TheEnergyShop.com

Mr Darren Jones MP
Chair, Business, Energy and Industrial Strategy Committee
House of Commons
London, SW1A OAA

5 July 2022

Dear Mr Jones,

Thank you for your letter of 26 May 2022. Please find below our response to the queries you have raised.

We have structured our response in the following way.

Starting with a brief introduction, we then present our Executive Summary. This is followed by initial thoughts primarily because we have concerns that some of the statements made in your letter are not accurate. We then discuss auto-switching specifically, with a case study before addressing the specific questions asked. In the Appendices we include examples of actions and decisions by Ofgem which no rational, independent, impartial organisation, acting honestly, could ever have made. This is followed by a press release from 2014, being just one example where we raised our concerns about the behaviour of non-regulated participants in the energy industry.

In this document we use the abbreviations TPI to refer to Third Party Intermediary and PCW to refer to Price Comparison Website.

1. Introduction

TheEnergyShop.com is an independent, impartial, Ofgem accredited energy price comparison and switching service. The service launched in 2003. Over the past 20 years, we have helped hundreds of thousands of consumers find great deals on their gas and electricity services.

Over the years, we have won many awards for product innovation and customer service. These include eCommerce Awards Finalist, thegoodwebguide category winner and Best Comparison site in the Personal Finance Awards, TheEnergyShop.com was the first service to be accredited to the energywatch Confidence Code (now the Ofgem Confidence Code).

From March 2014, through to July 2017, Ofgem introduced a requirement that forced accredited PCWs to "inflate" the savings that they quoted to consumers who were looking to switch. Ofgem was basically telling PCWs to mislead consumers about the savings they could make from switching by exaggerating the savings that we quoted. Our view was that this was dishonest, unethical and probably illegal. We are focussed exclusively on the interests of our customers. TheEnergyShop.com was, and still is, the **ONLY** price comparison service to have actively resisted and campaigned against this requirement until it was eventually abolished in July 2017.

2. Executive Summary

2.1 Auto-switching services lack transparency and regulation. Because of this they pose a significant risk of consumer harm. Despite this Ofgem has resisted regulating them. The activities of auto-switching sites should therefore be suspended pending their inclusion into a wider regulatory framework such as the Confidence Code.

2.2 The same should apply to non-accredited PCWs such as Citizens Advice and MoneySavingExpert. While they pose less risk due to transparency, nevertheless it is unacceptable that these sites masquerade as consumer champions and openly criticise other companies, while simultaneously opting out from the regulatory requirements of the Code.

2.3 Sole responsibility for the "race to the bottom" rests with Ofgem. It was Ofgem's decision to allow literally anyone to enter the energy supply market. Ofgem then forced accredited PCWs to promote the products and services of unsustainable energy suppliers for free while simultaneously preventing accredited PCWs from vetting or imposing any quality standards on those suppliers. Finally, it was Ofgem that allowed the directors of failing companies to dump responsibility for customer deposits onto the next supplier in the chain who then passed the costs onto energy consumers via the SOLR process.

2.4 Commission arrangements between energy suppliers and TPIs are a red herring. Commission arrangements made no difference as to whether energy suppliers collapsed or not. Indeed, some of the most irresponsible supplier behaviour and significant collapses came from energy suppliers who never paid commissions to TPIs or PCWs. Furthermore, for those suppliers that paid commissions, re-couping those commissions would make a negligible difference to consumer bills. In fact, it could be argued that commission payments acted as a moderating factor to reckless behaviour, ensuring energy suppliers needed to act more responsibly to cover their acquisition costs and ensure adequate follow through of customer service to ensure they achieved a return on their commission payments.

2.5 Ofgem’s conduct as a regulator needs to be thoroughly investigated; it’s people, its processes and its decisions. It is difficult to square Ofgem’s dogged determination to avoid the regulation of certain TPI’s, particularly auto-switching sites, with the growing evidence of consumer harm that has been building over many years now. In our submission we list examples of actions and decisions by Ofgem which no independent organisation, acting honestly and ethically could ever have possibly made. This points to something deeply concerning and troubling at the very heart of the organisation. In the midst of an energy crisis, consumers have a fundamental right to know that organisations charged with looking after their interests are fulfilling their roles honestly, independently and impartially. The evidence in Ofgem’s case points to something very, very far from that standard.

3. Opening Thoughts

Before responding to the individual questions, we believe it would be helpful to set a context to some of the answers. Some of the comments in your letter of 26 May 2022 are partially or materially inaccurate and it may be useful to correct these before proceeding.

Third party intermediaries remain unregulated. True or False?

In your letter you write…

”Third part intermediaries remain unregulated,….this is unacceptable.”

That is not strictly correct.

Here a distinction needs to be made between Price Comparison Websites (PCWs) accredited to the Ofgem Confidence Code (which are highly regulated) and everyone else. TheEnergyShop.com is an Ofgem accredited PCW.

