

## Comments - CMA Energy Market Investigation - Notice of Possible Remedies



Suite 4a  
Ingram House  
227 Ingram Street  
Glasgow G1 1DA  
Tel: 0141-226 3064  
Fax: 0141-221 2788  
Email: [eas@eas.org.uk](mailto:eas@eas.org.uk)  
[www.eas.org.uk](http://www.eas.org.uk)

### Introduction

Energy Action Scotland (EAS) is the Scottish charity with the remit of ending fuel poverty. EAS has been working with this remit since its inception in 1983 and has campaigned on the issue of fuel poverty and delivered many practical and research projects to tackle the problems of cold, damp homes. EAS works with both the Scottish and the UK Governments on energy efficiency programme design and implementation.

EAS is pleased to have the opportunity to provide its comments.

### Fuel Poverty in Scotland

The Scottish Government is required by the Housing (Scotland) Act 2001 to end fuel poverty, as far as is practicable, by 2016 and plans to do this are set out in the Scottish Fuel Poverty Statement. The number of Scottish households living in fuel poverty dropped from 756,000 (35.6%) in 1996 to 293,000 (13.4%) in 2002. Half the reduction was due to increases in household income, 35% to reduced fuel prices and 15% to improved energy efficiency of housing<sup>1</sup>. The most recent figures<sup>2</sup> from the Scottish House Condition Survey Key Findings Report show that there were 647,000 households living in fuel poverty in Scotland in 2012, representing 27% of total households.

According to figures produced by the Scottish Government<sup>3</sup>, for every 5% rise in fuel prices an estimated 46,000 more households become fuel poor. Based on these figures EAS estimates that there are currently 900,000 households, more than four in ten, in fuel poverty in Scotland. This significant increase in fuel poverty is widely accepted to be due to the dramatic increases in domestic fuel prices and EAS is very concerned about the impact on vulnerable customers.

Given its remit, EAS's comments focuses primarily on those areas that it considers most likely to impact on fuel poor and vulnerable consumers.

### Absence of locational adjustments for transmission losses

*Remedy 1 – Introduction of a new standard condition to electricity generators', suppliers', interconnectors', transmission, and distribution licences to require that variable transmission losses are priced on the basis of location in order to achieve technical efficiency*

- (a) **What would be an appropriate method for ensuring that variable transmission losses are priced on the basis of location?**
- (b) **How should the variable transmission losses be allocated between generators and suppliers?**
- (i) **Is the 45-55 split appropriate or could efficiency be improved further by changing this allocation?**

---

<sup>1</sup> Fuel Poverty in Scotland: Further Analysis of the Scottish Housing Condition survey 2002

<sup>2</sup> Scottish House Condition Scotland Key Findings Report 2012

<sup>3</sup> Estimate of Fuel Poverty Households in Scotland: Scottish House Condition Survey March 2011

- (c) **What will be the distributional impacts of this remedy? Should the CMA take these into account in coming to a view on the proportionality of this remedy?**
- (d) **Should the CMA implement this remedy directly, ie via an order, or should it make a recommendation to Ofgem to initiate a BSC modification instead? Are there any particular aspects of Ofgem's objectives and duties to which the CMA should have regard if implementing this remedy by a licence change?**

This is a highly complex area and one which is largely out with the scope of EAS. However, to ensure that any changes are made efficiently and effectively, EAS believes that this should be a licence condition so that all organisations are directed and bound by the same objectives.

### **Administration of the Contracts for Difference mechanism**

*Remedy 2a – DECC to undertake and consult on a clear and thorough impact assessment before awarding any CfD outside the CfD auction mechanism*

- (a) **Would the remedy ensure that CfDs that are allocated outside the auction mechanism are awarded only when the benefits of doing so outweigh the costs?**
- (b) **How much discretion should DECC retain in terms of the weight it places on each factor that it takes into account in coming to a decision on which projects to award CfDs outside the CfD auction mechanism? Should DECC be required to consult on and determine these factors and their relative importance in advance to enhance transparency? Should the weighting of each factor be constant across projects?**
- (c) **In which, exceptional circumstances should DECC be able to allocate CfDs outside the auction process? For example, for reasons of industrial policy, where there are wider market failures, or where there may be insufficient competitors to hold an auction?**

EAS understands that CfDs help to ensure security of supply across the UK, ensuring that there are appropriate financial incentives to build new plant. However this is again an area of high complexity and one in which EAS would not be comfortable with DECC having a high degree of discretion. There are locational issues in that plant will be based where grants are available. On that basis there is unlikely to be any new thermal generation in Scotland – but for security of supply there needs to be, or Scotland will be at 'the end of the queue'. For fairness to consumers in understanding impact on future bills, EAS believes there must be a level playing field and all 'projects' should be measured on a like for like basis.

