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Dear Tim,

**ERA response to the consultation document: A Review of the Voluntary Code of Practice for Domestic Gas and Electricity Price Comparison Services (Code of Confidence).**

The Energy Retail Association (ERA) is pleased to offer a response to the consultation document on the Code of Confidence. We welcome the decision to review the effectiveness of the code. In order to ensure a relevant response we have only commented selectively on the requirement of the code. However, we would be pleased to offer a more detailed assessment based on our knowledge of managing industry codes of practice, if required.

The ERA, formed in 2003, represents domestic electricity and gas suppliers in the domestic market in Great Britain. All the main energy suppliers, operating in the residential market, in Great Britain are members of the association - British Gas, EDF Energy, npower, E.ON, Scottish Power, and Scottish and Southern Energy.

In responding to the consultation we have highlighted areas where the code could be strengthened. However, as with any voluntary code it is important that strict compliance regimes are not cost prohibitive and so put off new signatories to the code. Therefore, the challenge is to achieve a balance between appropriately robust standards and auditing processes without making it impossible for new signatories to comply. Any changes to the code must be achievable, reasonable and targeted at the problem with minimal side effects to the wider industry.

**Requirement Two**

The ERA has inherent concerns about the provision of historic tariffs. By the nature of the tariffs it is not possible to make a fair historical comparison. Suppliers may change their tariff offers for a number of reasons related to their competitive strategies. For example, to a consumer there is no difference in a supplier who changes a tariff price frequently over a set period to a supplier who makes infrequent changes but the changes are dramatic. Historically the supplier who makes the most changes would appear to be the better choice, even if the total changes to the tariff amount to the same as one infrequent change. It should be made clear that providers are only displaying current tariffs and that customers should compare p/kWh and discounts shown with those currently charged.

Suppliers operate in a competitive energy market in which external factors affect their marketing strategies. With a greater reliance on imported energy from the continent energy companies face greater pressures on wholesale prices. These pressures will vary year to year and historical records will not offer any accurate insight to consumers.

There is no evidence to suggest that the provision of historical information can be presented accurately enough to be beneficial to consumers.

With regard to the recommendations for green tariffs, we do not consider that energywatch should be drawing conclusions until the full consultation is completed. The Guidelines for Green Supply and an accreditation scheme will be published imminently and any recommendations would benefit from considering the policy decisions that are made in Ofgem's report.

### **Requirement 3**

The requirement only relates to websites and does not include any broker telesales activities carried out by service providers. We therefore believe that these guidelines should also cover off telesales activities by brokers.

### **Requirement Five**

We have no comment to make about the provision of filters or the number of results listed. However, we would like to know if there is a minimum number of suppliers that switching sites must compare before making a recommendation. In the energy retail sector there are six main domestic energy suppliers accounting for around 99% of the market and a small number of niche suppliers accounting for the remainder of the residential customer base, such as green energy suppliers. In order to give consumers a fair choice of energy options we feel that it is important to reassure consumers that a recommendation is based on an extensive comparison of products from the majority of suppliers. For example, a service provider offering details of five small suppliers that made up around 1% of the market would not give a consumer a wide enough choice on which to make a decision. We suggest that all comparisons should offer a minimum of products based on 90% of the market share. This should provide a selling point for comparison sites and a reassurance for consumers that they can make a meaningful comparison. Not to do this would contradict Requirement One.

Currently the VAT methodology used by providers is different to the one used by suppliers on customer bills. We believe that although the difference between the two methodologies will be small, that some customers may be confused by the difference in calculations. To ensure consistency and clarity providers should calculate VAT in line with supplier's bills.

### **Requirement Six**

Previous experience has shown that rating service standards is a subjective exercise unless proper auditing controls are in place. The methodology for determining suppliers' service ratings must be consistent.

We also have reservations about the suitability of price comparison services to offer advice on energy efficiency. Other energy efficiency advisers, such as the Energy

Saving Trust are required to use qualified advice providers. This should be the case for price comparison sites if they are required to provide details about energy efficiency.

The energy retail sector has a successful record of self-regulation as evidenced by improvements in sales, transfers, billing, disconnection etc. We strongly believe that robust audit procedures are essential for effective self-regulation. It is not possible to advise on the effectiveness of current auditing procedures for the Code of Confidence because the consultation paper does not give details.

The ERA has shared with energywatch the results of audits on the EnergySure Code and the Code of Practice for Accurate Billing. The industry audits are conducted by established independent auditors, KPMG and Deloitte. The audit procedures are rigorous and detailed, which result in recommendations for further improvement to internal systems. We would welcome more detail on the audit that is applied to the Code of Confidence and we would be pleased to share our expertise in strengthening audit procedures for the future.

### **Requirement Seven**

In our view consumers should receive entirely accurate information about tariffs on a day to day basis. Energy suppliers have a statutory obligation to notify their customers of tariff changes. Therefore, service providers should be able to implement changes immediately. It cannot be acceptable for service providers to operate for up to 2 days with out of date information that according to the consultation paper is misleading.

We propose that any changes should be timed to take effect at the exact time the tariff change is implemented or as soon as suppliers notify them. We do not support the proposal that service providers must take “all reasonable endeavours” because this is not specific and open to interpretation.

We also note that new tariffs should not be included on a service provider’s website that has a lead time of six weeks or more. Clarification is required as to whether this relates to new or existing customers for a supplier.

On a related matter we are concerned that as part of the calculation assumptions, energywatch is potentially giving itself powers to judge the eligibility of new types of discount propositions coming onto the market. As a courtesy suppliers may inform energywatch and, possibly Ofgem, but it is ultimately for consumers to judge new propositions by exercising choice.

### **Requirement Eight**

See Requirement Six for the ERA position on self-regulation. The over-riding consideration must be transparency throughout the process.

A key feature of the industry voluntary codes of practice is enforcement. The Code of Confidence does not currently provide any visibility to the audit process or how it is enforced. For example, how many breaches of the code have been identified and what action has been taken by energywatch. Industry have strictly enforced standards and energy suppliers must give evidence of compliance based on a series of controls.

Energywatch is to be congratulated on the success of the code to date. The drop in complaints about switching sites is a positive result. We would welcome further details about whether the complaints apply to all service providers and how many are currently operating without the code accreditation.

We advise that energywatch should consider a more transparent approach by publishing details of how service providers are performing. In particular, that there should be reports on its investigations that are presented on a regular basis in a standard format, rather than by random press releases. The report should give details of the number of breaches and what recommendations have been made and how the service provider has responded in order to achieve compliance. The report should be accompanied by a statement from the auditors confirming that the audit has been conducted independently and according to best practice. Energywatch may also consider requiring service providers to publish complaints statistics for complaints received, so that consumers can make judgments about the effectiveness of each switching site.

### **Additional issues**

We would welcome more detail about the proposals for handling consumer complaints and enquiries. Energy suppliers are required to conform to prescribed complaint handling procedures and there is no reason that consumers should not expect the same standard of service from price comparison service providers.

We would also be grateful to receive more details about the proposed research into the effectiveness of the Code and consumer confidence in using price comparison services. In particular, we would like to understand the scope of the research and how the results will be used to make improvements to the service.

Finally, it would be helpful to understand any plans for the future of price comparison services. Management of the code may be a function of the new National Consumer Council. It may also be necessary in the future to assess the need for regulatory controls. For example, services that provide information to consumers that ultimately affect financial decisions may require regulation under the Financial Services Act. This would ensure that post-energywatch the principles of fairness and transparency that are essential for a well-functioning market will continue to be upheld.

Yours sincerely

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Director of Corporate Affairs