PCWs signed up to the Ofgem Confidence Code are micro-managed by a draconian regulatory rule book setting out detailed rules on everything from impartiality, independence, tariff results, calculations, tariff coverage through to which filters we are allowed to have on our websites. For many years, the Code went as far as to mandate that accredited PCWs had to show all tariff results by default, irrespective of commercial arrangements and irrespective of the quality of the product to be shown. This is the equivalent of telling Google that they have to provide advertising for free to whoever wants it and that Google are NOT allowed to impose any quality standards either on the advert or the advertiser. Or Twitter providing advertising for free and not being able to impose any quality standards on the advertising on its platform. Clearly this is an insane proposition.

Ofgem's approach to regulation of PCWs has been directly at odds with sanity and logic. Online PCWs are fully transparent. Any customer, bot or regulator can, at any time visit, scrape, store and audit the results of an online PCW. Any potential consumer harm can be spotted in real-time and promptly dealt with.

In contrast, there are other players in the energy switching market where there is little if any transparency and therefore significant scope for consumer harm. This includes telesales, collective switching and auto-switching.

Bad practise normally lurks in the dark shadows. Logic would therefore dictate that the less transparency there is and the greater the scope for consumer harm, the greater the need for regulatory over-sight. Not so for Ofgem. While Ofgem have often brutalised the accredited PCWs, it has actively resisted repeated calls over the years to create a level playing field and bring the potentially much "dodgier" areas of the market under regulatory control. This resistance to act has had the effect of Ofgem protecting the commercial interests of those organisations that have the greatest scope to create consumer harm. It beggars belief.

One final distinction needs to be made about online PCWs. They fall into 2 categories. Those that are accredited and subject to detailed and tough regulatory over-sight, and those which are not, and can therefore operate however they see fit.

Generally, any self-respecting consumer organisation that has confidence in its product and service offering, would put itself forward to be regulated under the Ofgem Confidence Code. We therefore find it surprising that 2 organisations who like to spend much of their time criticising others (Citizen's Advice and MoneySavingExpert), are not signed up to the Code.

Specific points raised in your letter

Paragraph 1

"the role of third-party intermediaries, including auto-switchers, in the collapse of the retail market by notably fuelling a race to the bottom on price."

The retail market collapsed because the energy price cap prevented energy retailers from passing on wholesale energy costs that had increased by many multiples of 100% over a short period of time. In an environment like that, it would not have mattered one jot whether TPIs even existed or not; the result would have been the same. The only parties who could have done anything about the collapse of 27 energy suppliers were Ofgem (who, at that time, already have some flexibility to make interim changes to the energy price cap) and The Rt Hon Kwasi Kwarteng MP, Secretary of State for Business, Energy and Industrial Strategy.

Kwasi Kwarteng's decision not to adjust the October 2021 energy price cap was, in our view, a colossal mistake. That cap provided only short-term relief to consumers, who were going to take a big hit on their energy bills one way or the other. It wasn't necessary to destroy all 27 energy suppliers as part of that inevitable process. But that is the decision that was taken and consumers, through supplier failures and SOLR payments, are now worse off for it.

Paragraph 3/1

This** (commission arrangements) **enabled reckless suppliers to grow their customer bases rapidly whilst undercutting responsible suppliers on price.

Reckless energy suppliers did not need commission arrangements with TPIs to drive reckless behaviour. Indeed, many reckless energy suppliers did not engage with or pay commission to accredited TPIs. Some of the biggest energy supplier blow-ups (GB Energy Supply, Iresa, Avro Energy) resulted from irresponsible suppliers who never paid a single cent in commission to PCWs).

Why? Because they didn't need to. Ofgem forced the accredited PCWs to provide free promotion to reckless energy suppliers and there wasn't anything we were allowed to do about it. Irrespective of whether an energy supplier was reckless or not, funded or not, well-managed or not, accredited PCWs were required to list and promote the products of those suppliers and were not allowed to impose any quality standards. The accredited PCWs repeatedly raised concerns about the sustainability of certain suppliers with Ofgem. Those concerns were not just dismissed, Ofgem continued to force through the mandate that reckless energy suppliers had to be promoted for free.

Your comment on commissions therefore does not stand up to scrutiny. Indeed, those energy suppliers that didn't pay commission tended to have the cost advantage (courtesy of Ofgem rules) and, if anything, acted in a more reckless manner. Commission, in fact, would have acted as a moderating factor, ensuring energy suppliers needed to act more responsibly to cover their acquisition costs and ensure adequate follow through of customer service to ensure they achieved a return on their commission payments.

Paragraph 3/2

"We have also heard concerns that third-party intermediaries only offered a handful of tariffs, took little account of individual consumers' needs, and a supplier's customer service."