*Remedy 2b – DECC to undertake and consult on a clear and thorough assessment before allocating technologies between pots and the CfD budget to the different pots*

- (a) **Would the remedy ensure that future decisions by DECC on the allocation of technologies and the CfD budget to the different pots are taken in a robust and transparent manner?**

- (b) **Is the remedy likely to result in a positive change in how DECC makes decisions regarding the allocation of the CfD budget to the different pots?**
- (c) **How regularly should DECC review the allocation of technologies between pots? What information should DECC publish when deciding to amend the allocation of technologies between pots? Should it also on a regular basis consult and/or publish reasons for not amending the allocation of technologies between pots?**
- (d) **Should DECC be limited in the maximum proportion of the CfD budget that it can allocate to each of the different pots?**

No comment.

**Weak customer response from domestic and microbusiness customers and the simpler choices component of the Retail Market Review rules**

*Remedy 3 – Remove from domestic retail energy suppliers’ licences the ‘simpler choices’ component of the RMR rules<sup>12</sup>*

- (a) **Would this remedy be effective in increasing competition between domestic retail energy suppliers and/or between PCWs? What additional tariffs would energy suppliers be likely to offer that they currently do not due to the RMR restrictions?**
- (b) **Removing the four-tariff rule is likely to increase the range of tariffs on offer and result in different tariffs being offered on different PCWs. Are there, therefore, any remedies that the CMA should consider alongside this remedy, to encourage domestic customers to use more than one PCW in order to facilitate effective competition between PCWs and domestic energy suppliers?**
- (c) **We note that if this remedy were to be imposed, Ofgem’s Confidence Code requirement for PCWs to provide coverage of the whole market appears likely to become impractical as the number of tariffs offered increases and PCWs agree different tariff levels and commissions with energy suppliers. Should this element of the Confidence Code be removed, therefore, as part of this remedy? If so, are alternative measures to increase confidence in PCWs required? For example, in order to maintain transparency and trust, should PCWs be required to provide information to customers on the suppliers with which they have agreements and those with which they do not?**
- (d) **Rather than removing all limits on tariff numbers and structures, would it be more effective and/or proportionate to increase the number of permitted tariffs/structures? If so, how many should be permitted and which tariff structures should be allowed?**
- (i) **For example, would requiring domestic energy suppliers to structure all tariffs as a single unit rate in pence per kWh, rather than as a combination of a standing charge and a unit rate, reduce complexity for customers, while avoiding restricting**

**competition between PCWs? Alternatively, would such a restriction on tariff structures have a detrimental impact on innovation in the domestic retail energy markets?**

EAS believes that restricting the number of tariffs has had a detrimental effect on consumers in terms of cost and choice, and on suppliers in terms of stifling innovation. Whilst EAS recognises that derogations – usually benefiting vulnerable consumers - have been granted, this creates further confusion. EAS would therefore welcome an increase in the number of tariffs. With more micro-renewables being installed, EAS would like to see a range of suitable new tariffs so that consumers can benefit more fully from these technologies. Simply increasing the number of tariffs (i.e. to a new restricted number) will not fully address the issues that this element of RMR created. A restriction on the number of tariffs will result in continued stifling of innovation and/or a situation where more derogations will be required, in addition to which there would continue to be separate tariffs for collective switching. EAS does not believe that there should be a limit on the number of tariffs, though it continues to be imperative that consumers are given clear and easy-to-understand information. PCWs should be required to provide clear information, including advising customers of the suppliers with whom they have agreements. .

