Make It Cheaper
5th Floor
Lloyds Chambers
1 Portsoken Street
London
E1 8BT

Telephone: 0800 158 5263
Email: CustomerService@ makeitcheaper.com
Website: www.makeitcheaper.com
Twitter: @makeitcheaper

Mr Will Fletcher
Project Manager
Energy Market Investigation
Competition & Markets Authority
Victoria House
Southampton Row
London WC1B 4AD

5.8.15

Dear Will

Re: CMA Rules of 'Engagement'… Top 10 Remedies for SMEs

Make It Cheaper welcomes the opportunity to respond to the CMA's provisional findings from its Energy Market Investigation. As a service provider and consumer champion[1] representing energy customers across the UK - from the smallest household to commercial premises consuming up to a million pounds worth of gas and electricity a year - we are in a unique position to consider the report's implications. Indeed, the Make It Cheaper Group includes an Ofgem-Confidence Code member (www.UKPower.co.uk) and the largest customer-base of micro and small businesses (SMEs) out of all the brokers / Third Party Introducers (TPIs) in the UK with approaching 40,000 organisations currently on supply. Furthermore we are similarly active in the Australian energy market (www.makeitcheaper.com.au), upon which several possible remedies for the UK have been based and from where we are happy to draw on our experience.

However given the broad-ranging nature of the investigation and the extent to which the Remedies may disrupt the market, we are focusing this response on the topic of SME engagement as it not only involves our core market but is also an area with great potential to deliver meaningful (and much needed) results. As such, the following Top 10 Measures to stimulate engagement are the ones that we believe will give consumers the confidence they need to secure better deals and include many of the published Remedies – which are numbered correspondingly where relevant.

On a general note, we urge that a standard system for measuring SME energy customer engagement is created ahead of any Remedies being implemented. Without compiling this data – currently available from all suppliers – there will be no reliable way of knowing how successful the measures have been. This data would preferably be published quarterly (as in the domestic market) and with targets set against it so that everybody understands the intention / degree of success. Whichever Remedies are ultimately chosen by the end of the year, we would also urge rapid implementation. It would be encouraging - and rewarding for customers - to start seeing their impact from January 2016 onwards.

1. **Measures to prompt customers on default tariffs** to engage in the market (Remedy 10) are all excellent ideas and could be particularly effective, depending on the strength - and source - of the prompt. This Remedy is similar to the situation experienced by the Scottish SME water market as it opened up to competition, where monopoly players provided information that allowed others to make offers. We suggest this applies to all Out-of-Contract / Deemed Tariff customers as well as suppliers with a passive customer base above a certain percentage on default tariffs. As with the www.goenergyshopping.co.uk website, customers could be offered a choice of accredited TPIs to help them find better deals (ie Non-Domestic TPI Code of Conduct members).

2. **Awareness Campaign**. We know from the *Be An Energy Shopper* advertising campaign earlier in the year that successful engagement can be achieved by signposting from a trusted source – ie DECC. Similarly the *What's My Number* campaign run in New Zealand by the Electricity Authority has performed well in terms of giving switching confidence to the previously disengaged majority. We would like to see this replicated in the UK with SMEs being the target audience and the campaign funded through a charge on suppliers with the stickiest customer base.

3. Likewise, a stronger **prompt to switch at Contract End Date** (Remedies 8d & 9d) and removing notice periods for customers that have gone beyond their CED (Remedy 8c) would make sense. These are both areas on which the Retail Market Review has already made some progress but there is still some way to go and stronger governance required. For example, suppliers have been required to print CEDs and notice periods on customer bills for over a year and yet one of the biggest is failing to do so. On the second point about post-CED notice periods – most suppliers currently require 30 days' notice whereas their domestic customers are able to switch in 17 days – and that includes a cooling-off period, which does not even apply to non-domestic contracts. Businesses can switch bank accounts in 7 days via the 'Current Account Switching Service', telecoms products in 10-14 working days and we can find no reason why a SME energy switch (certainly electricity) should take more than 3 days. We suspect the unnecessary delay has more to do with the losing supplier simply 'buying time' to save or 'win-back' customers who have found - and already agreed - a better price elsewhere.

