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31 May 2018

By email

## **Response to Ofgem's consultation on the implementation of the CMA's Whole of Market recommendation**

Citizens Advice welcomes the opportunity to respond to Ofgem's consultation on the Competition and Market Authority's (CMA's) recommendation to remove the requirement for accredited sites to show the Whole of Market (WoM).

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### **Joined up regulation**

Citizens Advice believes it is critical for Ofgem to explore how best to regulate the activities of third party intermediaries (TPIs). As the lines between markets are becoming increasingly blurred, with new models being data or communication driven and bundled products on offer, it is essential that there is joined up and coherent regulation across markets.

Citizens Advice has been concerned for some time about the lack of protections for energy consumers who engage with TPIs. As we start to see other types of TPIs enter the market, and more domestic consumers engaging with their services, there is an urgent need for regulation. Consumers should be entitled to the same level of protections no matter what route they take to engage with the

market. At present there are gaps in protection for consumers who use TPIs, with this likely to increase as new business models are launched.

A recent development has been the growth in intermediaries that offer automatic switching services. These services could switch consumers to sub-optimal tariffs, which could be due to faulty software or programming, or because consumers have changed their pattern of usage. Ofgem should consider what form of protection is necessary to provide appropriate advice and redress for consumers who've experienced detriment.

### **Whole of Market requirement**

Citizens Advice is supportive of Ofgem's proposals which aim to ensure that consumers understand and trust the results they are shown on accredited price comparison websites (PCWs). This approach will help ensure consumers do not make switching or searching decisions based on erroneous assumptions. We have previously raised our concerns about the potential impact of the CMA remedy to remove the WoM requirement.<sup>1</sup>

The aim of the CMA's recommendation to remove the WoM requirement from the Confidence Code is to increase investment from accredited PCWs into their energy offering, make it easier for consumers to switch to cheaper deals and therefore increase competition in the energy retail market. We urge Ofgem to monitor whether the proposed CMA remedy results in more competition amongst PCWs, as measured by the number of fulfillable and exclusive deals, and as a result, whether this leads to greater energy retail competition by exerting downward pressure on prices. This monitoring should include the experience of consumers with a range of characteristics and preferences (in particular related to region, consumption and payment method).

### **Question 1: Do you agree that our minded-to option is the best means of achieving the benefits and mitigating the risks of removing the WoM requirement?**

Yes. Citizens Advice agrees that Ofgem's minded-to approach is the best way to do this. We recognise that the regulator has reviewed a range of information looking at the impact of removing the WoM requirement, including consumer research, Requests for Information to Code-accredited PCWs and suppliers and

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<https://www.citizensadvice.org.uk/about-us/policy/policy-research-topics/energy-policy-research-and-consultation-responses/energy-consultation-responses/citizens-advice-response-to-ofgems-consultation-on-new-confidence-code-requirements/>

results from trials carried out by accredited PCWs. When developing the policy on the WoM requirement, we note that Ofgem has been mindful of the findings and recommendations of the CMA in its DCT market study, in particular the four high-level principles that Digital Comparison Tools (DCTs) should follow in order to treat users fairly.

It is critical that accredited sites provide clear and transparent messaging to consumers about their market coverage if they choose to show only deals to which they can switch consumers to, provided they display a link to the Citizens Advice non transactional comparison tool. This is particularly important given that consumers who do not shop around may not see a wide range of deals. Ofgem will need to closely monitor compliance to requirements on market transparency, and if PCWs don't comply, remove their accreditation in accordance to the Enforcement Procedure.

We are concerned that a single explanation of market coverage may not be sufficient for sites to use. We recently conducted research<sup>2</sup> into tariff choices and price comparison sites. This conducted 54 searches, across two Confidence Code accredited PCWs<sup>3</sup>, looking at tariffs available across:

- three payment methods (Direct Debit, payment on receipt, and prepayment)
- three consumption levels (High, Medium and Low, as defined by Ofgem's Typical Domestic Consumption Values), and
- three regions (London, South Wales and Scottish Hydro)

This highlighted the savings that consumers could miss, by either not using more than one PCW, or accessing a wider view using the Citizens Advice PCW.