*Remedy 4a – Measures to address barriers to switching by domestic customers*

- (a) **Will the roll-out of smart meters address the feature of uncertified electricity meters? If not, what additional remedies should we consider to address this feature?**
- (b) **Will the roll-out of smart meters address the barriers to switching faced by customers with Dynamic Teleswitched (DTS) meters? If not, what additional remedies should we consider to address this feature?**
- (c) **Should PCWs be given access to the ECOES database (meter point reference numbers) in order to allow them to facilitate the switching process for customers?**
  - (i) **To what extent would this reduce the rate of failed switches and/or erroneous transfers?**
  - (ii) **Are there any data protection issues we should consider in this respect?**
  - (iii) **Will access to this database still be relevant once smart meters have been introduced?**
- (d) **Should there be penalties for firms that fail to switch customers within the mandated period (currently 17 days, next day from 2019)? How should these penalties be administered? At what level should the penalties be set? Should customers who suffer a delayed or erroneous switch receive the penalty as compensation?**
- (e) **When next-day switching is introduced, will a 'cooling-off' period still be required? Could it be avoided by requiring that no exit fees are charged within two weeks of switching?**

**(f) Are specific measures required to facilitate switching for customers living in rented accommodation (either social or private)?**

It is not clear whether the rollout of smart meters will address the barriers to switching faced by DTS consumers. EAS believes that the real issue is neither tariffs nor meters, but access to the teleswitching codes, and believes that this should be facilitated for all suppliers in a manner that neither impedes switching nor results in undue pass-through costs.

Whilst there are consumers who might benefit from PCWs further facilitating the switching process, EAS believes that PCWs should not have access to the ECOES database. There is little evidence that this would reduce the number of failed switches (to what extent are switching failures caused by ECOES information?) or erroneous transfers, and such a service provision would result in additional costs.

EAS believes that penalties should be imposed on suppliers who fail to complete the switching process within the appropriate timescale, perhaps at a level similar to those for other markets e.g. banking? However, there would be concerns at the practicality of implementing such charges when next-day switching becomes a reality.

The smart meter rollout offers the opportunity to improve the accuracy of meter number records.

In light of the introduction of smart meters, we are considering whether any other remedies may be required to address barriers to switching for domestic customers. For example:

- (a) Does the 'Midata' programme, as currently envisaged, provide sufficient access to customer data by PCWs to facilitate ongoing engagement in the market? Should PCWs – with customer permission – be able to access consumer data at a later date to provide an updated view on the potential savings available?**
- (b) Do customers need more or better information or guidance on how their new smart meters will work?**

EAS does not believe that PCWs should be able to access consumer data at a later date. These consumers will already have switched and having done so, there is a better chance that these consumers will continue to engage. There is a greater need to provide clear information to disengaged consumers.

Clear information and guidance – including 'handholding' for those who need it – is crucial to consumers harnessing the potential benefits of smart meters.

*Remedy 4b – Removal of exemption for Centrica on two-year inspection of gas meters*

- (a) Would this remedy be effective in removing the distortion to competition that currently exists as a result of Centrica's derogation on the inspection of gas meters?**
- (b) Would it be preferable to remove Centrica's derogation, or extend the derogation to other suppliers?**
- (c) If Centrica's derogation were removed, should it be phased out over a period of time? If so, how long should Centrica be given in this respect?**

EAS believes that there should be a level playing field and therefore Centrica's derogation should be removed with immediate effect. The appropriate timescale for meter inspections could perhaps be reviewed/revisited for smart meters.

*Remedy 5 – Requirement that energy firms prioritise the roll-out of smart meters to domestic customers who currently have a prepayment meter*

- (a) Would this remedy be effective in allowing prepayment customers to engage fully in the market and benefit from a wider range of tariffs? Would it be effective in reducing the costs of supply to prepayment customers?**
- (b) Which version of this remedy would be more effective and/or proportionate?**
- (c) Would any additional or alternative measures be required to ensure that this remedy comprehensively addressed the overarching feature of weak customer response arising in particular from those with prepayment meters?**
- (d) What issues may arise as a result of prioritising the installation of smart meters in the homes of customers who currently have prepayment meters?**
- (e) Would it be more effective and/or proportionate to require energy suppliers to accelerate the roll-out of smart meters across the retail markets as a whole, in order to facilitate engagement more broadly, rather than focusing on customers on prepayment meters?**

