

# Energy market investigation

Response to

Provisional Decision on Remedies

by

The logo for TheEnergyShop.COM is displayed within a dark blue rectangular background. The text 'TheEnergyShop' is in a light blue, sans-serif font, with 'The' in white and 'EnergyShop' in light blue. To the right of this text is a small white square containing the text '.COM' in blue.

[www.TheEnergyShop.com](http://www.TheEnergyShop.com)

May 2016

## 1. Introduction

**TheEnergyShop.com** welcomes the opportunity to respond to the CMA's provisional decision on remedies to its energy market investigation. We set out below our thoughts on certain elements of the remedies.

## 2. Simpler Choices

We believe the removal of the simpler choices component of RMR rules will certainly be effective in increasing the range of tariffs available to consumers.

We believe that it could also be effective in increasing competition between PCWs but only if lower levels of commission charged by PCWs are reflected in lower tariffs and if energy suppliers make these offers available widely to PCWs rather than restricting distribution to the largest PCWs that already dominate and control the market.

If energy suppliers create bespoke discounted tariffs with PCWs but distribute these only through the existing 3 PCWs that already control over 85% of the market without any contingent and matching reductions in switching commissions then the only effect will be further concentration of market power for the dominant PCWs.

The CMA's analysis has shown that the energy PCW market is highly concentrated with a 3 form concentration ratio of 85%. We think it is important that the CMA closely monitor which distribution channels energy suppliers use to distribute products under the relaxed tariff rules to ensure that it does not lead to a further concentration of market power in the PCW market. Further concentration of market power would likely lead to commission and energy prices rising, which would have the exact opposite effect of what the CMA is trying to achieve.

The removal of the simpler choices component will allow for the creation of new and potentially innovative tariffs but we absolutely do not want to return to a situation where suppliers flooded the market with copycat products to crowd out competitors as well as offering confusing tariff structures designed to dis-engage consumers.

We welcome the CMA's comment (copied below) which implies that PCWs will have control over what tariffs they show on their sites and, in effect, be given policing power over energy suppliers attempts to game the removal of the simpler choices restriction. If that is an intention of the CMA, then it is critical that the CMA direct Ofgem to ensure that Ofgem's revised Confidence Code does not put any restrictions on PCWs that would prevent them from fulfilling this role.

**“it would allow PCWs to manage any attempts by suppliers to game to their advantage the removal of the simpler choices component of the RMR rules (in particular, the constraints on the number of tariffs a supplier can offer) by releasing many similar priced tariffs in order to crowd out competitors on PCW results pages.”**

### **3. Information Tools (TCR and especially the Personal Projection)**

The Personal Projection and TCRs should be abolished.

In February 2015 we published a research report which showed that the vast majority of energy PCWs inflated savings quotes by between £100 and £200 using the Personal Projection methodology introduced by Ofgem. Our analysis showed that this affected significant numbers of consumers and could lead to customers making bad switching decisions. We considered this to be both misleading and mis-selling.

We were not the only ones who considered it misleading. Our view was backed by certain energy suppliers (EDF Energy), by consumer groups (MoneySavingExpert.com) and by distinguished academics and previous regulators (Stephen Littlechild, Sir Callum McCarthy, Eileen Marshall CBE, Stephen Smith, Clare Spottiswoode CBE)

Our latest research published in March 2016 (copy attached) shows a more disturbing situation. In the scenarios studied in our latest research we found the following;

- In one scenario an actual saving of £197 was quoted, on average, as £536. This is £340 (173%) more than the customer will actually save.
- In the other scenario, an actual saving of £6.35 was quoted as £492. This is £486 (7646%) more than the customer will save.
- In one scenario all sites quoted a saving that was **greater than the customer’s current energy bill**. Clearly an implausible and absurd situation.
- Some sites showed savings that were over 8000% more than was achievable.

Any methodology that can lead to a customer being quoted a saving that is greater than their bill is clearly ridiculous and needs to be urgently addressed. It is not just flawed and dangerous. It will undermine consumer confidence which runs counter to what many of the CMA proposals are trying to deliver.