**Fig 1. The amount of missed saving from not using a wider market search, as a % of the cheapest deal on the default view, using two PCWs separately and combined.**



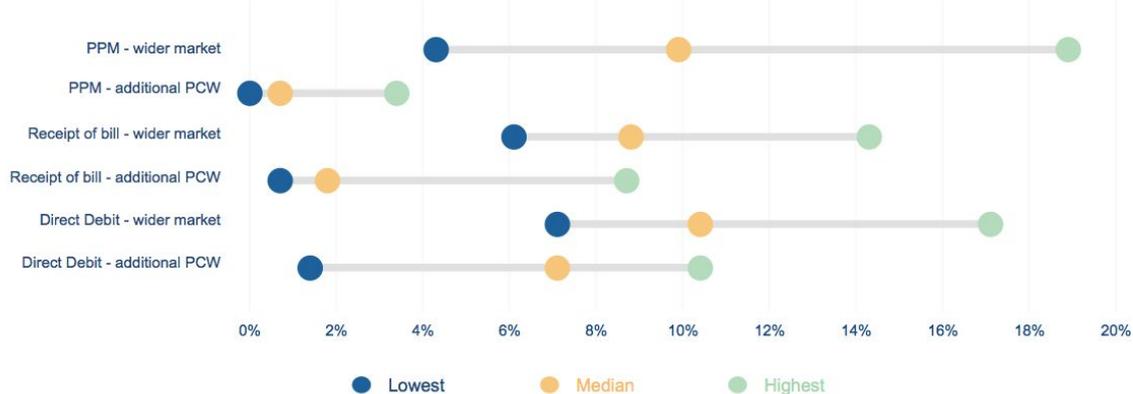
<sup>2</sup> Publication forthcoming, further details available on request.

<sup>3</sup> These are both members of the 'Big 5' search companies identified by the CMA in their Digital Comparison Tools study.

This shows that consumers need to shop around using multiple PCWs to guarantee access to cheaper deals. However, any decision to conduct further searches will incur search costs, which will need to be outweighed by sufficient benefit to make the effort worthwhile. Clear messaging about market coverage is therefore vital to help consumers make better decisions about whether to conduct further searches. For example, if the initial search uses a PCW with a broad market coverage, the consumer may decide it is not worth searching again, whereas if it has a narrow coverage then they might. However, without clear information either way, the consumer will have to guess whether the second search is worth it - and in many cases it will not result in further savings.

This is complicated by the fact that our research suggests that the likelihood of getting a close to the market cheapest deal through a PCW differs according to the characteristics of the search. In relation to payment method, consumers paying by direct debit were more likely to get a good deal first time than consumers paying on receipt of bill or prepayment. Furthermore, non-Direct Debit customers would be much better off using a wider market view (or a site like Citizens Advice PCW), than using another PCW for their second search. In contrast, Direct Debit customers got nearer to a cheapest in the market result through a search with a second PCW.

**Fig 2. The amount of additional saving achieved from using a second PCW search and a wider market search, as a % of the cheapest deal on the first search, by payment method.<sup>4</sup>**



It could be that more limited competition for these payment methods means that PCWs are less likely to seek a broad market coverage, or to invest in good exclusive deals. For example, both the PCWs used had fewer than 8 fulfillable

<sup>4</sup> This data was calculated on the basis that the most expensive PCW search was conducted first, such that there was always a saving from an additional search. In reality, in many cases a second, non-wider view PCW search would have resulted in no additional savings.

deals available for prepayment customers, and had a restricted range of tariffs available for those who pay on receipt of the bill.

