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5th August 2015

ICoSS Response to Provisional Competition and Markets Authority remedies

The Industrial and Commercial Shippers and Suppliers (ICoSS) group is the trade body representing non-domestic industrial and commercial (I&C) suppliers in the GB energy market. Members collectively supply three-quarters of the gas needs of the non-domestic sector as well as half of the electricity provided by non-domestic independent suppliers[1].

Please note that as we are the non-domestic supplier trade body, we have only answered the questions relevant to that market and our answers should be construed as such.

Executive Summary

- It is not feasible to publish or provide "tariff" prices for the microbusiness sector as energy suppliers do not utilise set prices for such customers, but instead vary each price quote according to the needs of the customer and use very different price structures.
- Banning of automatic rolling over of contracts is not necessary as the unengaged portion of the market supplied by former monopoly suppliers are not offered such contracts. Prohibiting such a contract offering will increase prices and reduce choice for engaged customers as well as hurt smaller suppliers.

[1]: our members

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- Microbusiness customers already receive sufficient information to ensure that they engage with the market and so requiring the provision of additional information is likely to create more confusion and not achieve significant changes to the market.
- The competitive nature of the engaged microbusiness market will make safeguard tariff prices difficult to implement without creating a negative effect on competition, but if implemented should be aimed at those customers who have never engaged with the market.
- There does not seem to be a compelling case to intervene in the implementation of Project Nexus now that expert third party assistance has been procured and a realistic timetable proposed. In addition the current meter reading regime in gas is fit for purpose.
- Similarly there seems to be little benefit in changing the current regime for code administrators.
- Removing the ability for the regulator to decide upon industry change has some merit as it creates an impartial arbiter for code changes.

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?

No, this proposal would be detrimental to the operation of the microbusiness market. There are fundamental differences between the domestic and microbusiness markets that makes any form of "tariff" (which do not exist for many suppliers) publication unfeasible. Any price that a microbusiness customer is ultimately quoted will depend on many more factors that it does for a domestic customer:

- The business market, being far more competitive than the domestic market and so has far greater commercial pressure on the margin that a supplier will be prepared to accept, particularly for those business suppliers without a large domestic portfolio to fall back on. This creates an ever-changing level of desire to flex prices to win certain customers, increase market share or to consolidate current market holdings and reduce market exposure. This will mean, on its own, that suppliers will continue adjust prices, on a daily basis, to reflect their risk appetite.
- There is a significant diversity in business models across the microbusiness market. This not only impacts how a customer will use its energy use(for example, bakeries are less dependent on weather and seasonal fluctuations compared to retail outlets), but will impact the cost for that energy; wholesale costs in summer are lower than in winter

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- This business model diversity will also be reflected in the credit worthiness of a customer. In the majority of cases, suppliers will assess the credit worthiness of a customer and the results of that assessment will impact the unit price a customer may pay, the level of credit a customer is required to lodge and ultimately whether the supplier wishes to supply that customer.
- Business suppliers, are not obliged to offer supply to any customer that contacts them and so any price publically quoted will not be available for some customers (when taking into account the above).
- The greater freedom that business suppliers have in how they build their product offering also means a diverse range of price structures. For example some suppliers will seek to blend their costs into a single tariff prices, many others will separate some or all of their costs (such as meter reading, transportation charges, etc). In addition some suppliers offer microbusiness customers take or pay contracts, which operate in a fundamentally different manner to open-ended consumption contracts.

Taking into account the continually differing factors of risk appetite, price structures, customer diversity, and credit worthiness inherent in the microbusiness sector, any form of price publication will give rise to a greater detriment to the market than no publication as the information provided will be misleading and ultimately undermine consumer confidence in the market.

ICoSS also has particular concerns with Ofgem being required to operate a Price Comparison Website. Ofgem is not a commercial operator, it is an industry regulator, and will not have the necessary expertise to manage and operate an effective service. In addition these proposals will put Ofgem in direct competition with commercial PCWs and so distort the market, in many cases threatening the continued existence of PCWs, and certainly discouraging others from entering the business market.

In addition, owing to the variation in how a price is ultimately derived in the microbusiness sector as set out above, it is inevitable that a customer will have seen different prices on a commercial PCW, compared to the Ofgem service. This undermines any consumer confidence in these services and acts as a further deterrent to this market developing in the non-domestic sector.