Again, distinction needs to be made between highly regulated accredited PCWs, such as TheEnergyShop.com, and everyone else. Our site is required to show all tariffs in the market. Unregulated TPIs, such as auto-switching sites and telesales operators, can do whatever they please.

We have maintained a customer service ranking for energy suppliers for many years. Indeed, where we had particular concerns about specific suppliers, for example those taking customers' money too quickly, we made efforts to highlight this on our site in order to warn consumers. However, in certain cases, Ofgem, however, forced us to remove these quality standards.

4. About Auto-switching Services

We do not operate an auto-switching service and never have done so. However, we are familiar with the auto-switching business model and we have had feedback from certain energy suppliers about the questionable ethics of how some of these auto-switching services operate.

The key issues with the auto-switching model is as follows.

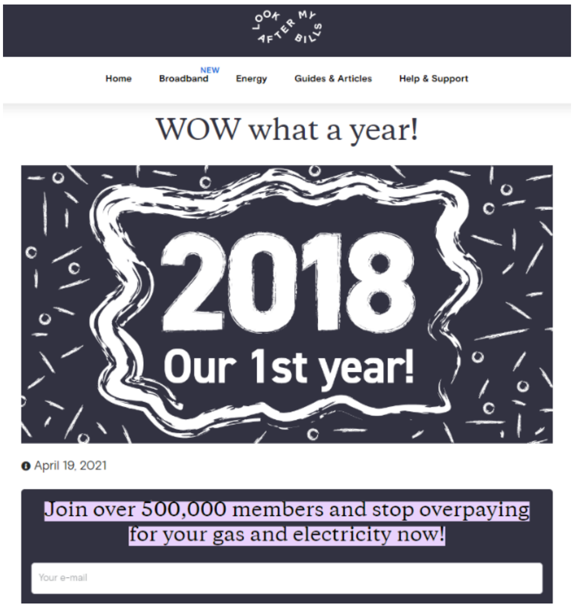
- There is no transparency in how the services operate. This lack of transparency should be of greatest concern to regulators as it presents the largest opportunity for consumer detriment.

- Many energy suppliers specifically exclude their cheapest tariffs from being switchable on auto-switching sites. This means that auto-switching sites cannot possibly offer the service (switching to the cheapest energy deal) that they claim they can. Their marketing claims must therefore be false.

- They are wholly unregulated.

Yet despite the lack of transparency, the scope for consumer harm, and the irreconcilable conflict between what auto-switching sites claim to deliver and what they can actually deliver Ofgem has shown as distinct resistance to bringing any regulatory oversight over their operations. We would go further. It appears to us that Ofgem may actually be protecting the auto-switching operators from regulatory oversight.

Case Study - Look After My Bills / The Big Deal



Based on their own claims, we understand the largest auto-switching to be Look After My Bills which claims to have over 500,000 members.

Due to lack of transparency in the way they operate, we do not have any deep insight into their operations – that is clouded in secrecy.

Look After My Bills was founded by Henry de Zoete and Will Hodson. Prior to founding Look After My Bills, the pair founded the (also unregulated) energy collective switching site The Big Deal (TBD). We tracked the performance of one of the TBD's collective switches and reported on it at the time via a press release. We shared our findings with Ofgem.

That press release is copied in its entirety in Appendix B. We would urge the Committee to give it due attention. What we discovered was troubling. During the collective switch, TBD used a super aggressive email marketing campaign to convince consumers to switch energy supplier. They sent out a total of 23 individual emails to each customer including 13 promoting the actual offer itself.

The area of greatest concern was that TBD exaggerated the claimed savings from the collective switch **by more than 100%.** They claimed a saving of £291 when the real like for like savings was only in the region of £131-£143.

But equally troubling, were the following omissions. They did not tell consumers, not once in 13 emails, that

- The cheapest deal at the time was £62 a year cheaper than their offer.

- There were at least 6 cheaper deals available at the time that were cheaper than their offer and
- Even Green Star Energy, the winning supplier that paid them TBD a commission, had a 1-year fixed deal that was £45 a year cheaper than the offer they were aggressively pushing onto consumers.

This is how the founders of TBD ran their business. These are the very same people who then founded and ran Look After My Bills.

We also believe the following also needs to be investigated.

Prior to founding TBD, Henry de Zoete, was a special adviser to Michael Gove in the coalition government. At that time, the Rt Hon (now Sir) Edward Davey was Secretary of State for Energy & Climate Change in the coalition government. Sir Ed Davey participated in and endorsed this particular collective switch. We would question whether it is appropriate for Secretaries of State to openly promote the activities of commercial businesses, particularly unregulated ones. Was there a personal connection between Henry de Zoete and (Sir) Ed Davey? Did that personal connection lead to (Sir) Ed Davey improperly promoting the commercial interests of an unregulated business?

