



Response to Ofgem's consultation on protecting consumers in collective switching schemes

April 2014

About Citizens Advice

1.1 The Citizens Advice service provides free, independent, confidential and impartial advice to everyone on their rights and responsibilities. It values diversity, promotes equality and challenges discrimination.

1.2 The service aims:

- to provide the advice people need for the problems they face
- to improve the policies and practices that affect people's lives.

1.3 The Citizens Advice service is a network of nearly 400 independent advice centres that provide free, impartial advice from more than 3,500 locations in England and Wales, including GPs' surgeries, hospitals, community centres, county courts and magistrates courts, and mobile services both in rural areas and to serve particular dispersed groups. In 2012/13 the Citizens Advice service in England and Wales advised 2.3 million people on 6.6 million problems.

1.4 Since April 2012 we have also operated the Citizens Advice Consumer Service, formerly run as Consumer Direct by the OFT. This telephone helpline covers Great Britain and provides free, confidential and impartial advice on all consumer issues.

1.5 In the last four quarters Citizens Advice Bureaux have dealt with 84,000 enquiries about fuel debt, while hits to the energy section of our website doubled in October and November, the period during which suppliers announced their price increases last year. Calls to the Citizens Advice Consumer Helpline seeking advice about energy doubled in the same period.

1.6 In April 2014, Consumer Futures completed its transition into Citizens Advice.

Response to Ofgem's consultation on protecting consumers in collective switching schemes

Overview

Citizens Advice welcomes the opportunity to respond to Ofgem's consultation on collective switching. We broadly agree with the interim regulatory measures proposed in order to protect consumers in collective switching schemes.

Our work on collective switching to date includes research ranging from qualitative evidence of consumer sentiment towards the collective switching concept¹ to exploring opportunities for low income energy consumers in Wales², a report making the case for collective switching in the age of connected consumers³, and engagement with service providers to understand the emerging issues.

While the regulator works on its longer term approach of developing an enduring regulatory framework for TPIs (Third Party Intermediaries), we are pleased that the immediate TPI issue of collective switching is being addressed. We believe it is essential that this work stream is developed and progressed as quickly as possible.

We support Ofgem's assertion that collective switching could increase levels of engagement for vulnerable and disengaged consumers. Many schemes have been promoted to vulnerable and disengaged consumers and figures from the service provider iChoosr show that in their last auction, carried out in February 2014, 34.8% of the vulnerable⁴ group of consumers made the switch to the winning supplier⁵. Also in this auction 65% were first time switchers, illustrating that collective switching is reaching disengaged consumers. This is consistent with Ofgem's aspirations to help these consumers to engage in the market.

Collective switching is also an opportunity to allow smaller suppliers to benefit from the diminished costs of market entry. It challenges the grip that a small number of incumbents currently enjoy⁶. In a recent auction⁷ two smaller suppliers, one a very recent entrant to the market, Green Star Energy, and Ovo Energy, made winning bids with their tariffs. Ovo Energy won the auction with a market leading standard monthly Direct Debit tariff.

¹ <http://www.consumerfutures.org.uk/files/2014/01/Consumer-sentiment-towards-collective-switching-DJS-Report-for-Consumer-Futures1.pdf>

² <http://www.consumerfutures.org.uk/files/2013/09/Collective-switching-04.07.13.pdf>

³ <http://www.consumerfocus.org.uk/files/2012/04/Consumer-Focus-Get-it-together.pdf>

⁴ Defined as consumers without access to the internet, income, number of people over 60, number of small children, benefits, WHD and PSR

⁵ 996 households

⁶ <http://www.consumerfocus.org.uk/files/2012/04/Consumer-Focus-Get-it-together.pdf>

⁷ February 2014 auction carried out by iChoosr

1: Do you agree that the growth of collective switching, and the potential opportunities and detriment resulting from this, merits short-term action to ensure consumer protection while Ofgem works on a longer-term approach?