(b) Should this service be online-only, or should it also operate over the telephone for those customers without access to the internet?

Requiring Ofgem to deliver over the phone sales advice to microbusiness customers effectively requires them to be Third Party Intermediary broker, creating a government-backed free sales

service in direct competition with the commercial offerings provided by existing brokers. This will significantly distort competition in this area.

(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?

Yes, for the reasons set out above; why pay or register for a service when the government can provide it for free? This risk cannot be realistically mitigated as any form of centralised information provision from a government (if charged for at the point of use) will be seen as more independent to commercial offerings and so accrue market share to the detriment of other PCWs.

(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?

As set out above for the information to be provided to the customer by this service to be meaningful it would be necessary to provide all prices available to them from every supplier as otherwise the customer gains no benefit from seeing these prices and would be given a misleading impression of the competitive nature of their current price. However by creating a comprehensive service, this will effectively foreclose the market as it would drive out any competitive alternate service

(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?

As set out above the concept of tariffs does not exist in the microbusiness market and so it will be necessary for the Ofgem service to have the ability to take into account a customer's circumstances. To replicate this remotely (via PCWs) will require an extremely sophisticated and complex interaction between the PCW and every supplier, who would be required to receive specific customer information on a real-time process, assess it (for the credit worthiness of the customer, the nature of consumption, as well as the expected annual consumption) and then provide a response. The costs of such a process will be formidable (for a market less than 10% the size of the domestic market) and will close the microbusiness sector to all suppliers except those that already provide such information to domestic PCWs and so destroy this competitive market sector.

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(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?

In line with our comments above, if Ofgem is to effectively become a centrally-mandated PCW then it will effectively destroy the commercial PCW market as Ofgem's service will be seen to be government-backed and so have a significant reputational advantage over commercial services.

(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?

ICoSS is unable to provide any details on the likely costs that Ofgem will incur operating in this market, but we expect that significant costs will be incurred by Ofgem as it transforms from an economic regulator into a Web based PCW. For commercial PCWs these costs are incurred by the investors who have natural commercial pressures to be efficient. Ofgem will not have the same pressure and so there is a risk that costs will be inefficiently incurred.

(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?

As this service will be a competitor to commercial PCWs and suppliers it is inappropriate that they should be required to promote an alternative. The onus should be on Ofgem and/or Government to promote and fund if this option is pursued.

(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?

Ofgem currently provides information to microbusiness customers[2] and the scope of this information could be extended to provide more information on how the market operates. This would avoid the issues that would be created if Ofgem provided a PCW service.

[2] https://www.ofgem.gov.uk/simpler-clearer-fairer/information-business-consumers/micro-business-consumers-your-questions-answered

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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?

No. As set out in our response to remedy six, owing to the number of factors that go into the price calculation for a microbusiness customer and the inherently competitive nature of the market, suppliers do not utilise tariffs or comparable price structures and so it will be impossible to provide accurate or comparable prices. The only way to make such prices comparable and unresponsive would be to extend into the business sector the highly prescriptive legislation introduced into the domestic market by Ofgem's Retail Market Review,[3] which the CMA is proposing to withdraw, so forcing the more competitive and liquid microbusiness sector to be more like the uncompetitive and illiquid domestic sector This would be severely detrimental to competition and would strengthen the hand of the dominant domestic players who will be able to use their economies of scale to undercut their competitors.

(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?

Yes. At present microbusiness customers can access the market in a variety of ways, via brokers, PCWs or directly with their supplier. This can either be done online or via telephone. They also provided with detailed information on their current and future prices when asking to renew their contract.

(c) How long should energy suppliers be given to provide the required information?

It depends on the information required. It is implied from the question that the information required is complex and technical (such as meter types). Were such information be required then normally industry process would normally require at least a couple of business days for it to

[3] Supply Licence Condition 22A: Unit Rate and Standing Charge Requirements

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be retrieved and sent. We question whether customers need such information in the business sector as a supplier or TPI can access this information when a quote is being compiled.

(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?