4. **Provide price lists for microbusinesses** (Remedy 7A). We see this as an essential development, not least to increase engagement but to increase the conversion of SMEs attempting to 'click-to-buy' and switch online. See our April 2014 response to Ofgem's Call for Evidence about Non-domestic automatic rollovers and contract renewals, in which we argue the case for publishing SME tariffs.[2] However it is vital that customers who wish to shop around by negotiating with suppliers or speaking with a TPI are still able to do so as they will doubtless find cheaper prices (20% of the market is already engaged and quite used to doing this). Over-regulating SME prices – as has happened with the domestic 4 tariff rule – could see a narrowing of the price spread and actually harm engagement. Furthermore, price discovery is not the only part of the process. With SME energy procurement, the service is just as important as the price. This is underlined by our research that shows only 14% of SME customers want the cheapest possible price (56% want our recommendation based on a combination of *cheaper* prices from suppliers *vetted* by us, while 46% choose Make It Cheaper because of our customer service commitment to ensuring new contracts actually 'go live'). This evidence is broadly supported by qualitative research into SME engagement published by Ofgem in June 2015.[3]

5. **Rules governing the information that TPIs are required to provide** (Remedy 7B). Trust is paramount in the relationship between a TPI and its SME customers. Establishing a Code of Conduct is a way of building that trust and - as a member of Ofgem's Non-Domestic TPI Working Group – we are very much in favour of it. In fact, many of the Remedies proposed will only work properly *when* there is a Code in place as they rely on certain rules being adhered to by TPIs - EG signposting stickier customer to use an accredited TPI to find a better tariff. Proactively disclosing breadth of panel and how a TPI is paid are not unreasonable demands - common in other sectors - and can only lead to winning greater trust from customers. This information should be provided in the manner in which the customer wants it – ie let them decide if it is written (email), oral (recorded phonecall) or not necessary in their case at all. Ofgem urgently needs the green light to introduce the Code as early as possible - for all TPIs regardless of the customer types they serve - and given the power to manage it with suitable enforcement. Smaller TPIs who feel a Code is too big a barrier for them to operate efficiently should consult the suppliers on their panel for support as, likewise, happens in Financial Conduct Authority-regulated industries (Make It Cheaper is also home to an FCA-regulated commercial insurance division).[4] Furthermore, in addition to a Code of Conduct, there should be a way of monitoring the performance of TPIs – such as a customer satisfaction metric or an upheld complaint league for TPIs.[5] As above this would be best introduced only once TPIs are supervised by a Code because of the ongoing problem of 'bad apple' brokers harassing SMEs and deliberately concealing their identity – or misleading the customer as to who they represent and what their real intentions are (in the same way some claim to be 'acting for official purposes').[6]

6. **Access to ECOES** (Remedy 4A). A similar system - MSATs - has worked very well in Australia and could do the same in the UK, improving the speed and number of successful SME energy transfer requests by – for example – allowing TPIs to clarify information for customers up front. Allowing TPIs access to ECOES would also empower them to handle transfer 'Objections' far more efficiently and help bridge the 'live rate' gap that will remain an issue until wide enough penetration of Smart Meters can offer an alternative solution. Again, this should be information accessed only by Code-compliant TPIs.

7. Similarly, we have identified a longstanding and increasing need to tackle the **root cause of Objections** so that the customers - particularly any expected wave of newly-engaged SMEs - do not end up in a situation where the experience puts them off. Ofgem reported in its Supplier Objections: a Call for Evidence in February 2015, an industry-wide transfer Objections level for SMEs running at 32% in 2014.[7] Our own league table shows this can be as high as 50% with certain suppliers. Plus, all suppliers have instances of Objecting to a new contract on multiple occasions, with an average of 1.4 Objections per Objected transfer. There are a number of factors which can lead to multiple Objections, not least the different 'reapplying rules' that are practiced among the suppliers. Clearer visibility and more aligned rules on when to apply / reapply would vastly improve the volume of multiple Objections. I refer specifically to the letter that we submitted to Ofgem in response to its Objections consultation in April and urge the CMA to also consider the remedies we put forward at the time.[8]

8. Rather than (or as well as) a Safeguard tariff (Remedy 11) to replace Deemed tariffs, we would like to see suppliers improve their **Debt Management** of premises that have recently changed tenants. It is unfair that a customer who pays Deemed Rates is effectively subsidising the bad debt of one who doesn't - or, arguably - the outstanding balance of the previous tenant. Change of tenancy is an area that has - for a long time - bred bad broker behaviour and one for which suppliers need to take more responsibility.[9] As such, measurable targets set against the engagement of commercial movers are important.

9. The **Microbusiness definition ought to be removed** and for all businesses to be given the protections on offer, regardless of size. As the CMA's investigation has itself discovered "..suppliers generally do not distinguish between microbusinesses and SMEs. Suppliers we have spoken to apply the additional microbusiness requirements to all customers that they categorise as SMEs unless they are explicitly identified as not being microbusinesses. Furthermore, each of the Six Large Energy Firms categorises SMEs in a different way, and these differ from the Ofgem microbusiness definition."[10] It is not helpful to have a framework that, frankly, doesn't work; isn't known by the majority of organisations that it is meant to protect; often misunderstood by the minority that are aware and has become an unnecessary burden when attempting to compare prices. It would be easier for everyone - consumers, TPIs and the suppliers - if every business was automatically treated in the same way (unless they chose - for whatever reason - to opt out of the consumer protections).

