quarterly bill will need to display the tariff name, the customer's consumption for the past 12 months in kilowatt hours (except where a customer has been with the supplier for less that 12 months) and the projected cost in pounds per year if the customer remains on the same tariff, if the tariff is unchanged, and if the customer uses the same amount of energy.

In addition, the annual statement will contain a reminder that the customer can switch, along with advice on how to do so. Alongside this, the annual statement should contain the principal terms and conditions of the contract, for example, the termination fees. Consumer Focus welcomes these proposals and would like to highlight SLC 31A.4 (information about electricity consumption) which states that the licensee must provide 'information about where the Domestic Customer may obtain impartial advice and information about changing their Electricity Supplier'[25] once in every 12 month period. Consumer Focus is keen to see all Suppliers fulfil this obligation by directing their customers to Consumer Direct and the Confidence Code for impartial advice on switching; we are pursuing this with Ofgem, Suppliers and the Energy Retail Association.

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[24] **http://www.ofgem.gov.uk/Markets/RetMkts/ensuppro/Documents1/Retail%20package%20-%20decision%20document.pdf** p10

[25] **http://www.ofgem.gov.uk/Markets/RetMkts/ensuppro/Documents1/Retail%20package%20-%20decision%20document.pdf** p74

Section 11 – Testing / ongoing monitoring

Regular monitoring of price comparison sites is crucial, as it ensures that if any inconsistencies between sites arise, we are able to contact the relevant site to deal with the issue quickly. We feel it is important to point out that as a result of the effective working relationships with Service Providers, we are confident that if any problems are identified they will be rectified quickly. The regular testing of the accredited price comparison sites by Consumer Focus acts as reassurance to consumers. Alongside this, we carry out our own calculations to ensure that price comparison sites are showing comprehensive, up-to-date and accurate information.

Consumer Focus will be conducting an internal audit of price comparison sites which is planned for December 2009. The external audit will also be carried out next year, after this consultation has finished and when any Code changes have been implemented by the sites.

Q18. Is there anything else Consumer Focus or Service Providers should be doing in relation to the monitoring already being carried out?

Section 12 – Proposals to amend the Code

12.1 Timescales for Service Providers responding to requests from Consumer Focus that are not tariff related

Consumer Focus would like to introduce a timescale into the Code for accredited sites to respond to requests from Consumer Focus that do not involve updating tariffs. For example, when Consumer Focus asks Service Providers for something to be removed or added, such as wording, we request that this is carried out within seven days. This will allow us to monitor sites more easily and check that changes have been made by a particular date. It also aids in consistency for consumers.

Q19. Do you agree with the timescales suggested by Consumer Focus to action requests?

12.2 Accreditation timescale from audit

There are concerns about newly accredited price comparison sites not going straight into the public domain after the initial compliance audit. Consumer Focus agrees that a timescale for sites to 'go live' should be incorporated into the Code once they have passed the audit and awarded accreditation. If a site fails to launch within a certain amount of time following the audit, it will need to be re-audited.

Q20. What is an acceptable length of time for a site to go live once it has gained Confidence Code accreditation?

12.3 Breaches of the Code

It has been suggested that potential breaches by Service Providers should be recorded and published on the Consumer Focus website. The process would involve the complaint being recorded and investigated, and then whether it is upheld or not being published on the Consumer Focus website with the reasons why.

Q21. Consumer Focus would like views on whether this is something stakeholders would like to see in the public domain and whether this is something that will benefit consumers. If so, how should the process work?

Section 13 – Other issues

13.1 Confidence Code logo

Consumer Focus is concerned that our logo or the old energywatch logo is being used on websites that do not have Confidence Code accreditation. We have stepped up checks to ensure that non-accredited sites are not using the logos. We would appreciate it if stakeholders could let us know if they find any instances of this.

A further issue is the wording in requirement 1 of the Code in terms of what is meant by the 'home' or 'main' page advertisements from energy Suppliers, their agents, affiliates, or brands operating under the licence of a supplier. On some Supplier and Service Provider websites, the 'energywatch' wording is still being used. Consumer Focus requests that this is removed and replaced with Consumer Focus where relevant. On the energy pages of accredited sites Consumer Focus would like there to be a link to the Confidence Code. A possible option could be to set up this link through the logo.