As stated above there any many ways for customers to engage the market (via brokers, websites or directly to a supplier) and these different ways to engage have developed in response to customer needs and commercial and competitive pressures. To mandate such a process is to effectively force a blanket solution on the market and remove a significant element of competition from the market, in a manner akin to the RMR solutions developed by Ofgem for the domestic market.

Irrespective of the desirability of such a process such an automated process will require real-time, round –the-clock automated processes that will be required to take customer information, process it and providea near instant response. Considering the relatively small size of the microbusiness market, requiring such a process will drive independent suppliers out of this market and effectively leave it in the hands of large, domestic-orientated suppliers.

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?

Owing to the pivotal nature of TPIs in the non-domestic market, it is critical that customers and suppliers can engage with them with the confidence that TPIs are being subject to suitable minimum standards. To that end we support the implementation of a Code of Practice to regulate behaviour and to improve transparency. It is important that such a Code of Practice is firstly comprehensive and also rigorously enforced for it to be effective. Enforcement through suppliers does not achieve either of those aims as it will not cover brokers acting on behalf of the customer and suppliers do not have any legislative powers to oversee other company's behaviours. Instead the TPI Code of Practice should be managed and operated centrally by Ofgem.

(b) What information should be provided by TPIs to microbusinesses in order to enable them to make informed choices?

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The diversity of the micro-business sector means that the range of information that such business require will vary. The Ofgem TPI code of practice provides suitable obligations on TPIs to provide information and this seems sufficient.

(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?

As a principle information should be provided to customers as this will enable them to make an informed decision, on the proviso that the information is accurate and not misleading. It is unclear that what benefit providing commission information will have for customers as ultimately they will be looking at the price and the level of customer service they can obtain.

(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?

Conformation of quotes is essential and in the format most appropriate to the customer in light of their engagement with the TPI. In the case of a verbal contract being agreed this should be provided at the time with written conformation provided afterwards. This is already a licence obligation for suppliers and for consistency should be required by TPIs.

(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?

The Ofgem Code of Practice represents a significant body of work and, if implemented in a comprehensive and effective manner, ICoSS is confident that it will be effective in regulating the TPI market. Additional remedies would not be required in this scenario.

(f) Are there any additional measures that should be implemented alongside this remedy to enhance its effectiveness?

We have not identified any additional measures.

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)?

It should be noted that the big six have already recently withdrawn fixed term contracts from the market. As these suppliers currently supply the majority of dormant micro-business customers and represent the majority of the market, we believe it is unwarranted to seek to ban automatic contract rollovers for smaller suppliers as it will disproportionately impact new entrants and challenger suppliers (whose customers by definition are engaged with the market) and will limit choice for the consumer to the detriment of the market.

(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?

ICoSS has not provided a response on this question.

(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?

The current period for a fixed term contract (typically 12 months) reflects the cost savings that a supplier can pass onto their consumer by purchasing a fixed amount of energy. Though it is difficult to ascertain the optimum notice period, any period shorter than 12 months reduces the certainty by which the supplier can procure the energy for that customer on the wholesale market and so increase the risk premium (and so cost) that will be levied onto that customer.

(d) Should energy suppliers be required to inform customers that they are nearing the end of their contract and prompt them to switch?

Microbusiness customers already receive sufficient information on their bills to prompt them to switch and inform any decisions, including the contract end date, the current price being paid as well as the likely future price. ICoSS believes that further information is not necessary.

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?

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As set out in our response to remedy 8, there is currently a significant amount of information given to the customer to encourage switching on bills and this information is sufficient to prompt engagement. It does not seem likely that additional information on already over-crowded bills will significantly increase engagement and may discourage some customers.

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

Suppliers are obliged through their licence to provide detailed information to microbusiness customers when they seek to switch, including Principal Terms and Conditions, highlighting the key information that applies to them. As this information forms the fundamental basis of any contract there does not seem to be a need to mandate the provision of any further information.

(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?

Providing an additional prompt on a bill will provide a marginal increase in the number of customers who provide readings, but at present microbusiness customers are incentivised to ensure an accurate bill through provision of meter reads to ensure certainty over cash-flow and to avoid backbills, and we are mindful of the amount of information that is already required to be provided on bills. Therefore the benefits of this change will be outweighed by exacerbating the factors identified by the CMA regarding information overload on bills.