It is not entirely clear how prioritising the rollout of smart meters for prepayment customers would in any way 'comprehensively address the overarching feature of weak customer response arising .... from those with prepayment meters'. EAS does not believe there is a specific requirement for Smart Energy GB, or the suppliers, to raise awareness of tariffs available to consumers as part of the smart meter rollout. Nor is it entirely clear that prepayment meter customers receiving a smart meter will in fact have access to a wider range of tariffs, given that a) the majority are likely to have smart meters operating in prepayment mode, and b) as things stand, suppliers are still limited to four core tariffs per meter/payment type.

Prepayment meter customers are not always vulnerable and disengaged – other consumers may be just as much in need. Area-based smart meter

rollouts offer the best opportunity for 'advertisement' and for co-ordinating and providing tailored support where it is most needed.

There are already concerns about the costs associated with the smart meter programme, and prioritisation of prepayment meter customers would not seem to be appropriate in terms of efficiencies.

Prepayment meter customers should not be used as 'guinea pigs', not least because such a scattergun approach to smart meter installation is likely to make it more challenging to resolve any issues during the early stages of rollout.

*Remedy 6 – Ofgem to provide an independent price comparison service for domestic (and microbusiness) customers*

- (a) Would this remedy be effective in increasing customers' trust in PCWs and thereby encourage engagement in the markets and switching?**
- (b) Should this service be online-only, or should it also operate over the telephone for those customers without access to the internet?**
- (c) Is there a risk that such an independent service could undermine the development of other PCWs in the energy sector? How could this risk be mitigated?**
- (d) Should the Ofgem website quote the energy suppliers' list prices only? Or should it seek to provide full details of all quotes available on the market (including on other PCWs), ie function as a meta-PCW?**
- (e) How could we ensure that an Ofgem price comparison service was robust in terms of offering all tariffs available on the market? Should there be an obligation on retail energy suppliers and/or PCWs to provide information to Ofgem on their tariffs?**
- (f) Should any price comparison service operated by Ofgem be transactional, ie be able to carry out switches for consumers, or should it provide information only?**
- (g) What would be the likely costs to Ofgem of offering this type of price comparison service? Would Ofgem need additional funding and/or statutory powers in order to provide this type of service? If so, where should this funding come from?**
- (h) How should customers be made aware of the existence of this service? Should information be provided by energy suppliers on bills/during telephone calls? Should PCWs be required to provide links to the Ofgem website during the search process to allow customers to cross-check prices?**
- (i) Is there any additional information that Ofgem should provide on its website relating to energy suppliers and/or tariffs to facilitate the customer search and switching process?**

EAS understands that some of the existing PCWs are independent. Rather than establishing a 'new' independent service from Ofgem, efforts to raise awareness of the existing services should be improved. In EAS's experience, consumer awareness of Ofgem is relatively low, which would suggest that a PCW provided by Ofgem would be no more or less effective than other PCWs in engendering trust, encouraging engagement and increasing switching at least in the short term. In addition, EAS believes that consumer choice (i.e. where to go for information) is an integral part of facilitating truly effective engagement.

However, if the decision is made to establish Ofgem as an independent PCW, then it should function as a 'meta-PCW', providing information on all tariffs, online and by telephone. There should be an obligation on all suppliers to provide appropriate information to Ofgem as well as to other PCWs.

It is not clear what the costs of an Ofgem PCW would be. EAS believes that however such a service is funded, it must not result in increased costs for domestic consumers. Whether there would be a need for additional staffing is debatable. Significant Ofgem resources are currently allocated to various monitoring, auditing roles etc in relation to WHD and ECO, some of these programmes are coming to an end, so redeployment might be an option?

*Remedy 7 – Measures to reduce actual and perceived barriers to accessing and assessing information in the SME retail energy markets*

No comment.