5. Response to questions

5.1. How many customers have used your services in the past five years and what has been your analysis of how your services are used?

Please see separate document

5. 2. How much revenue did your organisation make from auto-switching for each of the last five financial years? Please itemise this against each supplier that used your service.

TheEnergyShop.com is not involved in auto-switching services and never has been. As a result, we have generated no revenue from auto-switching in any year or from any energy supplier.

5. 3. In your view, what role did third-party intermediaries, particularly auto-switchers, play in fuelling a race to the bottom?

The responsibility for race to the bottom rests solely with Ofgem.

Energy supply is a highly cash generative business.

In oral evidence, Hayden Wood, CEO of Bulb told the Committee "We were not using customer credit balances to finance growth." That statement, however, is not born out by the facts.

An analysis by energyscanner.com https://www.energyscanner.com/bulb-energy-review/ showed that, in the 4 years to end March 2020, Bulb had an operating deficit of £222m. Yet, despite being hugely unprofitable, Bulb able to fund £4m in investments and build up a cash pile of £105m. How is it possible that a loss-making business can simultaneously build up a huge cash pile? Where did the funding for the £331m deficit come from?

20% (£66m) came from equity and 17% (£55m) from debt (net of redemptions). But the biggest source of funding was working capital which provided 63% (£210m) of funding. Basically, customer deposits were pre-funding Bulb's operating deficit and growth.

And Bulb was one of the energy suppliers that actually bothered to go out and raise external debt and equity finance to give it a balance sheet buffer. Many other suppliers could buy an off the shelf energy supply company, with £100 or less of starting equity capital, and hey presto, they were in business.

The committee has already heard oral evidence from Avro Energy who entered the energy market without there being any evidence whatsoever that Ofgem had conducted any checks on the suitability of the directors to be in the energy supply business.

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Jake Brown: I do not believe I have ever done a fit and proper test with Ofgem.

Chair: You didn't?

Jake Brown: I don't believe so—unless Ofgem did a background thing on me. I don't remember ever filling anything in specifically.

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With energy supply being a hugely cashflow positive business, and Ofgem deciding that they were happy for anyone, literally anyone, to have a crack at the market, then it should not be a huge surprise that the market attracted the attention of many unsavoury characters with a “get rich quick mentality”.

But Ofgem didn’t just stop there.

Ofgem then forced the accredited sites to advertise the services of these companies for free.

Ofgem further prevented us from putting in place filters that might alert customers to dodgy business models and over aggressive cash collections.

And finally, Ofgem decided it would be a good idea to allow directors of failing companies off the hook by mutualising the losses of customer deposits. This gave the final green light for some energy suppliers to plunder customer bank accounts knowing full well there was no recourse on them once they had siphoned the money off.

Company law prevents loss making companies from paying out dividends

However, knowing that they could pull in hordes of customer cash, siphon that cash off via service companies, then dump the customer liabilities onto the next guy, who in turn would then offload those costs onto energy consumers generally via the SOLR process, meant that it was a money-printing merry go-around for unscrupulous energy suppliers.
Reckless energy suppliers didn’t need PCWs or TPIs in any race to the bottom. They had a friendly regulator who held open the door to the customer’s bank account and egged then on while they plundered the proverbial customer bank vaults. And this is a regulator whose fundamental role is to protect the interests of energy consumers. God help us.

The minutes of many meetings over the years between Ofgem and accredited PCWs will show that accredited PCWs raised concerned about the sustainability of many energy suppliers going back to before the failure of GB Energy Supply in 2016.

But not only did Ofgem do nothing about it, instead Ofgem actively intervened to prevent us putting checks in place that would have alerted customers to these behaviours.

5. 4. Can you explain whether your business model is focused on chasing commission from suppliers or on consumers' needs and finding the best outcomes for the customers using your services?

TheEnergyShop.com has always followed a strictly customer centric approach to our business.

As an accredited online PCW our search results are strictly presented in price order only. Commission arrangements play absolutely no part in our ranking algorithm. Indeed, commissions do not even feature anywhere in the code base of the site.

Further than this, as mentioned in the introduction, and explained in detail in Appendix A Example 4, we are the only PCW to have stuck consistently to honest like-for-like comparisons. We refused to exaggerate savings as mandated by Ofgem between March 2014 and July 2017.

Standing up to our principals of honesty and integrity put us at a significant competitive disadvantage to all other comparison services. For any given energy tariff, our true cash saving calculation and comparison would always have shown a lower saving than shown on other comparison sites based on identical search criteria. This meant that we lost lots of customers to our competitors because customers thought they could save more by switching elsewhere (even though the actual savings were identical irrespective of where they switched).

Should the commission that third-party intermediaries charge suppliers be regulated, and if so, how?

We do not have particularly strong views on this.