(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?

In accordance with supply licence contract requirements, microbusiness customers are provided clear information on when their fixed term contract will end, and the prices they currently and will pay in future. In addition their terms and conditions, which they must be provided with at the start of the contract, will clearly set out what will happen when their contract ends. As there is concern already over the amount of information provided to customers on their bills there does not seem to be a compelling case to provide yet more information which will be of marginal use.

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

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(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?

Micro-business customers currently receive sufficient information to keep them fully informed of their contractual status, including prompts on every bill as to when their contract will end, as well as current and future prices. Additional information is not required.

(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.

Suppliers currently have a range of mechanisms for engaging with their customers to reflect the different needs and preferences those customers will have (the example given of using text messages would be ineffectual for micro-business customers as many do not provide mobile phone numbers) and it will be to the detriment of the customer experience to mandate certain mechanisms of engagement.

(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?

As stated above microbusiness customers already receive sufficient information and to increase the level of mandatory engagement will, as identified by the CMA, have the potential to be detrimental to the customer experience.

(d) Who should provide the prompts: customers' energy suppliers, Ofgem or another party?

Communications regarding a customer's contract with a supplier should remain the responsibility of the supplier to avoid creating confusion and contradictory messages.

(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?

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In the microbusiness sector there do not seem to be any particular groups of customers that will require additional support.

(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.

It will not be possible for lists of such customers to be provided to the market without creating a negative impression amongst such customers (who have not engaged with the market before) who will be consistently and relentlessly targeted by brokers and so it is not certain such an active policy of engagement will enhance switching rates.

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?

The costs of serving a customer is dependent on many factors, such as wholesale energy prices, transportation costs, cost to serve, taxes, etc. These costs continually change (not only from day to day but from region to region as well), particularly in the liquid microbusiness market, and so any form of centrally set fixed "tariff" will become unreflective of cost almost instantly and will result in either windfall profits (such as for those suppliers with large domestic portfolios who benefit from economies of scale and have lower costs) or make the microbusiness market unprofitable for any supplier.

A cost-plus basis allows some form of flexibility but any form of regulated pricing will damage competition as it removes the ability for suppliers to price their products competitively (for example accepting a lower margin to win market share) to engaged customers. Regulated pricing should only be considered to protect suppliers from exploiting their control of inherited, unengaged customers who have never switched.

(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?

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A centrally-set fixed price will not be reflective of the cost of supplying customers (which continually changes) and so this mechanism should be discounted as it will distort the market. Though cost-plus basis provides more flexibility, it is extremely difficult to accurately translate the cost of purchasing wholesale energy for a subset of customers (in this case those customers safeguarded by a regulated tariff) into a cost-reflective regulated retail price and so careful consideration as to the practicality of any restriction.

(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?

Any form of regulated tariff goes against the concept of a competitive market as it is a guaranteed price and so the quality of service towards such customers will deteriorate as suppliers maximise profits. In theory this loss of customer service will encourage switching, but as these tariffs are targeted at unengaged customers who are not motivated to switch at present, in reality many of these customers will be further discouraged from engaging with the market.

(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?

Owing to the negative impact on competition that any form of regulated tariff will have, its scope, and therefore effect, should be targeted at the inactive portion of the market, i.e. unengaged customers who have not ever switched supplier. These could be identified by looking at those sites which have never switched supplier since privatisation.

(e) How should the headroom be calculated to provide the right level of customer protection while not unnecessarily reducing healthy competition?

For the reasons set out above it is will be very difficult, if not impossible, to set a regulated price cap without negatively impacting competition.

(f) What regulatory information would be required to set the safeguard tariffs?

Suppliers currently utilise a wide range of information to set their prices, including wholesale prices, transportation costs, charges and levies, bad debt risk,etc. For any centrally-set price to be cost reflective all of this information would need to be provided from all suppliers. This is

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likely to be an onerous requirement on both the suppliers (particularly smaller suppliers as the level of work required will be relatively fixed irrespective of the size of organisation) and the central body responsible for processing this information.

(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?

It is difficult to know how long the price caps should be in place as it is unclear as to the ultimate goal the introduction of such caps are attempting to achieve, whether it be to protect customers until market switching rates have increased to acceptable levels, or until all customers have switched at some point. In either case, any form of regulation, if it is introduced, should be reviewed as often as possible with a view to minimising their duration.