10. **Banning Rollovers** (Remedy 8). Mandating against the use of Rollover contracts needs to be carried out swiftly, not just so that customers can be set free from high tariffs that they did not agree to but - more importantly - so that suppliers are provided with an easy and uniform termination/renewal process they must follow. Since the staggered (voluntary) removal of rollovers began in 2013, customers have faced an ever-changing landscape of rules about when and how to terminate, with a wide range of scenarios beyond Contract End Date. This complexity does not aid engagement and may lead to a situation faced by the Telecoms industry soon after it removed rollover contracts for businesses. In essence, suppliers created new hurdles around CEDs to increase the stickiness of customers including: 3 month notice periods, Early Termination Charges being disproportional and widespread (effecting 22% of SME switches), as well as aggressive / unwanted save activity.[11] Ofcom has since taken steps to move to a 'Gaining Provider Led' switching process (much like the domestic energy market) in an effort to prevent the Losing Provider from spoiling transfers. Indeed, in the current post-Rollover environment, we have felt the need to publish an online *Smallprint Pointer* to show SME energy customers where to find important information on their bill and the key information about each supplier's renewal process.[12]

At the time of creating this tool, Make It Cheaper compiled a *Transparency Table* by analysing and scoring 12 of the key non-domestic suppliers on how well they present contract information in their bills across the following six categories:

- Position of key contract information on the bill
- Time taken to locate information when prompted
- General appearance (font size, colour, boldness etc)
- Clarity of wording used to describe its relevance
- Proximity of notice period to the contract end date
- Whether 12 month automatic renewals still apply

This study revealed that Ofgem's Retail Market Review rules have not been followed to the letter in every case with some information missing and most customers still left guessing how to terminate their contract or what will happen to their bills if they fail to do so.

This final point underlines a really important aspect of all the good work being done to improve the energy market conditions: that all new Remedies must be sufficiently monitored and enforced. We have learnt the hard way in the past that Supply Licence modifications have often failed to meet their objectives because they have allowed each supplier to carry out their own 'interpretation' of the new rules which – needless to say – differ from one supplier to the next.

I would be happy to discuss any of the above, and the wider proposed Remedies if required, providing more information where possible. Please do get in touch if this would be helpful.

Yours sincerely

Jonathan Elliott, Founder & CEO

1. Make It Cheaper won the title of 'Consumer Champion' at the Energy Live Consultancy Awards in 2013 & 2014.
2. Make It Cheaper's evidence about: Non-domestic automatic rollovers and contract renewals https://www.ofgem.gov.uk/ofgem-publications/89035/makeitcheaper.pdf
3. Micro and small businesses' experiences with and perceptions of energy broker services June 2015 https://www.ofgem.gov.uk/ofgem-publications/95363/bmgresearchofgemdepthinterviewsreportd3-pdf
4. Make It Cheaper's business insurance service http://www.makeitcheaper.com/business-insurance.aspx
5. Make It Cheaper's 2015 'Net Promoter Score', based on 3,208 customer satisfaction questionnaires completed year to date (as at 5.8.15) is +65 https://www.surveymonkey.net/results/SM-3QNQRKBD/
6. Page 385 in CMA's Provisional Report https://assets.digital.cabinet-office.gov.uk/media/559fc933ed915d1592000050/EMI_provisional_findings_report.pdf
7. Ofgem Supplier Objections: Call for Evidence https://www.ofgem.gov.uk/ofgem-publications/93659/callforevidence27february2015re-uploaded-pdf
8. Make It Cheaper's evidence about Supplier Objections http://www.makeitcheaper.com/press/2015/open-letter-from-make-it-cheaper.aspx
9. Custodial sentence in Conspiracy to Defraud https://www.cityoflondon.police.uk/news-and-appeals/Pages/jail-for-company-director-who-fraudulently-claimed-thousands-in-commission-from-energy-companies.aspx
10. Page 371 in the CMA's Provisional Report https://assets.digital.cabinet-office.gov.uk/media/559fc933ed915d1592000050/EMI_provisional_findings_report.pdf
    See also Table 1 in Appendix 9.1 https://assets.digital.cabinet-office.gov.uk/media/559fb67ee5274a155900002b/Appendix_9.1_Microbusinesses.pdf
11. Page 53 in June 2015 Ofcom report http://stakeholders.ofcom.org.uk/binaries/research/telecoms-research/sme/bb-for-smes.pdf
12. Make It Cheaper's 'Smallprint Pointer' http://www.makeitcheaper.com/landing-pages/guide-to-contract-end-dates-on-bills.aspx