*Remedy 7a – Introduction of a new requirement in the licences of retail energy suppliers to provide price lists for microbusinesses on their own websites and to make this information available to PCWs*

- (a) Would this remedy be effective in increasing price transparency for microbusiness gas and electricity tariffs? Would it serve to make comparisons between different suppliers easier, either directly or by encouraging the development of PCW services for microbusinesses? If not, are there other measures that would encourage this development either as an alternative to this remedy or in conjunction with it?**
- (b) Do microbusinesses have sufficient access to the information they need (for example on their meter types) in order to engage effectively in the search and switching process?**
- (c) How long should energy suppliers be given to provide the required information?**
- (d) Should energy suppliers be permitted to fulfil this requirement by providing an automated quoting service on their websites (where microbusinesses can put in their details in order to obtain quotes) rather than a list of prices?**

No comment.



*Remedy 7b – Introduction of rules governing the information that TPIs are required to provide to microbusiness customers*

- (a) Would this remedy be effective in improving transparency over incentives and trust in TPIs in the energy sector? How could the CMA ensure that this remedy was enforced, ie that TPIs were providing the specified information?**
- (b) What information should be provided by TPIs to microbusinesses in order to enable them to make informed choices?**
- (c) Could the provision of certain types of information have unintended consequences (eg customers choosing tariffs based on commission rates rather than total price)? If so, are there any steps that could be taken to mitigate this effect?**
- (d) Should the specified information be provided to customers in writing or orally (or both)? At what stage in the sales process should this information be provided?**
- (e) Should this remedy be introduced in addition to Ofgem’s proposed code of conduct? Or should only this remedy (or only Ofgem’s code of conduct) be introduced?**
- (f) Are there any additional measures that should be implemented alongside this remedy to enhance its effectiveness?**
- (c) Could the provision of certain types of information have unintended consequences (eg customers choosing tariffs based on commission rates rather than total price)? If so, are there any steps that could be taken to mitigate this effect?**
- (d) Should the specified information be provided to customers in writing or orally (or both)? At what stage in the sales process should this information be provided?**
- (e) Should this remedy be introduced in addition to Ofgem’s proposed code of conduct? Or should only this remedy (or only Ofgem’s code of conduct) be introduced?**
- (f) Are there any additional measures that should be implemented alongside this remedy to enhance its effectiveness?**

No comment.

*Remedy 8 – Introduction of a new requirement into the licences of retail energy suppliers that prohibits the inclusion of terms that permit the auto-rollover of microbusiness customers on to new contracts with a narrow window for switching supplier and/or tariff*

- (a) Would this remedy be effective in allowing microbusiness customers greater opportunity to engage (by removing the narrow window in which they can choose not to roll-over automatically)?**
- (b) Are there any means by which energy suppliers could circumvent this remedy to continue to lock customers into energy tariffs that they have not chosen for extended periods of time?**

- (c) **What is the minimum or maximum notice period that customers should be required/allowed to give in order to exit a contract that they have been rolled on to?**
- (d) **Should energy suppliers be required to inform customers that they are nearing the end of their contract and prompt them to switch?**

No comment.

*Remedy 9 – Measures to provide either domestic and/or microbusiness customers with different or additional information to reduce actual or perceived barriers to accessing and assessing information*

- (a) **Does the current format and content of energy bills facilitate engagement by customers? Is there additional information that should be included on bills? Should the quantity of information on bills be reduced to enhance clarity?**
- (b) **When customers seek to switch tariffs, are they given enough/too much information on the terms and conditions of their new contract?**
- (c) **Should customers be prompted to read their meters (quarterly or annually), either by information on their bill or by a phone call from their energy supplier? Would this increase engagement by improving the accuracy of billing?**
- (d) **Once customers reach the end of a contract period, should subsequent bills highlight that they have now been moved onto the standard variable tariff and/or other default tariff and encourage them to check whether they are on the most appropriate tariff for them?**

EAS does not believe that the current format and content of energy bills facilitates engagement. The proliferation of information on bills is daunting and in some instances – Tariff Comparison Rates, for example – is actively misleading.

By and large, customers are already prompted to provide meter readings via information on bills. EAS does not believe that phone calls from suppliers to request meter readings would be particularly well-received. In addition, given the time such measures would take to impact, the rollout of smart meters would be well under way, obviating the need for customer readings.