The TCR is an interesting academic exercise, but has serious limitations in its practical implementation. It applies to only a limited sub-set of tariffs, is confusing for consumers, drives up the cost of selling energy contracts and so impacts adversely on consumer bills. It is redundant in an era of smart metering tariffs and so should be abolished now rather than more time and money wasted on refining a concept that will fail anyway.

We have grave concerns that recommending Ofgem make **“methodological amendments”** to its information tools may be seen as a green light for Ofgem to plough on with them despite their failings and the damage they are doing to consumers.

It is clear from the CMAs report that these “information tools” were never properly tested (if at all).

**“6.11 However, our concern with these provisions is that they were not subject to adequate testing prior to (or after) their introduction.”**

Therefore, before any action is taken to continue with these wasteful and harmful tools it is critical that they are thoroughly and independently tested.

Furthermore, we do not believe that Ofgem is sufficiently removed of these concepts, that it itself created, as to be able to make a truly independent, impartial and objective assessment about their future. If testing is required, we believe that this is best conducted by the CMA although we would have no objection if these tools were suspended during the testing phase and indeed that would be our suggestion.

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

We note the CMA's comments that certain Ofgem decisions appear to be inconsistent with evidence and analysis;

***"2.11 As noted in paragraphs 5.62 and 5.63 of our provisional findings report, we have found it difficult to reconcile Ofgem's decision with the evidence and analysis it commissioned and summarised in its impact assessment"***

We believe that Ofgem is so deeply wedded to these flawed tools that any testing would not be truly objective and independent and any conclusions could not be unbiased. Consequently we strongly believe that the CMA is best placed to test and evaluate (and hopefully abolish) these tools.

#### **4. Removal of "Whole of Market" (WOM)**

We are pleased that the CMA is proposing that Ofgem remove the WOM obligation from the Confidence Code. This requirement has created significant perverse incentives that have allowed poorly funded and inefficient energy suppliers to grow by taking advantage of free promotion and implicit endorsement from Ofgem accredited PCWs. Removing this requirement will allow PCWs to invest in promoting the benefits of switching to consumers in the knowledge that their promotional expenditure is not undermined by energy suppliers sucking that spend out of the system for their personal gain. But as importantly, it will allow PCWs to vet energy suppliers more carefully on factors such as time to switch, switch completion, tariff data quality and accuracy, customer service etc. bringing an additional level of valuable information for consumers that is not currently available. This will help to speed up quality and efficiency in this industry - something which is badly needed if initiatives such as MiData and next day switching are ever to become viable propositions.

We appreciate that many of the smaller suppliers, who already have a significant cost advantage over the Big 6 by virtue of not having to participate in social and environmental schemes, will claim that this is unfair to them. Nothing could be further from the truth. Commission based arrangements allow energy suppliers, large and small, to pay for customers with no upfront expenditure and on a success only basis with payment usually being made well after the first direct debits are taken from the acquired customer's bank account. In one possible scenario there might be one flat commission rate for all energy suppliers and all PCWs. This would mean each party has a financially level playing field in terms of the costs of consumer acquisition. We do however appreciate that this may cut across Competition legislation.

## 5. Ofgem PCW

We are disappointed that the CMA has decided did not progress with the Ofgem PCW. The reason given was;

***“6.106(b) An Ofgem price comparison service for domestic customers, in the light of Citizens Advice’s decision to launch a non-transactional PCW listing all tariffs on the domestic retail energy markets.”***

We are aware of the Citizen’s Advice (CA) service and wish them well with it. However, there are many reasons why it will fail to deliver on the core objectives behind the initial proposed remedy.

The CA service is nothing more than a re-badged service from a third party PCW. CA has no direct involvement in the collection and processing of tariff data and has no way of knowing whether the information is complete or accurate.

CA has no formal powers to obtain pricing information from energy suppliers (nor indeed does the PCW providing the CA service). Ultimately the best this service can do is to hope that energy suppliers will co-operate in providing it with all tariff data. This is hardly a robust model for a backstop to whole of market comparison.

The CA service is not accredited to the Confidence Code, nor is it independently audited. It seems somewhat ironic that a backstop services to accredited and audited PCWs is not itself in any way monitored or audited.

The CA service does not cover the SME market and does not help address any of the issues high-lighted in that market.

Finally, there is no guarantee that the CA will continue providing this service.