Despite being two years on from the first collective switching scheme, we believe that collective switching is still in the development phase in Great Britain. It is important that the appropriate consumer protection safeguards are put in place and that collective switching works in the best interests for consumers. Citizens Advice agrees that the rapid growth of collective switching, and the potential opportunities and detriment resulting from this, warrants short-term action to ensure consumers are protected while Ofgem develops its longer-term approach. As highlighted in the consultation document, the number of consumers participating in collective switching schemes is growing sharply. Given that a large majority of paper registrations for the Big Community Switch had not switched in the last three years⁸, Citizens Advice is pleased to see that there is continued interest⁹ from consumers as we see the development of the collective switching market as a means of getting more 'sticky' consumers to engage in the market and change tariff or energy supplier. Recent figures from the latest auction carried out by iChoosr in February 2014 shows that conversion figures have increased since the previous auction in November 2013¹⁰. Average realised savings across all categories had increased from the November 2013 auction with an increase to £199 from £179.

In response to the August 2013 Ofgem consultation on Third Party Intermediaries (TPIs), Consumer Futures¹¹ identified concerns about the impartiality, reliability and accuracy of information in the existing TPI market.¹² Ofgem has identified that these issues are also of concern in the collective switching market. Ensuring that appropriate consumer protections are in place is likely to improve consumer confidence in the firms facilitating auctions, and collective switching as a way to potentially save on energy bills.

2: Do you agree that some form of accreditation is the best approach? If not, what other approach would be best?

We have considered all the available options and we agree with Ofgem that accreditation is the best short term approach to protecting consumers participating in collective switching schemes. As Ofgem notes in its consultation, the framework is already in place with Confidence Code (the Code) and suppliers are likely to be supportive of expanding on this. Also accreditation can provide assurance to consumers that it is safe to engage in these schemes.

In the longer term, our preference is for an Ofgem-run accreditation scheme for collective switching facilitators, accompanied by a new licence requirement on suppliers that oblige them to deal only with accredited providers. We believe this approach, reminiscent of the current scheme in place for price comparison websites (PCW) accreditation or the scheme that Ofcom runs for telecommunications PCW, would be the most appropriate approach.¹³

It is Citizens Advice's view that no matter how energy consumers, domestic or non-domestic, choose to purchase energy or energy services they are able to access to the same rights of redress and

⁸ 4,800 out of 50,000 signed up on paper, of these 67.8% of registrations had not switched in the last 3 years

⁹ 71% of households registered had not switched in the last three years in the auction carried out by iChoosr on 29 Jan 2013

¹⁰ In the auction in November 2013 53,550 households registered with 5,965 households switching (11.5%). In the auction February 2014 36,200 households registered with 8,007 households switching (22.1%).

¹¹ On 1 April 2014, the functions of Consumer Futures transferred to Citizens Advice, Citizens Advice Scotland and the Consumer Council for Northern Ireland

¹² <http://www.consumerfutures.org.uk/files/2013/05/Consumer-Futures-response-to-Ofgems-TPI-consultation.pdf>, p.2.

¹³ <http://consumers.ofcom.org.uk/price-comparison/>

protections as consumers that purchase the same services directly from a licensed supplier. An accreditation scheme will deliver the best outcomes for consumers. However, there needs to be effective promotion of the accreditation scheme so consumers are aware of the benefits of using an accredited service provider. According to our recent research, only 16 per cent of consumers who used a PCW in the past two years are aware of Ofgem and Ofcom accreditation schemes¹⁴. Also take up of Ofgem's accreditation scheme is low amongst the so called Big Four PCWs, which have around 85 per cent share of consumer take up. Currently only one of the Big Four – Moneysupermarket - is approved by Ofgem's accreditation scheme.

3: If an accreditation approach is used, do you agree that building on the Confidence Code is the most proportionate and effective solution?

We believe that expanding on the Confidence Code is the best interim solution. However, it is critical that the wider TPI work stream is delivered rapidly. As previously stated, for the longer term approach, Consumer Futures' preference is for an Ofgem-run accreditation scheme for collective switching facilitators accompanied by a new licence requirement on suppliers that oblige them to only deal with accredited providers as is currently in place for PCWs. Given that Ofgem is already planning a review of the Confidence Code this year, Citizens Advice agrees that expanding what is already in place to govern PCWs is the most appropriate approach at this time.