As one of the smaller PCWs, regulated commission payments would probably work in our favour. For example, we are aware that the larger PCWs like uSwitch, Moneysupermarket and Moneysavingexpert command far higher commissions payments than we do. Having said that, is it good use of government's and regulator's time and resources to get involved in commercial discussions between companies. Further to this, we would have great reluctance to see basic operational details handed over to Ofgem. Given their track record, they would almost certainly find some way of botching it up.

5. 5. Should money made from switching commissions be recouped from auto-switchers to mitigate some of the cost exposure to consumers from supplier failures?

The extent to which consumers are exposed to supplier failures because of commission payments is trivial, bordering on negligible. Using Bulb Energy as an example again.

The Office of Budget responsibility reported that the "bail out" of Bulb is going to cost taxpayers or energy consumers a staggering £2.2 bn.

In the year to 31 March 2020 Bulb spent £62 million on customer acquisitions and marketing at a simply staggering rate of £110 per net new customer added.

Please note that these costs were **not** commissions paid to PCWs. These rates are roughly twice what a PCW would charge for a new dual fuel customer account. Instead these were referral fees that Bulb paid to new and existing customers via their friends and family referral scheme.

But if we assume that Bulb paid out a commission on **every** sale to a TPI (which is didn't) at a market rate of £55 per dual fuel switch) it would have paid TPIs approximately £30m in commissions in 2020. Even if **ALL** of this commission got recouped following the failure of Bulb it would amount to a tiny single digit percentage of the losses incurred by the company (<1.4%). And that £30 million is a huge over-estimate. Industry data suggests that for every switch delivered to an energy supplier via a PCW, that same energy suppliers picks up another 2 switches for free courtesy of the customer finding the tariff on a PCW and then going direct to the company. A more realistic commission of £10m accounts for less than 0.5% of Bulb's overall losses.

As noted previously, many suppliers did not engage with or pay commissions to TPIs at all. That did not stop those suppliers acting recklessly and going bust. In those circumstances there would be no commission to recoup from PCWs. Some of those same energy supply companies did however pay large marketing and customer acquisition fees to service companies run by, and for the benefit of, the directors of the energy supply business. These are not unrelated arms-length transactions are therefore merit closer investigation. Here there would seem to be a legitimate case for chasing directors of failed companies and recouping excessive fees that might have directly led to the failure of the business.

It is also worth noting that, once a supplier fails, any unpaid commissions to PCWs are in any case already re-couped. Despite our best efforts to only deal with responsible and well-funded energy suppliers, we found ourselves in a position where 7 of our panel of energy suppliers failed because of the indiscriminate way in which the energy price cap destroyed much of the energy retail industry. We are carrying those unpaid bills as bad debts. They are very unlikely ever to be recovered, even in small part.

The alternative to re-couping commissions would be to move to a commission model where payments are made monthly over the lifetime of the customer. That way, the interest of the TPI and the energy supplier (in terms of continuity of supply to the customer) are aligned. While we have been open to these types of arrangements, we have found that energy suppliers have generally not been particularly interested. That is because we tend to deliver highly loyal customers with very low churn rates (unlike auto-switching sites with repeatedly churn and burn the customer base). This means that, with us, energy suppliers pick up loyal customers with a lifetime value of 6-7 years for one small one-off payment. For energy suppliers, using a PCW like TheEnergyShop.com, and paying a small one-time commission is a very cost-effective way of acquiring customers cheaply.

5.6 What regulations should be placed on third-party intermediaries to protect consumers?

As previously noted, Ofgem accredited PCWs are already subject to some of the most brutal and stringent regulations on the planet.

Ofgem's research has shown that…

"Across all sectors there is a high level of trust in TPIs such as PCWs, with 94% of consumers considering them to be reliable."

"PCWs in the energy sector tended to perform better than their counterparts in other industries across a range of criteria such as transparency and accuracy."

"...the Code currently provides best in class support for consumers undertaking price comparisons."

It should go without saying that all sales activities in the retail energy market should be subject to the exact same regulations. This includes the auto-switching sites as well as the self-proclaimed consumer champions like Citizen's Advice and MoneySavingExpert. What is absolutely essential, is that Ofgem can no longer be permitted to continue to make different rules for different market participants.

The fundamental question remains why Ofgem has chosen not to apply similar or identical regulations to the darker areas of the energy market which suffer from a complete lack of transparency and where the greatest scope for consumer detriment exists. Namely; Collective switching schemes, telesales activities of intermediaries and of course, particularly auto-switching services. Indeed, not only has Ofgem resisted repeated calls over **many, many years** to do anything at all about these shady areas, Ofgem seems to have gone out of its way to protect those services, and the companies offering them, from any form of regulatory over-sight. We have experienced first-hand a clear and discriminatory bias from Ofgem against accredited PCWs such as TheEnergyShop.com and a clear preferential bias in favour non-regulated entities.

