

Mr W Fletcher
Project Manager
Competition And Marketing Authority
Victoria House
Southampton Row
London
WC1B 4AD

5th August 2015

Dear Mr Fletcher,

RESPONSE TO THE CMA's July 2015 ENERGY MARKET INVESTIGATION INVITATION TO COMMENT UPON ITS 'NOTICE OF POSSIBLE REMEDIES' – from the Highlands & Islands Housing Associations Affordable Warmth Group, 5th Aug, 2015

INTRODUCTION

We warmly welcome CMA's detailed Energy Market Investigation and its follow-up consultation into what actions might be taken – by CMA and others – *“to remedy, mitigate or prevent an AEC or any resulting detrimental effects on customers”*.

We welcome the fact that *“the CMA is required to determine whether any feature or combination of features of each relevant market prevents, restricts or distorts competition in connection with the supply or acquisition of any goods or services in the UK or part of the UK”*. We believe there is strong evidence (which we previously submitted* to CMA) to support our contention that **the energy supply market is failing at least one part of UK, namely the Highlands and Islands of Scotland**, and is having a demonstrably detrimental effect on the domestic energy customers who live there. For their sake and, in particular, for the sake of the far too many Highland and Island households living in fuel poverty, **we respectfully urge the CMA to scrutinise the evidence fully and, having done so, come up with a template of remedial actions which properly addresses the adverse and discriminatory inequities currently affecting the Highlands & Islands energy supply market and its customers.**

We respond in greater detail below to some of the key questions (for us) that you have posed in your *'Notice of possible remedies'* consultation paper but, in essence, our principal concerns are these :

1. **The Highlands & Islands (H&I) are a predominantly off-gas area** and most domestic energy consumers consequently rely much more heavily on buying electricity to try and keep their homes warm in the part of the UK with the harshest climatic conditions (highest driven rain index and lowest mean temperatures in the UK = necessarily higher than average levels of energy consumption). **No mains gas alternative + no 'dual fuel' discounts means the H&I area is doubly discriminated against by the energy supply market.**
2. On top of this, H&I customers pay 2p more per standard kw/ht unit of electricity (to SSE, the area's predominant supplier) than the rest of the UK. SSE and others argue that **equal sharing of the total UK grid distribution costs would get rid of this 2p surcharge and pricing iniquity? Why would CMA not support this** or other measures to create a level playing field in the electricity supply market in the UK?

3. **If the response is “But you have the Hydro Benefit Replacement Scheme” then we must advise that, in practise, it isn’t doing its job nearly well enough to create the level playing field because *actual* average bills in the H&I are far higher than the *assumed* average bills for the area – owing to the unavoidably greater dependence on electricity and the higher consumption levels (for reasons stated but see also 5 and 6)**
4. **A quasi-monopolistic electricity supply market is a key – and severely handicapping - feature of the H&I area because a) one supplier, SSE (or “The Hydro” as it is still commonly called in the H&I) has long-standing customer loyalty but, b) and more significantly, **because, in practise, it remains far too difficult for customers to switch from SSE tariffs unique to the highlands and islands.****
5. **Lack of realistic switching choice is restricting and distorting the electricity supply market in the H&I :** for whilst SSE’s ‘economy tariffs’ allow customers to purchase some of their heat at apparently competitive cost they only do so by tying the same customers into paying much more (an extortionate 18/19p per unit as opposed to 10p to 12 p per unit) than other providers charge for lighting, cooking and other forms of domestic usage including ‘extra’ heating for those periods of the day and night to which ‘economy’ tariff rates may not be applied. **We believe that it is not unreasonable to ask CMA/OFGEM to ensure that the non-heat element of the Total Heating Total Control fuel purchase should cost H&I customers no more than other UK customers are charged by other suppliers for their ‘dual fuel’ tariffs.**
6. Unless customers can gain easy access to dual fuel equivalent cost tariffs then installing smart meters and improving ‘weak customer response’ to switching will not, of themselves, resolve the problems identified above (though we fully support those objectives). **We would like OFGEM to set up its own regional, user-friendly website to enable those customers who choose to use it to identify the most competitive standard and specialist tariffs and switch to their suppliers speedily and straightforwardly. An OFGEM PCW would give customers the reassurance that the choices they make are being safeguarded and monitored by a regulatory body charged with looking after their best energy supply and purchase interests.**
7. Moreover, to enable and empower customers to understand, compare and contrast what tariffs and deals suppliers are offering and to help them make well-informed choices about which supplier they wish to purchase their electricity from, we believe **that greater transparency is required for all electricity bills and price comparisons to show** clearly and transparently, each of the key component costs of what customers are being asked to pay for. For clarification we have provided an outline template at Appendix 1 for bill cost clarification which illustrates how this could work effectively.
8. **There are very few mains gas customers in the Highlands and Islands so electricity customers therefore pay a disproportionately higher cost as part of the social and environmental obligation (15% for electricity as opposed to 5% for gas). This is inequitable** given the heavy reliance on electricity, particularly for heating. We have also tried to clarify how this is manifest on the bills e.g. is it a fixed charge or unit rate ? OFGEM’s factsheet is misleading on this issue.
9. Finally, while we have welcomed this investigation **we still remain very concerned that LPG and heating oil are not included in this report as these fuel types**