**Table 1. The average number of unique suppliers in the top 20 search results, by payment method.**

	Payment method	Default view	Wider market view
PCW 1	Direct Debit	12.8	13.3
	On receipt of bill	8.4	10.7
	Prepayment	6.1	15.1
PCW 2	Direct Debit	15.1	14.8
	On receipt of bill	6.9	8.2
	Prepayment	6.2	15.9

Similarly, we observed that low energy users also benefit substantially more from a wider market view than from additional searches. This could be a result of the flat-fee structures used by many PCWs.<sup>5</sup> These make low energy users proportionately more expensive for suppliers to gain, and suppliers targeting these users may be less able to justify the commission levels demanded by PCWs to appear on the default view.

**Fig 3. The amount of additional saving achieved from using a second PCW search and a wider market search, as a % of the cheapest deal on the first search, by consumption level.<sup>6</sup>**



Suppliers may use other means to target these customers - for example, through direct sales - but we are nonetheless are concerned that the impact of

<sup>5</sup><https://assets.publishing.service.gov.uk/media/59c93546e5274a77468120d6/digital-comparison-tools-market-study-final-report.pdf> (page 28)

<sup>6</sup>High, medium and low consumption as defined by Ofgem's Typical Domestic Consumption Values

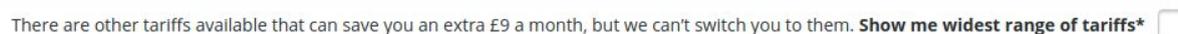
these changes carry more risk to consumers in these segments than others. We think there is a basis to be concerned, that without mitigation, the proposed changes could further decrease competition in these segments, by increasing search costs for consumers. We note that consumers in these segments are also more likely to be vulnerable than higher consumption, Direct Debit customers.

An appropriate mitigation of this risk would be more sophisticated information to consumers on market coverage, which makes this more specific to their particular type of search, rather than the coverage of the site at an aggregate level. This will in turn help them make more informed choices about whether to pursue further searches or use the Citizens Advice PCW.

This messaging could potentially include the percentage of the market covered (in terms of suppliers or tariffs) that the PCW includes, relevant the particular payment method. Alternatively, other metrics about the specific search could be provided, against a benchmark of how likely the search was to be beneficial to consumers. For example, a PCW with more suppliers/tariffs may feature more different suppliers in the top results (see table 1).

Similarly the messaging alongside the link to the Citizens Advice PCW should demonstrate the potential benefits to the consumer of using this service, based on the nature of their search. This could include some indication of the likely financial benefit to the consumer of searching the Citizens Advice PCW, including the saving that could be made by a consumer based on the details of their search. This is already a feature of some PCWs messaging with options to select a wider market view.

**Fig 4. Messaging for wider market view, taken from MoneySuperMarket results page.**



There are other tariffs available that can save you an extra £9 a month, but we can't switch you to them. **Show me widest range of tariffs\***

In the longer term, reducing the search costs for consumers will also help ensure that multiple searches are less of a burden for consumers. We are supportive of various steps being taken by Ofgem, BEIS and industry to improve data portability, which should make searches quicker, easier and more accurate for consumers. We note that this is also a major theme in the recent Consumer Green Paper.

We also carried out a review of the accessibility of PCWs' commission arrangements with suppliers. 5 sites made it easy to find information about commission arrangements, it was moderately easy on 3 sites and more difficult

to find information on 3 sites. The information has been included with this response.

**Question 2: Do you agree that our proposed drafting of the Code is the best means of achieving the benefits and mitigating the risks of removing the WoM requirement?**

PCWs must provide transparent and clear messaging to consumers. It is essential that appropriate measures are put in place to guarantee consumers are protected from being misled as a result of the removal of the default WoM view. We agree that the proposed drafting of the Code changes, including Requirement 10, is a sensible approach. It is important that any messaging regarding what is covered on the results page is clear, not overcrowded or confusing for consumers.

We think that it is essential for Ofgem to closely monitor the market if the proposed mind-to option of the CMA's WoM remedy is implemented. In particular, Ofgem should review the impact on segments that are more likely to include vulnerable consumers, and which already suffer from poorer competition.

It is important that the right measures are in place to counteract any negative impact on consumers. If it becomes apparent that the consumer experience has deteriorated then appropriate consideration should be given, potentially reconsidering the CMA remedy or returning to the previous Code requirements.