(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.

Any regulated tariff or cap will need to be revisited as often as is necessary to ensure that the price cap is cost reflective. As wholesale prices will change on a daily basis as suppliers buy and sell energy to cover their expected consumption, then it will necessary for this cap to be adjusted daily, even if some of the costs are to be passed through.

(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?

The overwhelming majority of unengaged customers are with former monopoly providers, that is the big six, as most customers with suppliers who have entered the market at or after privatisation will have had to actively switched and so be engaged in the market. There is therefore a compelling argument that the regulated tariff provisions should only apply to the Six Large Energy Firms.

(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?

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As stated above regulated tariffs should only apply to those customers who have never switched. If this policy is to be pursued, such customers should be moved onto such tariffs as soon as the structure and form of the tariff is known.

(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?

No comments on this question.

(l) Should the CMA set the level of the safeguard price caps itself, or should make a recommendation to Ofgem to do so?

As stated above any form of regulated tariff will have to be continually adjusted to ensure it is cost-reflective and does not stifle competition or create windfall profits. This continual monitoring of market prices will be best undertaken by Ofgem who have the experience and powers 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?

Any form of price regulation will have a significant impact on the rest of the market as they will effectively act as a cap for the whole market. If implemented they should be targeted at those market sectors that do not currently engage with suppliers.

Remedy 12a – Requirement to implement Project Nexus in a timely manner
(a) How long should the parties be given to implement Project Nexus?

It has been recently proposed that the implementation date for Project Nexus to be changed to 1 October 2016 after expert evaluation of the project by a third party. As this adjustment has yet to be formally implemented into the UNC, at this stage it is premature to try and determine what a suitable deadline for implementation would be.

(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?

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ICoSS believes that the regulator of the industry, who is currently involved in the detailed delivery of Project Nexus, is in a better position to judge what remedies, if any, are needed to ensure timely implementation.

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?

Whilst the current settlement regime for Small Supply Points means that significant levels of settlement inaccuracy can arise as a result of ageing AQs (as meter reads submitted do not alter the energy allocated to a shipper), the move to universal reconciliation for all meter points under Project Nexus means that the only negative impact an aging AQ will have on the industry is that the allocation for a site is not known until a meter read is submitted and the site's estimated consumption is corrected. The current must read process ensures that a meter read will be obtained at some point for a site (by the transporter if the supplier does not do so), triggering not only reconciliation but an updating of the AQ in the system. The only cost therefore to the industry from inaccurate AQs is a temporary inaccuracy in settlement, which can either be an under-estimate of consumption (so a cost to the industry) or an over-estimate (a cost to the shipper). It is important to note that a shipper itself will not know which scenarios exists at a site until it has procured a read. A shipper may of course suppress reads to under-estimate its true consumption, but this would require significant effort as the shipper would need to first calculate the impact of the read, and would be very easy to detect as the update trends for the rolling AQs would be out of sync with normal updates.

In summary there does not seem to be a market need for the current regime around meter read submissions to be altered, and furthermore mandating any timescale is likely to lead to additional costs (as suppliers undertake ad-hoc site visits) and lead to meter reads that might otherwise have been queried being loaded into the system.

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?

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It is unclear what the benefits will be in making this a licensable activity as the competitive advantage gained from tendering for such activities seems marginal and would risk losing the historical knowledge of previous code development.

(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?

There does not seem to be much benefit in undertaking this transfer as code processes currently work well and the cost savings and/or efficiency improvements will be marginal.

(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)?

As stated above we do not see there is much to be gained from tendering for such an activity.

(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?

As stated above we do not see there is much to be gained from tendering for such an activity.

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?

Creating an independent code adjudicator will add cost to the market, but as Ofgem can effectively direct industry change as it see fit (under the SCR process and through willing industry parties) and then decide upon the merits of that change, it seem proportionate that this ability to decide upon code modifications is removed from the regulator.

(b) Would there be unintended consequences, arising for instance from an increased lack of coordination between code modification governance, licence modifications and legislation?

We have not identified any unintended consequences as we envisage this role to be limited in scope.

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