account for 60% of heat provision in the Highlands and Islands. There is a very restricted competitive market for these fuel types in the highlands and islands and should form part of the investigation into the energy market. This is likely to hold true for other rural areas in the United Kingdom.

Yours sincerely,

Dion Alexander
Chair, Highlands & Islands Housing Associations Affordable Warmth Group

Enc. Annex 1 and Appendix 1

*Previous HIHA AW submission emailed to Sheila Scobie of CMA by dionralexander@gmail.com on 9th March, 2015

Annex 1

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

Issues for comment 1

20. We invite views on the effectiveness and proportionality of this remedy and invite responses to the following questions:

(a) What would be an appropriate method for ensuring that variable transmission losses are priced on the basis of location?

We welcome the recommendation and we also think it could go further to encourage lower pricing in areas of higher generation. For example, the Highlands and Islands is a net exporter of electricity and has grid constraints. It is therefore anomalous that consumers in the Highlands and Islands pay some of the highest tariffs in the country when we also generate so much electricity locally and from renewable resources. This geographical area generates at least 2.5 times as much as energy as it consumes. Transmission charges are based on encouraging generators to locate in areas of high demand.. So this principle could be extended to encourage reduced flows of electricity by encouraging more localised generation and consumption. Whilst the current pricing signal encourages generation and consumption in the urban areas it positively discriminates against generation and consumption in rural areas through paying higher prices for transmission. We live in an area that is surrounded by local and predominantly renewable generation yet local consumption is penalised through the lack of negative transmission charges. Why is this the case?

(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?

(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?

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

Issues for comment 2a

26. We invite views on the effectiveness and proportionality of this remedy and invite responses to the following questions:

- (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?**

We would wish to see clear evidence that CfD is supporting the customer. Therefore, we would wish to see far greater clarity and transparency in all decision making and particularly in how it affects future energy price and security of supply.

- (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?**

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

How the remedy would work

Issues for comment 2b

29. We invite views on the effectiveness and proportionality of this remedy and invite responses to the following questions:

- (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?**

We would reiterate that we wish to see transparency in all decision making and particularly in how it affects future energy price and security of supply for the reasons given above.

- (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?**

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

Issues for comment 3

51. We invite views on the effectiveness and proportionality of this remedy and invite responses to the following questions:

- (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?**

The complexity of what is being offered is often the problem for consumers. Clarity and simplicity should be the main drivers. An effective monopoly exists on some tariffs such as SSE's Total Heating Total Control (THTC). The industry and Regulator should be charged with rectifying this anomaly.

- (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.¹⁴ 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?**

There should be no quasi-monopoly tariffs. At present people on the two tariffs that are unique to Scottish and Southern Electricity pay much more for their heating and lighting than those on standard tariffs. Until such tariffs are made available by all suppliers there will not be competition and these customers will continue to be discriminated against.

All suppliers must therefore offer a dual meter tariff that will work for all heating systems.

- (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?**

Yes, and we would wish to see the introduction of regionalised PCWs, covering all electricity tariffs, to ensure that customers living in regions (like the H&I) on regionally-unique tariffs can make valid comparisons and informed choices about all tariffs and deals on offer.