In contrast an Ofgem PCW, would only not fulfil the core objectives of the initial CMA proposal, but also have additional benefits.

### Core objectives

- To improve trust in PCWs, and thereby, to encourage greater use by customers.
- To address adverse features of the SME gas and electricity markets, namely actual and perceived barriers to microbusiness customers from accessing and assessing information as a result of a general lack of transparency, the role of TPIs, and the very limited number of PCWs for microbusinesses.
- To provide a backstop to whole-of market coverage.

Additional benefits

- Better regulatory oversight and market intelligence by Ofgem
- Addressing tariff data quality and consistency issues (including a move towards electronic tariff data transfer)
- Encouraging PCWs to sign up to the Confidence Code
- Providing a facilitating mechanism for creation of a centralised switching platform.

We hope that the CMA will reconsider this proposal.

## 6. Marketing Database

We believe that the CMA should consider opening up the Marketing database of customers on default tariffs to PCWs as well as energy suppliers. We believe that consumers are far more likely to respond favourably to communications from accredited services that can offer a broad range of quotes within a comparison environment, rather than being bombarded by multiple conflicting offers from a dozens of energy suppliers.

## 7. Customer Comments (about Personal Projections)

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***“Congratulations on being the only comparison site I have found so far to tell me the true like for like savings/price. You have renewed my faith in honesty being the best practice. Thank you!”***

Keith

***“.....commercial interest is clearly driving these businesses to mislead people and it is disappointing that a public body is supporting them. I wonder how they can explain supporting websites that can suggest there is a saving to be made when in fact there may none? That's like a policeman lending a ladder to a burglar.”***

Keith

.....  
***“I really like your excellent webpage design and display.***

***You seem to be the only comparison site which presents the results in an honest, direct comparison of tariffs. The others fraudulently display them in "weighted" form (making the assumption that one will allow oneself to be switched to Standard Variable tariff when***

***one's current fix expires) in order to delude the unwary (most people) into believing that they will make greater savings by switching immediately."***

Douglas

.....  
***"wow. What a brilliant website.***

***With my current EDF Blue+Price promise March 2016 coming to an end I looked at various comparison websites but I still did not fully understand annualized vs personal projection even though I have an MSc and ran major multinationals.***

***I then came across Mail on Sundays Personal Finance page "don't be fooled by bogus claims" article by TheEnergyShop. You have fully explained and I can now see the real savings in your website.***

***I have decided to remain with EDF's new tariff for the next 12 months due to its 4 star rating and no exit penalty charge as compared to higher savings wirth £60 penalty charge by others.***

***I will recommend your derfinitive website to our family and friends.***

***Regards"***

Ross

.....  
***"I refer to your comment in the The Times following Mark Atherton's article on the illusory and misleading savings that can be made using Ofgem's guidelines for comparison sites. I am the Times reader from Scotland who contacted Mark to draw his attention to this issue. There have been many articles on comparison sites especially about the commission they make but I had never read any articles about these so called projections. I must admit I had not heard of your site, however I have now bookmarked it and I shall use it in the future. Keep up the good work. The House of Commons select committee on Energy is looking into comparison websites so perhaps you may wish to consider approaching your MP and get him/her to investigate the ludicrous guidelines set up by OFGEM, a government quango.***

***Regards"***

Arnold

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## About TheEnergyShop.com

TheEnergyShop.com is an award winning energy price comparison and switching website. Since launching our new website in June 2012 we have won a number of prestigious awards some of which are listed below.



We have invested heavily in creating a website and user experience that is quick and extremely simple for users to understand. We are probably the only website that does anything truly innovative in the energy PCW sector. Key features of our product offering include;

- 1 page data capture to results screen - no personal information required to get a quote
- Only 5 keys data inputs to get an all of market quote
- Whole of market results in a single screen - patent pending technology driving a unique graphical representation of the whole market.
- Filtering on 16 variables

All of which means customers get energy quotes and savings quicker than any other comparison site.

However, as a specialist service offering just domestic energy comparison and switching services, we are particularly exposed and vulnerable to regulatory interventions such as Ofgem's WOM obligations and the predatory / parasitic actions of energy suppliers that it encourages. It has had a massive adverse impact on conversions and has undermined our ability to continue investing in innovative products for consumers.