In terms of future Code governance, our preference is to create a single Code with different chapters covering different types of TPI services. Providers would only be bound by the clauses in the TPI markets in which they are active or seeking to become active.

4: Do you agree that the exemption for collective switch tariffs under Ofgem's rules on the number of tariffs offered by each supplier should be available only where the collective switch is accredited under the Confidence Code?

Yes. We believe the long term aim should be that energy companies only deal with accredited collective switching organisations and therefore it should be easier for those with Ofgem accreditation to attract consumers. Limiting the tariff cap exemption would appear to be the most efficient way to do this.

5: We will consider the Personal Projection as part of our Confidence Code review. Are there any key differences between collective switching and price comparison which require separate consideration for the Personal Projection? If so, please explain why.

Citizens Advice does not consider that there are any key differences between collective switching and price comparison which need to be considered separately for the Personal Projection.

Citizens Advice has recently become aware that there is a problem with PCWs and the Personal Projection when a consumer is coming off a fixed term tariff. There is no industry standard for how the seasonality factor should be treated, which is resulting in inconsistent results being displayed on PCWs. This is a problem that needs to be urgently addressed and a mandated solution delivered by Ofgem. Otherwise it could risk undermining consumer confidence in PCWs and collective switching schemes.

¹⁴ <http://www.consumerfutures.org.uk/files/2013/07/Price-Comparison-Websites-Consumer-perceptions-and-experiences.pdf>

We agree with the regulator that it is imperative that exit fees and the Warm Homes Discount (WHD) are represented in the savings message where applicable. The failure to do so may wipe out any savings the consumer would make and result in misinformed switching decisions. Furthermore, there is an issue of service providers being able to easily identify which consumers qualify for the WHD's broader group support.

However we think it is important to emphasise that although there are similarities between price comparison and collective switching, the framework is different. Collective switching has two distinct models – single offer and whole of market offer – each have their own benefits.

Collective switching can be an alternative route to market for consumers not wishing to engage through conventional means. Price comparison, in general, is targeting a different group of consumers. There is a danger of trying to lump the two together as the same.

One of the aims of collective switching is to keep things simple for consumers in a complex market. It is important to get the right balance of information across, ensuring that the messaging is transparent and consumers are informed about the crucial aspects of the offer they've received, while at the same time ensure that the messaging doesn't overload and create confusion. Collective switching may not always be about getting the cheapest deal in the market at that time but about getting a hassle free switching service. Consumer Futures's research¹⁵ found there is a perceived (or subconscious) trade-off between time/hassle and savings, and because the collective switching route appears to be less of a hassle than individually switching it may be worth it even if the savings are not massive. The key challenge is that the framework for the short term and longer term approach is built on securing beneficial, transparent outcomes for consumers.

6: Can an expanded Confidence Code influence marketing claims?

Ofgem has proposed that guidance would be more appropriate than Code accreditation with regards to the issue of marketing claims. Citizens Advice agrees with this approach. The guidance would need to be very clear concerning marketing messages around savings. Any messaging would need to be realistic and set expectations appropriately (See our answer to Question 5 about the current issue that has arisen with saving messages as a result of the new rules around Personal Projections). It is important that scheme organisers do not overestimate saving messages to potential consumers; doing so may lead to consumers becoming disengaged with the market, creating dissatisfaction and mistrust. This could cause the reputation of the collective switching market to be damaged. Therefore it is critical that any guidance provided takes stock of this issue.

It is worth noting that the Advertising Standards Authority¹⁶ (ASA) regulates advertising across all media, including advertising on the internet as well as marketing on companies' own websites. It also encompasses commercial email, direct mail, and leaflets and brochures.

Hence we recommend that in the process of developing the guidance Ofgem consults ASA to ensure that its guidance messaging and criteria are in line with relevant ASA codes.