It is difficult to square Ofgem's role in the regulation of TPI's with the growing evidence of consumer harm that has been building over many years now. There are many possible reasons for Ofgem's dogged refusal to regulate certain areas of the market. Negligence and incompetence might be possible answers. But crucially, corruption at the very heart of Ofgem would also be a plausible explanation that cannot be ruled out. On this matter, we list in Appendix A, four examples of actions and decisions made by Ofgem which no independent organisation, acting honestly and ethically could ever have possibly made. This points to something deeply concerning and troubling at the very heart of the Ofgem organisation.

The regulator is charged with protecting the interests of consumers yet, as our and other submissions to this Committee show, it is the actions of this very regulator that has resulted in the many problems that are now destroying hard working households via their energy bills.

Consumers need protection from bad businesses. Transparency and openness are one of the reasons why Ofgem accredited PCWs, such as TheEnergyShop.com, do so well in terms of consumer trust and consumer performance. This now needs to be extended to all TPIs. Indeed, the less transparent the service, such as auto-switching sites, the deeper the regulation should go.

However, in the context of the current energy crisis, the problems being experienced by consumers has been compounded by a catalogue of policy errors by the regulator Ofgem.

Who protects the consumer from the regulator?

We urge the committee to consider these matters seriously and investigate Ofgem thoroughly; it's people, its processes and its decisions. In the midst of an energy crisis, consumers have a fundamental right to know that organisations charged with looking after their interests are fulfilling their roles honestly, independently and impartially. The evidence in Ofgem's case points to something very, very far from that standard.

Yours sincerely,

J K Malinowski

Director

APPENDIX A

This Appendix contains just 4 examples of actions taken, or decisions made, by Ofgem which no organisation acting independently, impartially and honestly could possibly have made. Evidence is taken from Freedom of Information requests, from written exchanges with Ofgem and even from the Competition and Markets Authority.

EXAMPLE 1

Energy market investigation

Provisional decision on remedies
Competition and Markets Authority (CMA)

17 March 2016

In its review of the energy market, the Competition and Markets Authority (CMA) found evidence that Ofgem ignored its own evidence and analysis when making decisions.

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: Page 52

EXAMPLE 2

In January 2015, Ofgem decided to ban partial default views of the energy market by accredited PCWs based upon a single article in the Sun newspaper, planted by an unregulated commercial organisation accusing PCWs of hiding results. Freedom of Information requests uncovered the following.

Ofgem was aware that requiring PCWs to show whole of market ***"would mean suppliers would have limited incentives to offer any commission to sites, putting their business model at risk."***

Ofgem considered WOM to be an ***"excessive requirement"*** which ***"may lead to some choosing to withdraw from the Code"***

Ofgem research showed that….

"Across all sectors there is a high level of trust in TPIs such as PCWs, with 94% of consumers considering them to be reliable."

"PCWs in the energy sector tended to perform better than their counterparts in other industries across a range of criteria such as transparency and accuracy."

"...the Code currently provides best in class support for consumers undertaking price comparisons."

In respect of the criticism in the article itself, Ofgem found that…

"the monetary difference between a partial and whole of market view are small from a consumer perspective."

"In terms of consumer detriment, we found that in 85% of cases the difference was zero. Of the remaining 15%, in only one case was the difference greater than £1."

"this (monetary) detriment is < £1 in 97% of cases..."

"We do not have any evidence of significant consumer detriment caused by TPIs in the retail energy market."

The analysis went on to conclude and recommend to the Ofgem executive committee

"We do not think we should require PCWs to default to a whole-of-market comparison."

Despite the evidence and analysis, the executive committee of Ofgem went on to ignore their own findings and recommendations and imposed an excessive requirement nevertheless. A draconian and discriminatory measure which brutalised the accredited PCWs, yet blatantly promoted the business interests of a politically connected but unregulated rival commercial firm. To this day, more than 7 years on, the activities of those very same firms remain unregulated.

Incompetence, dishonesty or corruption at the very core of Ofgem?

EXAMPLE 3

In January 2017, Ofgem entered into a secret and private arrangement with one of the largest accredited energy PCWs (moneysupermarket - MSM). MSM was allowed to unilaterally amend its customer journey in a way that gave it a substantial commercial advantage over all other accredited PCWs in an entirely discriminatory manner. This serious matter was only uncovered by another PCW during routine competitor testing. Ofgem had shown no intention of making the arrangement known to other PCWs. Ofgem only reluctantly admitted to its involvement in the matter under threat of legal action and / or an injunction.

Incompetence, dishonesty or corruption at the very core of Ofgem?

EXAMPLE 4

FAKE SAVINGS

From 31 March 2014, Ofgem introduced a requirement that forced energy suppliers and accredited PCWs to “inflate” the savings that they quoted to consumers who were looking to switch.