With regard to consumers reaching the end of a contract period, EAS was under the impression that suppliers were already obliged to provide notification? Current bills and annual statements advise consumers of cheaper options, though this could be made clearer.

*Remedy 10 – Measures to prompt customers on default tariffs to engage in the market*

- (a) What information should be included in the prompts to customers on default tariffs in order to maximise the chances that they are acted upon?**
- (i) Should customers who have failed to engage be informed that they are 'no longer under contract for energy', that they have been 'rolled onto a safeguard tariff', or an alternative message, for example, emphasising how many customers in their area have switched in the last year?**
- (b) How should prompts be communicated to customers? For example, there is some evidence from the financial sector that text prompts are particularly effective at raising awareness in terms of overdrafts etc.**
- (c) What should be the timing and frequency of prompts in order to balance effectiveness in terms of encouraging engagement with the cost and potential irritation that might arise from repeated prompts?**
- (d) Who should provide the prompts: customers' energy suppliers, Ofgem or another party?**
- (e) Are there particular groups of customers who should receive prompts at specific points? For example, should house-buyers be prompted to engage with the market on completion of their purchase?**
- (f) Is there benefit in others in the markets, such as rival energy providers or TPIs, being made aware of which customers remain on default tariffs (or have been rolled on to the safeguard tariff)? In this respect, data protection issues would need to be carefully considered. The ability of other market participants to identify inactive customers, however, has the benefit of potentially encouraging the customer to switch tariffs once out of contract.**

EAS believes this is a difficult area to tackle, striking a balance between providing necessary information and verging on harassment! From the examples given at a, above, EAS believes that being told you are no longer under contract for energy may appear threatening to some and that telling consumers how many people in their area have already switched may be fairly meaningless – particularly in large parts of rural Scotland where the population is sparse.

Any prompts should be provided clearly with annual statements from suppliers.

EAS does not believe that house purchase is an appropriate point at which to prompt engagement. At that stage, purchasers have no idea what their energy consumption will be (and may not be familiar with the heating/hot water system or fuel in use). Although there will be some information about running costs on the EPC, this is not comprehensive and is based on sets of assumptions of averages.

EAS does not believe that other market participants should have access to information regarding those on default tariffs.

*Remedy 11 – A transitional 'safeguard regulated tariff' for disengaged domestic and microbusiness customers*

- (a) Should the safeguard tariffs be set on a cost-plus basis, or should they be related to other retail prices?**
- (b) If the safeguard tariffs were set on a cost-plus basis, which approach(es) we should consider to determining the wholesale energy cost element of the tariffs? What are the relative merits of the proposed approach(es) in the context of the purpose of the safeguard price cap?**
- (c) Could the imposition of a transitional safeguard price cap result in energy suppliers reducing the quality of service offered to customers on this tariff? Is this risk reduced by customers' ability to choose alternative, unregulated tariffs?**
- (d) Should all domestic and microbusiness customers on default tariffs be rolled onto the safeguard tariff, or should this remedy only apply to a subset of these customers? If this remedy should not apply to all customers, why? And how should energy suppliers identify those customers who should be covered?**
- (e) How should the headroom be calculated to provide the right level of customer protection while not unnecessarily reducing healthy competition?**
- (f) What regulatory information would be required to set the safeguard tariffs?**
- (g) How long should the safeguard price caps be kept in place? Is it appropriate to include a specific sunset provision, or should there be a commitment to review the need for and level of the safeguard price caps after a certain period of time?**
- (h) How frequently – if at all – would the level of the cap need to be reassessed? If the cap is set on the basis of directly passing through wholesale and network costs, then it may not be necessary to revisit the safeguard price level.**
- (i) Which energy suppliers should be subject to the safeguard cap, and why? Should it be restricted to the Six Large Energy Firms, or should all retail energy suppliers be covered?**
- (j) How should the transition from the current arrangements be managed? We note that an immediate requirement to change the prices for all customers on standard variable tariffs, rollover, evergreen, deemed and out-of-contract tariffs might put pressures on certain suppliers more than others. Should there be, therefore, a period over which the safeguard price cap is phased in? If so, how long should this period be and how should the transition work?**
- (k) Would energy suppliers have the ability to circumvent the remedy, for example, by encouraging disengaged customers to switch on to less favourable, unregulated tariffs, and how such risks could be mitigated?**
- (l) Should the CMA set the level of the safeguard price caps itself, or should make a recommendation to Ofgem to do so?**

- (m) **Are there any potential unintended consequences of setting safeguard price caps, for example, in terms of their potential impact on the level of other, unregulated tariffs?**

EAS does not believe it would be appropriate to set a safeguard tariff – this would have much the same effect as RMR, reducing choice.