¹⁵ <http://www.consumerfutures.org.uk/files/2014/01/Consumer-sentiment-towards-collective-switching-DJS-Report-for-Consumer-Futures1.pdf>

¹⁶ <http://www.asa.org.uk/Consumers/What-we-cover.aspx>

7: Should an expanded Confidence Code cover telephone and face-to-face interactions specifically for collective switching?

In light of the RMR changes, it is essential that the Confidence Code is reviewed as an immediate priority to ensure it remains fit for purpose – especially considering that the Code only covers internet price comparisons and not telesales or face-to-face sales.

Citizens Advice considers that the Confidence Code should be extended to cover telesales activities and face to face interactions for price comparison and collective switching service providers. If service providers start carrying out face-to-face sales, it is important that they adhere to the same rules around the transparency and accuracy of price comparisons as suppliers. As previously stated, Citizens Advice would like to see a new licence requirement for suppliers that requires them to only deal with accredited TPIs. Ofgem should operate the TPI accreditation scheme.

As Ofgem highlights in the consultation document, there are risks involved when TPIs engage in interactions with consumers which are not easily controlled and monitored by suppliers, such as face-to-face engagement. Historically consumers who have purchased energy contracts via face-to-face sales have been disproportionately affected by poor sales techniques and mis-selling, these consumers are also more likely to have a low income and/or lack of access to the internet. Therefore it is critical that these sales channels are covered by consumer protection safeguards.

Face-to-face engagement can be an important factor in the collective switching process. It is an effective way of connecting with potential consumers before they sign up to a scheme, in particular in communicating with vulnerable and disengaged consumers. For example, schemes such as Energy Best Deal are essential for some consumers to engage in the market; particularly older more vulnerable consumers who would like to review their energy deal but lack the skills and confidence to do this alone. These types of consumers need help, either in a face-to-face capacity or by telephone interactions, in order to navigate the market.

In summary, we would like to see guidance and new Code requirements which cover both telesales activities and face-to-face interactions for price comparison and collective switching service providers. We do not think that there needs to be separate consideration for collective switching.

8: What further guidance / code requirements are required in the Code to protect consumers and help to facilitate collective switching schemes involving face-to-face engagement and telephone interactions?

As previously mentioned the Confidence Code needs to be reviewed as an immediate priority. Any additional requirements and guidance should be considered alongside the Code review.

We agree with the risks that Ofgem has identified and support the regulator in their steps to increase protections for consumers in face-to-face and telephone interactions. We agree that accreditation should expand to encompass the elements of schemes where some face-to-face or telephone activity takes place in order to protect consumers and provide reassurance that is safe to engage with these sales channels within collective switching schemes.

9: Do you have any views about what could support improved pre-payment meter (PPM) engagement?

We highlighted the problems faced by energy consumers in the PPM (pre-payment meter) market in our response to the final consultation stage on the RMR proposals¹⁷, namely the poor competition, limited innovation and relatively poor customer service.

In our response we also mentioned the importance of the regulator monitoring additional information on an on-going basis in order to understand how the market is delivering for consumers in collective switching schemes, and whether this channel is delivering for different sub-segments of consumers, particularly PPM users.

16% of electricity consumers and 14% of gas consumers are PPM users¹⁸ but evidence has shown that PPM consumer switching levels in collective switching schemes are lower than for other payment methods. The Cheaper Energy Together Schemes sponsored by DECC had a PPM registration and switching rate of 3%.

It has been a long time concern of Citizens Advice that the market is not working as effectively as it could for PPM consumers¹⁹ and this is an area that must be explored by the CMA if the decision to refer the energy market is confirmed. There may be some practical and technical barriers that have acted as deterrents for suppliers not being able to develop new PPM tariffs, although supplier interest in such markets also is also key as to how much they are willing to address technical barriers. It is essential that the energy market works for all consumers, no matter how they pay for their energy. Evidence from a recent auction shows that the average savings to be made for PPM consumers is very low compared to consumers using other payment methods²⁰. Negligible saving levels, as well as limited innovation of tariff development, go some way to explain the current low conversion rates of PPM consumers participating in collective switching schemes.