An analysis by TheEnergyShop.com showed that this new requirement typically inflated savings by between £138 and £196 on a £1,000 energy bill. By way of example, a customer switching from a tariff costing £1,000, to another tariff costing £1,000 would expect to save exactly £zero. However, using Ofgem’s mandated calculation approach, PCWs were expected to quote savings of between £138 to £196.

In one extreme case, TheEnergyShop.com research found price comparison websites quoting savings of £520 on a bill of only £438! That’s right. A saving that was 19% larger than the actual energy bill itself.

To be clear, this requirement was not just a suggestion by Ofgem. It was a mandate.

In our view not only was this clearly misleading, but it was plainly dishonest, unethical and probably illegal. Ofgem was essentially telling us to lie to our customers. We couldn’t do it. We were not prepared to lie to our customers. We never have and we never will.

Over the course of the following 2-3 years, we undertook several pieces of research and made numerous representations and suggestions to Ofgem on alternative approaches that would result in honest comparisons for consumers. Ofgem was having none of it. Instead they threatened to remove our accreditation. As our accreditation was tied to our commercial contracts with energy suppliers, this would have effectively shut down our business.

In the end, our honest approach was vindicated. Without admission of guilt, Ofgem withdrew this wholly ridiculous requirement from July 2017, but not before significant damage had been done to consumers. Notwithstanding the change, the majority of PCWs, including auto-switching services, still follow this approach when calculating savings, meaning consumers are still being misled.

22 October 2014
(3/14)

APPENDIX B
Energy Update
(embargoed until 00.00 22/10/2014)

Commissions, Transparency and Collective Switching

This week the controversial issue of commissions paid to price comparison websites raised its head yet again.

The Big Deal, a self-proclaimed rival of the Big 5 price comparisons websites claimed that the switching sites were "hiding" the best energy deals and that this was motivated by commission arrangements.

The story has received a surprisingly large amount of media coverage.

That's strange we thought. What is a collective switching operator like The Big Deal doing criticising comparison sites over commission and transparency?

Don't collective switching operators usually only show the one winning deal that also pays them a commission. Don't they therefore "hide" the other 95% of the market?

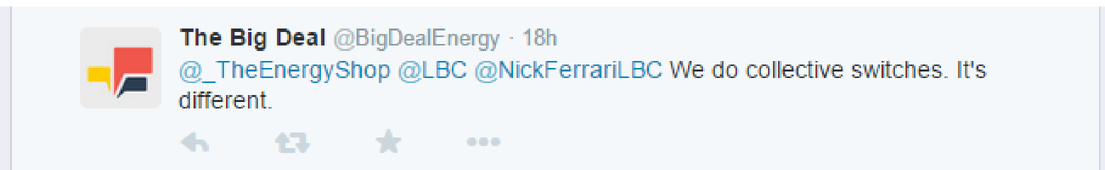
We needed to know more. We had to ask the question.

On Twitter we wrote.

"So how many energy deals does @BigDealEnergy show that it DOESN'T get paid commission for? Looks like none to me."

They replied.

"We do collective switches. It's different"



Ahhh...it's different. Of course it is. But how?

We decided to do our own research. We looked into detail of the first The Big Deal collective switch.

Track Record / Case Study

Between March 2014 and July 2014 The Big Deal ran a collective switch. Collective energy switching schemes have been around in the UK since June 2012. Despite many of these campaigns having been done on a much larger scale, The Big Deal modestly claims on their website that this was ***"the UK's first successful collective switch".***

Let's see if that's true.

According to their website over 10,000 people signed up to the campaign. Luckily we were one of those so we have a detailed record of what happened.

In total we received a total of 23 emails from The Big Deal including 13 during the switching window trying to convince us to switch because this was such a great deal. We are a price comparison website. We weren't so sure at the time – and we still aren't. So we've reviewed those emails again.

The winning deal was a 2 year fixed deal from a supplier called Green Star Energy. Green Star Energy has been kind enough to release details of the tariff so we can help people compare it.

For comparison purposes the name of the winning tariff on our website is **Fixed 24 months (1406).** The tariff comes in various flavours at different prices. The cheapest possible price is attained by paying by direct debit and opting for online billing. On that basis, the average usage customer would pay £1055 a year (based on industry comparison conventions).

The Claims

The Big Deal made the following 2 significant claims about the winning Green Star Energy tariff.

- **The LOWEST PRICE two year fixed deal in the UK.**
- **The deal will reduce the average bill by £291 per year.**

Let's take a closer look at these.

The Reality

CLAIM 1

The LOWEST PRICE two year fixed deal in the UK.

We can give them this one. It is worth noting that (a) there are only a handful of 2 year fixed deals in the market at any one time so the comparison universe is very narrow and (b) the difference between this deal and other 2 year fixes available was pretty marginal in any case (of the order of 1-2%).