## **Regulatory framework governing domestic and SME retail energy markets**

*Remedy 12a – Requirement to implement Project Nexus in a timely manner*

- (a) **How long should the parties be given to implement Project Nexus?**
- (b) **Should the CMA implement this remedy directly (eg via an order and/or a licence modification) or should it make a recommendation to Ofgem to implement the remedy?**

No comment.

*Remedy 12b – Introduction of a new licence condition on gas shippers to make monthly submissions of Annual Quantity updates mandatory*

- (a) **Is it proportionate to require the mandatory monthly updating of AQs? Would it be more proportionate to require less frequent updating of AQs? Would less frequent updating still be effective in terms of removing the scope for gaming of the system?**

No comment.

*Remedy 13—Requirement that domestic and SME electricity suppliers and relevant network firms agree a binding plan for the introduction of a cost-effective option to use half-hourly consumption data in the settlement of domestic electricity meters*

- (a) **Would this remedy be effective in stimulating tariff innovation, in particular in terms of time-of-use tariffs?**
- (b) **How long should the parties be given to agree this plan?**
- (c) **What are the principal barriers to the introduction of a cost-effective option to use half-hourly consumption data in electricity settlement for profile classes 1 to 4? How could these be reduced?**
- (d) **Should the use of half-hourly consumption data in settlement for these profile classes (or certain of them) be optional for energy suppliers, or should it be mandatory? What are the advantages/disadvantages of each approach?**
- (e) **Are there any distributional considerations that we should take into account in relation to time-of-use tariffs? For example, might**

**vulnerable customers end up paying more if they fail to change their consumption patterns? Or will the decline in the required generation capacity outweigh any increase in peak prices?**

- (f) When should the (optional/mandatory) use of half-hourly consumption data replace settlement based on assumed customer profiles? Is it necessary to wait until 2020 when all domestic customers have smart meters installed? Alternatively, could the use of half-hourly consumption data be phased in for those customers with smart meters prior to 2020?**

No comment.

### **Lack of robustness and transparency in regulatory decision-making**

*Remedy 14 – Remedy to improve the current regulatory framework for financial reporting*

- (a) Should the scope of the individual areas reported on align with the scope of the markets as set out for generation and retail supply in our provisional findings? For example, should a requirement to report wholesale energy costs on the basis of standard products traded on the open wholesale markets be imposed?**
- (b) What regulatory reporting principles would be particularly relevant to the preparation of regulatory financial information in this sector?**
- (c) Would summary profit and loss account and balance sheet information for each area be sufficient to enable the effective regulation of the sector and the development of appropriate policies? Or should the large domestic and SME energy suppliers be required to collect and submit additional, more granular financial information?**
- (d) Should Ofgem require that the summary profit and loss and balance sheet information be audited in accordance with the regulatory reporting framework?**
- (e) Should this remedy apply to the firms that are currently under an obligation to provide Ofgem with Consolidated Segmental Statements? Or should it apply to a larger or narrower set of firms?**
- (f) What would be the costs of imposing such a remedy? We note that some firms' reporting systems are not currently capable of providing information on such a 'market-orientated' basis and that our remedy could require significant additional system requirements.**
- (g) Should the CMA implement this remedy by way of licence modifications or by way of a recommendation to Ofgem?**
- (h) To what extent should this financial information on performance be published?**

No comment.