During the 2009-2010 Confidence Code consultation exercise which was carried out by our predecessor, Consumer Focus, we asked for views on what actions should be taken to improve price comparisons and switching for PPM consumers. Responses to the consultation revealed that PPM tariffs are not consistently featured on price comparison websites and only some suppliers allowed service providers to facilitate switching. Some suppliers asked for PPM tariff information to be removed from sites altogether. The opportunity for PPM consumers to compare and switch to alternative suppliers was therefore limited.

It is evident that this situation is much the same now with suppliers not showing interest in competing for PPM consumers in collective switching schemes. This is a worrying development and we think that close monitoring of the market by the regulator is needed to ensure that the market is delivering for all consumers.

Switching services such as Ofgem's Energy Best Deal and DECC's Big Energy Saving Week are likely to be the main way to deliver for consumers in vulnerable situations. There is an opportunity for the Big Energy Saving Network to help these consumers, through network members partnering with accredited TPIs to offer consumers support in switching supplier.

¹⁷ <http://www.consumerfutures.org.uk/files/2013/05/Consumer-Focus-response-to-Ofgem-RMR-consultation-April-2013.pdf>

¹⁸ <https://www.ofgem.gov.uk/ofgem-publications/85806/domesticsuppliersquarterlysocialobligationsdata-quarter1january-march2013.pdf>

¹⁹ <http://www.consumerfutures.org.uk/files/2013/05/Consumer-Focus-response-to-Ofgem-RMR-consultation-April-2013.pdf>

<http://www.consumerfutures.org.uk/files/2013/05/Consumer-Focus-response-to-Ofgem-RMR-consultation-April-2013.pdf>

²⁰ The auction carried out by iChoosr in February 2014 shows that average savings were £36

10: What areas of data collection or handling, specific to collective switching, should be covered by the Code? Are there gaps that need to be covered which are not already covered by existing data protection legislation?

In our response to the Third Party Intermediaries consultation in August 2013²¹, Consumer Futures highlighted that research²² carried out on consumer perceptions and experiences with price comparison websites revealed privacy concerns²³. A key concern from consumers was about giving out personal details such as telephone number and email address, as they worry these might be passed on to third parties and may result in nuisance calls and other unwanted marketing²⁴. Furthermore, the research also identified that privacy concerns were named as a barrier to consumer take up of a new generation of comparison services. These factors are likely to have an impact in the collective switching market as well. For example, our research into consumer sentiments towards collective switching found that in particular older/less internet savvy consumers were worried that personal data they give to collective switching sites could be sold on to third parties and used for marketing purposes.²⁵ Therefore, we recommend Ofgem work jointly with the Information Commissioner's Office (ICO) to tackle the issue of TPI compliance with the relevant data protection regulations, as well as ensuring the TPIs give consumers an opportunity of opting out of third party data sharing at the point of data collection. Although at present operators of price comparison tools provide consumers with the opportunity to opt out of third party data sharing, these are difficult to find for consumers.

We also suggest that the review of collective switching schemes take into account of the issue of quality checks of billing data provided to the switching site by consumers. Our research suggested that consumers with online billing accounts found it easy to provide required data to collective switching sites.²⁶ Whereas providing data from paper billing was less easy and prone to potential errors.²⁷ So we recommend that collective switching sites have an adequate quality checks in place to ensure that data obtained from consumers is correct.

11: Do you agree with our proposal to expand the Confidence Code to service providers but not scheme organisers?

Citizens Advice agrees with Ofgem's proposal to extend the Code to service providers but not scheme organisers. We recognise that some scheme organisers are small operations which are not experts in the energy sector and, in some cases, are likely to carry out any activity as a one off exercise. We note that Ofgem has identified that expanding the Code to cover the scheme organisers as well as service providers would be likely to be a significant barrier to delivering innovation and the intended consumer benefits.