Q22. Would Service Providers agree to put a link on the website to the Code?

13.2 Future issues that may require Code changes

Consumer Focus intends to agree a mechanism for any future ad-hoc changes to the Code. This will remove the need to carry out a full consultation exercise for any minor changes. One possible option could be to obtain the views of Service Providers, and where appropriate Ofgem or Suppliers, on issues as they arise. This would be similar to the exercise carried out after the Service Provider meeting in September when we sought views and a 'vote' on using seasonality in calculations.

We will continue to offer ongoing guidance and interpretation of the Code as we do currently when queries arise.

Q23. Recognising that Consumer Focus will consult formally on any major changes to the Code, what are your views on a robust process to manage any ad hoc minor future changes?

13.3 Smart Meters

Consumer Focus welcomes the introduction of smart metering as both a mechanism to end estimated and inaccurate bills and as a tool to help consumers better manage their energy consumption and reduce their carbon footprint.

The wider roll-out of smart meters will have a number of implications for the Code and Service Providers. It will mean working with completely new types of tariffs, potentially longer contract lengths and more complex energy packages which are available for consumers. Numerous issues around data protection, ownership, use and privacy will arise. Some Suppliers already offer smart meters to consumers but the Code currently has no provision for smarter or more complex tariffs that may result. Consumer Focus is keen to gain stakeholder views on how we should develop the Code in order to allow for the developments that could result from smart metering.

Q24. Consumer Focus seeks views on how the Code should be developed in order to incorporate wide spread use of smart metering. We suggest setting up a working group to look at the impact of smart technology and how sites and the Code should respond. Please let us know if you would be interested in participating.

13.4 Introduction of new tariff structures

An issue has arisen with regards to the introduction of a new tariff structure by a Supplier that is new to the market, which sees the same tariff name with different unit prices. We appreciate this is an attempt to simplify the tariff structure and differentiate, but there are concerns about how this will impact in relation to price comparison in the future. The current online price comparison model does not allow for this new tariff structure to be included as it would mean a fundamental shift from the existing comparison model, which has been operational for a number of years. Service Providers have raised concerns as it would mean calculators being amended and this would incur a cost. Other issues raised included the affect on consumer behaviour as they would need to input a pence per kWh figure, which is likely to cause further confusion for some consumers.

While we all realise that new tariffs, along with the introduction of smart meters, means that sites need to be responsive to market change, there needs to be justification for any change. There also has to be a planned movement which is subject to appropriate consultation.

Consumer Focus wants to ensure that the pricing of tariffs is transparent in any sales channel in order for consumers to make an informed decision. We are concerned that consumers will be unable to obtain accurate price comparisons in the future.

Q25. Consumer Focus seeks views on the introduction of new tariff structures and the affect they will have on consumers in the market place in relation to online price comparison services.

Q26. While Consumer Focus hopes to have covered the current and relevant issues within this document, please let us know if you have any additional comments or issues you would like to raise.

Consultation process

Consumer Focus welcomes responses from Service Providers, Suppliers and other interested parties on the issues raised in this document.

Consumer Focus asks for responses to this consultation to be submitted in writing before the deadline of **18 December 2009**.

The preferred method of response is by email, to:

jenni.lucas@consumerfocus.org.uk

Responses may also be faxed to 020 7799 7901 or sent by post to:

Jenni Lucas

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Artillery House

11-19 Artillery Row

London SW1P 1RT

Consumer Focus will acknowledge all consultation responses received. Please remember to state your contact details in your response.

Consumer Focus will publish responses to this consultation on its website and may refer to their contents in subsequent publications. If you wish all or part of your response to remain confidential, or if you would like it to be published anonymously, please indicate this in the response. Similarly, if you would prefer your response to be published only once the consultation has ended, please let us know.

If your response is to remain confidential and you would prefer Consumer Focus not to reference it contents in a non-specific manner that does not breach this confidentiality such as a general summary of responses, please indicate this in your response.

Please note that information held by Consumer Focus, including the content of Consultation Reponses, is subject to the Freedom of Information Act (2000).

A review of the Confidence Code – a Voluntary Code of Practice for Domestic Gas and Electricity Price Comparison Services

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