(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?**

We are looking for complete transparency in how each supplier prices. At the moment you cannot tell how suppliers differentiate between different elements of the bill. These elements are a) wholesale energy costs, b) suppliers costs and profit margin, c) network charges and d), environmental and social costs.

For example, we have attached at Appendix 1 a mocked up bill where this information can be clearly seen.

Remedy 4 – Possible measures to address barriers to switching by domestic customers

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

59. We invite responses to the specific questions set out in this paragraph, including views on the effectiveness and proportionality of the remedies considered, as well as whether there are any alternative or additional remedies that we should be considering to address barriers to switching:

- (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?**

We welcome smart meters. However, we have concerns based on our previous experience of technological roll out in the highlands and islands: for example, broadband and mobile connectivity. We would encourage early resolution of some of these fundamental issues prior to roll out of the smart meter technology.

If smart meters are introduced customers must be able to switch without penalty.

- (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?**

In the H&I, where there is a high proportion of people on a tele-switching tariff, this proposal will only work properly once proper competition is available in the supply of alternative products that suit each individuals heating system.

- (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?**

Yes, but PCWs should be held responsible for ensuring the smooth transfer of the customer on to the new tariff, bear the risk and be subject to any investigation through trading standards or a similar body. An OFGEM PCW would facilitate this. (See our response to Remedy 6).

When suppliers offer regional tariffs which potentially benefit clients who are suffering fuel poverty then the ability for immediate switching to the more beneficial tariff should be made available to all and not on a restricted, first come first served, basis. For example, 71% of Outer Hebrides residents (according to a recent survey) suffer fuel poverty and yet anecdotal evidence suggests a tiny proportion were able to benefit from the recent substantial reduction to SSE tariffs, only offered to customers in the Highlands & Islands, which was 'sold out' within days and then withdrawn from the market.

- (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?**
- (ii) **Will access to this database still be relevant once smart meters have been introduced?**

Yes.

- (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?**

Yes, but how would this be administered? Suppliers should provide a customer satisfaction rating on switching which actual and potential customers can view.

- (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?**

Yes, a two week cooling off period is a good idea but fundamentally the industry must prove that they can switch all customers speedily and efficiently.

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

Suppliers should have a greater obligation to ensure customers understand the electric heating system installed in their house either by doing the work themselves or paying a third party to do it.

60. 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?**

The CMA's report has a high expectation from the introduction of smart meters. We do not share this confidence and therefore other solutions should be found irrespective of smart meters to address the underlying problems we have highlighted.

- (b) **Do customers need more or better information or guidance on how their new smart meters will work?**

Yes.

Issues for comment 4b

62. We invite views on the effectiveness and proportionality of this remedy and invite responses to the following questions:

- (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?**

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

Issues for comment 5

65. We invite views on the effectiveness and proportionality of this remedy and invite responses to the following questions:

- (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?**

Of itself, no. They are paying for their power before they consume unlike everyone else yet have no access to the discounted rates that are available to customers who pay by direct debit or opt for paperless billing. If it can be proved that smart meters will make it easier and fairer for pre-payment customers we would be supportive. We are unconvinced that this will be the case generally as it will be dependent on access to competitive tariffs and suppliers having a positive view point towards these 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?

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

71. We invite views on the effectiveness and proportionality of this remedy and invite responses to the following questions:

- (a) Would this remedy be effective in increasing customers' trust in PCWs and thereby encourage engagement in the markets and switching?

Yes but only if pricing structures are to remain regional and correspond to DNO areas. We are of the opinion that electricity is a local issue and works best at a local level. We therefore believe that any price comparison has to work at this local level. We would only be supportive if OFGEM was able to provide the easily comparable information required at this level of fine detail and support local organisations to monitor prices.

A very recent example of local groups working to encourage competition, switching and ensure suppliers are doing the right thing is as follows.

This group (HIHAAW) became aware that SSE were offering reduced prices for tariffs where there is no competition. Via publication on our own web site a number of customers were able to switch which would not have happened otherwise. SSE, perhaps due to unforeseen demand, have since withdrawn their offer which meant that it was not made available to all customers. This is why we suggest that approved (by OFGEM?) local groups should be given a supporting role to help ensure fairness.

- (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?**

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

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

Issues for comment 7a

76. We invite views on the effectiveness and proportionality of this remedy and invite responses to the following questions:

- (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?**

There should be a responsibility to publish microbusiness prices in the same way as domestic prices - the component costs of both need to be transparent.