²¹ <http://www.consumerfutures.org.uk/files/2013/05/Consumer-Futures-response-to-Ofgems-TPI-consultation.pdf>

²² *Price comparison websites: consumer perceptions and experiences*, research commissioned by Consumer Futures with RS Consulting (2013), <http://bit.ly/17ljXp2>

²³ Ibid

²⁴ Ibid

²⁵ <http://www.consumerfutures.org.uk/files/2014/01/Consumer-sentiment-towards-collective-switching-DJS-Report-for-Consumer-Futures1.pdf>

²⁶ <http://www.consumerfutures.org.uk/files/2014/01/Consumer-sentiment-towards-collective-switching-DJS-Report-for-Consumer-Futures1.pdf>

²⁷ Ibid

12: To what extent will the additional criteria affect:

(a) Suppliers: will the amendment increase or decrease involvement in collective switching, and why?

Supplier involvement in collective switching is likely to be dependent on the consumer response to the additional criteria. If consumer participation in collective switching grows after the amendments to the Confidence Code are made, it is likely that suppliers will engage with schemes further. Increased consumer participation will make it more attractive to suppliers as it would become an efficient way to gain more customers. As with PCW, suppliers will only be allowed to use accredited facilitators. Supplier engagement is also likely to be encouraged by accreditation as they can be more confident that the facilitator they are dealing with is trustworthy.

(b) Consumers: will the amendment increase or decrease involvement in collective switching, and why?

We hope that consumer participation in collective switching schemes will increase following the introduction of accreditation for collective switching facilitators. As with PCW, there can be a lot of consumer scepticism for anything offering to a cheaper deal. If a facilitator is able to prove its credibility with an Ofgem accreditation then consumers are likely to feel more comfortable engaging with the schemes and viewing them as a useful way to save on their energy bills.

At the time of writing, only one of the 'big four' PCW (Moneysupermarket) is accredited by Ofgem's Code. Consumer Futures research indicates that consumer awareness of accreditation schemes run by regulators is low, with only 16 per cent of consumers declaring knowledge of these. However, the same research also shows that consumers would see the value in adding an extra level of trust and assurance in these services as 38 per cent of consumers that were unaware of the accreditation scheme.²⁸ This evidence shows clearly that if accreditation is to have its desired effect in increasing consumer participation then it is crucial that Ofgem makes accreditation mandatory for all PCW. The regulator must also publicise the scheme and ensure consumers are aware that the organisations they are dealing with are credible.

13: Are there areas in an expanded Confidence Code:

- that we have not indicated that you think should be additionally covered for collective switching, or
- that we have indicated for inclusion in the Code that you think should not be covered for collective switching?

Consumer Futures considers that Ofgem has covered the relevant areas in an expanded Confidence Code. We do not consider there to be any areas which the regulator has not included in its analysis.

As Ofgem has identified; it is critical that the auction process is transparent for consumers and suppliers. We agree with Ofgem's proposal of an additional code requirement for collective switching on the transparency of the auction process. The customer needs to understand the process of the

²⁸ <http://www.consumerfutures.org.uk/files/2013/07/Price-Comparison-Websites-Consumer-perceptions-and-experiences.pdf>, p.6.

scheme and the criteria on which the winning bid was won. Suppliers also need transparency and certainty about the process especially if they have been put off from bidding into the scheme due to the risks involved and difficulty in assessing them.

We agree that it is sensible for the audit process to reflect the differences between collective switching schemes and PCW. We believe that the first audit should be comprehensive. We agree with the proposal for a six monthly review of service providers initially. We are also in agreement with provision for targeted interim audits.

It is crucial that consumers understand what they have signed up for and whether they are receiving a single offer or a whole of market offer. We agree with proposal that the service provider should make it clear that the tariffs displayed are restricted to the winning tariffs or the tariffs which bid into that particular auction process. If a whole of market comparison is not given this should be made clear in the offer letter/email. Also currently there are six service providers operating as collective switching providers, it is important to note that two do not run a price comparison site and are not already members of the Code.

We are in agreement with the proposal that the terms and conditions are transparent and accessible for consumers during the sign up process for collective switching whether they sign up via the website or on paper. They should also be easily available throughout the collective switching process