*Remedy 15 – More effective assessment of trade-offs between policy objectives and communication of impact of policies on prices and bills*

- (a) Are such assessments of the impacts of policies on prices, bills and on the trilemma trade-offs carried out to a sufficient extent currently? Are there specific areas where such assessments are not currently carried out, or might be undertaken more comprehensively?**
- (b) Are the assessments sufficiently scrutinised?**
- (c) Are the assessments sufficiently disseminated to interested parties? Which parties need to be informed about these assessments?**
- (d) Is there an additional role for either Ofgem and/or DECC in carrying out assessments of the impacts of policies and trilemma trade-offs, or communicating the results of them?**
- (e) Should further, authoritative analysis be published to assist the public discussion? What form might this take? Which existing bodies are best positioned to undertake this role?**
- (f) Is there a sufficient case to justify creating a new, independent body tasked with scrutinising the impact assessments of policymaking bodies and/or providing authoritative analysis to inform the public debate?**

No comment.

*Remedy 16 – Revision of Ofgem’s statutory objectives and duties in order to increase its ability to promote effective competition*

- (a) What specific changes should be made to Ofgem’s statutory objectives and duties in order to ensure that it is able to promote effective competition in the energy sector?**
  - (i) For example, would it be possible to revert to the role of competition that existed before the introduction of the Energy Act 2010?**

Prior to any revision of statutory objectives and duties, there would need to be a more comprehensive review of Ofgem’s influence on competition. There would be concerns regarding the fact that where changes have been made previously, processes seem to have become overly onerous, complex and costly for those impacted by these changes.

*Remedy 17 – Introduction of a formal mechanism through which disagreements between DECC and Ofgem over policy decision-making can be addressed transparently*

- (a) In which circumstance should Ofgem have the right or duty to express views on DECC’s policies and DECC/Ofgem strategy for their implementation? What format should such views take? Should DECC have a duty to formally respond?**

- (b) **In what circumstances should Ofgem have the right to seek a formal direction from Ofgem to implement a certain policy?**
- (c) **Would DECC's formal direction undermine (or appear to undermine) Ofgem's independence?**
- (d) **Would other measures be effective in promoting the independence of regulation?**

If roles and objectives were made clear, there would be no need for a formal mechanism.

### **Industry-led system of code governance**

*Remedy 18a – Recommendation to DECC to make code administration and/or implementation of code changes a licensable activity*

- (a) **Is this recommendation likely to result in a positive change in the initiation, development and/or implementation of code changes that pursue consumers' interests?**
- (b) **Would this remedy be more effective if certain functions currently carried out by code panels and/or network owners (eg setting up working groups) were transferred to code administrators?**
- (c) **Would this remedy be more effective if Ofgem or DECC were to impose stricter requirements relating to the selection (eg competitive tender), financing and/or independence of code administrators (and/or delivery bodies)?**

No comment.

*Remedy 18b – Granting Ofgem more powers to project-manage and/or control timetable of the process of developing and/or implementing code changes*

- (a) **Is this recommendation likely to result in a positive change in the development and/or implementation of code changes that pursue consumers' interests?**
- (b) **Would this undermine the principle (and effectiveness) of industry-led code changes?**
- (c) **Should this power be limited to the completion of certain elements of the development or implementation phase (eg consultation, setting up working groups)?**
- (d) **Should Ofgem's ability to use this power be limited to defined circumstances (eg modification proposals which are relevant to Ofgem's principal objectives) or should it be left to Ofgem's discretion?**

No comment.

*Remedy 18c – Appointment of an independent code adjudicator to determine which code changes should be adopted in the case of dispute*



- (a) **Are there benefits in terms of independence, impartiality and/or industry know-how of an independent code adjudicator that are not available with Ofgem, given its other responsibilities, when undertaking the adjudicator role?**
- (b) **Would there be unintended consequences, arising for instance from an increased lack of coordination between code modification governance, licence modifications and legislation?**

No comment.

#### **Remedies we are minded not to consider further**

*Remedy a – Price control regulation of all domestic and microbusiness retail energy tariffs*

*Remedy b – Requiring energy firms to inform customers about the cheapest tariff on the market (across all suppliers)*

*Remedy c – Opt-out collective switching of disengaged customers*

*Remedy d – Introduction of a single price for gas and electricity customers*

*Remedy e – Introduction of price non-discrimination provisions*

*Remedy f – A transitional safeguard regulated price structure*

EAS agrees that these remedies should not be pursued.