CLAIM 2
The deal will reduce the average bill by £291 per year.

Table 1 below shows the national average bill for customers of the Big 6 on a Standard tariff paying by both Monthly Direct Debit and by Cash/Cheque.

Table 1 – Annual Bill at average consumption for Standard Tariffs

	Monthly Direct Debit (£)	Cash / Cheque (£)	Average (£)
British Gas	1193	1265	1229
E.ON	1170	1240	1205
EDF Energy	1164	1237	1200
Npower	1205	1299	1252
ScottishPower	1199	1284	1241
SSE	1186	1266	1226
Big 6 average	**1186**	**1265**	**1223**
Winning tariff	**1055**	**1122**	**1088**
Saving	**131**	**143**	**137**

Compared to the Standard tariffs of the Big 6 (and remember Standard tariffs are usually the most expensive tariffs), the saving by switching to the winning tariff on a comparable payment method basis would be between £131 and £143. Less than **half** the amount quoted by The Big Deal.

So where did the average saving figure of £291 come from?

The Big Deal used an average bill figure of £1,346 which they sourced from Ofgem's Supply Market Indicator report. However there are 2 fundamental problems with the number used.

1. It was a forecast bill on a year ahead basis and did not reflect what any customer was actually paying at the time and, more importantly...

2. It is based on a gas usage profile **10% higher** and an electricity usage profile **19% higher** than the usage figures on which The Big Deal quoted the price for winning tariff.

If that sounds a bit dodgy that's because it probably is. This is like saying "I can save you money on filling up your car with petrol" and then only filling the tank 85% full.

The quoted average saving of £291 a year was clearly incorrect, was clearly over-hyped and was clearly unachievable. We'll let you decide whether it was intentionally and overtly mis-leading.

The Big Deal even managed to convince the Secretary of State for Energy & Climate Change, The Rt Hon Edward Davey to take part in their switch. We wonder if he was duped by the over-hyped marketing messages?

What they didn't tell you...

Just as important, we think, is what The Big Deal didn't tell its customers. In none of the 13 emails sent out to promote the offer did they mention the fact there were cheaper deals available on those nasty price comparisons websites.

- The cheapest deal at the time, a fixed deal from first:utility, was £62 a year cheaper (6%)
- There were at least 6 cheaper deals available at the time and,...wait for this
- Even Green Star Energy, the winning supplier, had a 1 year fixed deal that was £45 a year cheaper (4%).

This raises a number of important questions about how these schemes operate...

- Who monitors and regulates the sales messages that they put out?
- Why were customers not told that there were at least 6 cheaper tariffs in the market at the time of the switch?
- Why were customers not told that there was a better deal from the same supplier at the time of the switch?
- Did the Rt Hon Edward Davey know that, at the time that he was implicitly endorsing this scheme, there were much cheaper deals available on price comparison websites.
- Should the Rt Hon Edward Davey be concerned that his implicit endorsement of this scheme has ended up with many customers over-paying on their energy bills by £60 a year.

Summary

So how is collective switching different?

For one, it is unregulated. That means that any outfit can set itself claiming to be the next consumer champion and operate how it sees fit.

Secondly, they generally show only the deal that wins (and on which they get paid commission).

Thirdly, their track record to date on getting good deals for consumers is distinctly patchy.

Comment

Joe Malinowski, founder of the award winning energy price comparison website **TheEnergyShop.com** commented.

"We find it really surprising that a collective switching operator would raise the issue of transparency of search results on price comparison sites. The reality is that most Collective Switching Schemes are neither transparent nor all of market. Neither are they regulated."

Joe Malinowski concluded;

“The harsh reality is that the majority of customers that signed up to The Big Deal collective switch in the summer of 2014 could have done much better using a price comparison website, and that includes the Energy Secretary the Rt Hon Edward Davey himself. Whatever you think of price comparison sites, accredited sites are the only place you can get an all of market energy price comparison to prevent yourself getting duped by unregulated schemes offering you the next big exclusive deal.”

About TheEnergyShop.com

TheEnergyShop.com is the UK's most highly rated energy price comparison website.

TheEnergyShop.com is an impartial, and comprehensive Ofgem accredited price comparison website. Our patent pending technology allows consumers to compare prices from all suppliers of domestic gas and electricity in the UK in less than 30 seconds. Users can see all of market comparisons in one simple graph that can be accessed from a laptop or mobile devices. 50% of customers who switched between 1 January 2013 and 31 December 2013 achieved an average saving of **£294.** The top 25% achieved and average saving of **£396** with the top 10% achieving a saving of **£542.**

Please also see the awards that we have one.

Voted **Best for Energy** - The Sunday Times review of price comparison sites

Winner 2012 **Website of the Year Award (Finance)** - thegoodwebguide

Finalist **Best Online Price Comparison Website 2013** - eCommerce Awards

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