- (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?**

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

Issues for comment 7b

80. We invite views on the effectiveness and proportionality of this remedy and invite responses to the following questions:

- (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?**
- (b) **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?**
- (c) **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?**
- (d) **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?**

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?**

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

For example:

- (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?**

No. There needs to be much clearer differentiation between, and reporting of, each and all of the component costs that make up the bill. (See Appendix 1).

- (b) **When customers seek to switch tariffs, are they given enough/too much information on the terms and conditions of their new contract?**

Far too much general information is provided which is not directly relevant to the specific customer switching. It needs to be simplified and put into an easily understood format which must also be directly relevant to the area/region in which the customer lives.

- (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?**

Yes. Suppliers should write annually to customers explaining the current tariff and advising on available tariffs.

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?

See above but it should go further. At least 1 month before (similar to car insurance renewal notices) the tariff comes to an end, the supplier must be required to explain / offer an equivalent package and any proposed increases should be explained. It should never automatically default to a standard tariff.

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

90. We invite parties to provide submissions on the following issues:

- (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?**

Please refer to the answers we have provided in Remedy 3.

- (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.**

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

Issues for comment 11

95. We intend to explore different ways of setting a safeguard level for default tariffs, and the impact of each on competition. We invite views on the effectiveness and proportionality of this remedy and invite parties to comment on the following issues:

- (a) **Should the safeguard tariffs be set on a cost-plus basis, or should they be related to other retail prices?**

All energy suppliers must supply benchmark tariffs that also enable price comparisons to be made for both the heating and non-heating elements of the bill. These tariffs should be published and audited annually by OFGEM to ensure transparency and fairness. These would be the benchmark prices that all other packages are compared against.

- (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?**

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

99. We invite views on the effectiveness and proportionality of this remedy and invite responses to the following questions:

- (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?**

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

101. We invite views on the effectiveness and proportionality of this remedy and invite responses to the following questions:

- (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?**

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

103. We invite views on the effectiveness and proportionality of this remedy and invite responses to the following questions:

- (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?**

This is assuming smart meters will work. Currently all domestic customers are priced on the basis of 2 profiles and our understanding is that this will continue after the introduction of smart meters. The number of profiles needs to be expanded to reflect the

much greater diversity of household types and consumption patterns. E.g size of house, use of renewable technology etc.

- (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?**

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

109. We invite views on the effectiveness and proportionality of this remedy and invite responses to the following questions:

- (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?**

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

112. While there is substantial analysis in the public domain examining the effects of policies, some of which has been undertaken by independent institutions, we invite views on the effectiveness and proportionality of this remedy and invite responses to the following questions:

- (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?**

We would refer you to the final sentence of paragraph 13 of the CMA's summary report which states "The costs of the social and environmental policies that energy suppliers are required to deliver on behalf of government ('obligation costs') are higher for electricity (almost 15%) than gas (around 5%)." The report therefore makes the case of the explicit unfairness for those who use electricity for heating paying a much greater contribution to green taxes than those who have access to lower cost energy supplies. This is another double whammy which requires addressing (see also our cover letter).

- (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?**

Remedy 16 — Revision of Ofgem's statutory objectives and duties in order to increase its ability to promote effective competition

114. We invite views on the effectiveness and proportionality of this remedy and invite responses to the following questions:

- (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?**

Greater detailed scrutiny is required by OFGEM of all companies in the energy supply chain to ensure that the interests of customers are properly protected.

- (i) **For example, would it be possible to revert to the role of competition that existed before the introduction of the Energy Act 2010?**

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

118. We invite views on the effectiveness and proportionality of this remedy and invite responses to the following questions:

- (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)

We agree that this is a serious issue that needs to be sorted out. There should be a clear and concise division of responsibilities with immediate resolution of "grey areas." This would ensure that everyone knows where each and all the responsibilities lie.

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

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

125. We invite views on the effectiveness and proportionality of this remedy and invite responses to the following questions:

- 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)?**

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

127. We invite views on the effectiveness and proportionality of this remedy and invite responses to the following questions:

- (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?**

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

130. We invite views on the effectiveness and proportionality of this remedy and invite responses to the following questions:

- (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?**

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