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**Non-Confidential**

23rd November 2015

# CMA Energy Market Investigation

## Response to supplemental notice of possible remedies

This is the response of First Utility Limited (**First Utility**) to the Supplemental Notice of Possible Remedies (**Supplemental Notice**) published on 26 October 2015. Where relevant, we refer to our response (**Response**) to the Summary of Provisional Findings (**Summary**), the Provisional Findings Report (**Provisional Findings**) and the accompanying Notice on Possible Remedies (**Remedies Notice**) published or notified by the Competition and Markets Authority (**CMA**) on 7 July 2015.[1]

## Summary

We welcome the CMA's engagement with alternative remedies, whether expressed as additional to the CMA's proposed information remedies intended to address the lack of customer engagement or through the proposed safeguard tariff,[2] and the chance to consider these in more detail at this stage.

We consider that it is essential in order to address the cumulative adverse effects on competition highlighted in the Provisional Findings that any remedies will increase customer engagement. Remedies which could themselves adversely affect that engagement would, therefore, not be effective or appropriate. Whilst we consider that the Centrica/Scottish Power remedies are a helpful starting point, in particular in terms of an alternative to the safeguard tariff, we have concerns that as proposed, they could work in practice to encourage the locking in of their SVT customers to renamed default tariffs, with only limited prompts being required for those customers, through billing and otherwise, to counteract this potential effect. This response therefore focuses on setting out changes to the remedies to address this by way of an alternative information remedy for the combination of supplier behaviour and lack of customer engagement found by the CMA (which findings we agree with).

In summary, the changes we would suggest to the proposed remedy to ensure that it addresses the adverse effect on competition concerning lack of customer engagement would include:

- Renaming of the Standard Variable Tariff (**SVT**) or any 'default' to an 'out of contract' tariff;
- Introducing FTE communications for customers on SVT tariffs on the annual anniversary of them starting on the SVT tariff;
- Introducing quarterly clear communications (in the style of the current price rise notification) to those SVT customers, focusing on what customers could save by switching to the supplier's cheapest tariff (**SCT**) and the potential savings to be gained by switching supplier (and how to do this) through indicating a measure for a *market cheapest tariff* (**MCT**); and
- More frequent billing to embed and increase customer engagement around energy spend and promoting engagement with switching of tariffs and/or suppliers and managing energy consumption levels. Greater frequency of customer billing is therefore essential to consolidate and increase existing consumer engagement levels to maximize smart meter rollout benefits.

One way to facilitate MCT messaging would be to recommend that Ofgem utilise the information it would take from market monitoring of tariffs on switching sites to come up with figures that could be placed on relevant communications to highlight the potential gains from switching given certain

[1] https://assets.digital.cabinet-office.gov.uk/media/55e6bc84e5274a55ff00001c/First_Utility_resp_to_PFs.pdf

[2] We set out in our Response our views on the safeguard tariff, which we do not reiterate here.

assumptions (which could include using Ofgem bill projections from e.g. top 5 tariffs using their standard calculation methodology from a defined period of time).

As noted in a number of responses to the Provisional Findings and Remedies Notice, and earlier CMA statements, customers find bills to be confusing. We would therefore propose that in addition to issuing more frequent, and clearer, bills,[3] suppliers be required to meet an additional communications requirement as outlined further below, on a quarterly basis. This would highlight the benefits from switching (which need to be reviewed to ensure clarity of information and messaging) on an SCT and MCT basis.[4]

## Our detailed response

***(a)* Would this remedy be effective in encouraging customers to engage more frequently in the market? Are there certain groups of customers who could not be covered by this remedy and, therefore, would not benefit, eg those on prepayment, DTS or other meters?**

Whilst the remedy is a step in the right direction, we do not consider that it will be effective in encouraging greater customer engagement, even if it includes SCT messaging. This is because, as we cover in our response to question (i) below, a move to an annual tariff expiry communication for customers would only constitute one additional mandatory communication, probably around the time of an Annual Statement. Taking the Standard Variable Tariff (**SVT**) customers of the Big Six, this is a very unengaged customer set, as evidenced by the fact that they haven't changed even in the face of the most powerful energy supplier communication - the price increase notice.[5] In our view, more must be done to give the customer multiple chances to pick up the communication before they act. Further, the remedy does not address the current issue where customers of certain of the Big Six receive prompts around SCT only 1-4 times a year, compared to customers of certain of the independent and smaller suppliers receiving prompts up to 12 times a year.

With only around ✂% of customers taking affirmative action on the back of Fixed Tariff Expiry (**FTE**) messaging, as our evidence (under question (i) below) shows, a much more effective remedy would be more regular targeted communications at least quarterly on the benefits of switching tariffs and/or suppliers, in a similar format to that of price increase notifications. Combined with MCT messaging, which would show a materially greater level of potential savings available, this would constitute a much stronger incentive for consumers to engage, offering a reward for engaging in the form of lower prices. Such communications should also highlight how customers could switch provider with links to do so, providing those who have never considered switching (around 29% of consumers according to the GfK questionnaire, and a further 5% who thought switching was not possible) the tools to do so.

We also have concerns on naming conventions using the 'fixed' word adding to confusion (given fixed term tariffs, a fixed price tariff with a fixed term, and fixed payments i.e. fixed direct debits). Using the word 'fixed', as indeed using 'standard', implies some level of comfort and security, which we consider likely to reduce the incentive for customers to consider switching. Renaming the SVT tariff to an 'out of contract' tariff is clearer – it describes what it is.

For completeness, we would continue to advocate monthly billing, which we already do. Customer awareness of energy spend and promoting engagement with switching of tariffs and or suppliers goes hand in hand with that of managing energy consumption levels. Greater frequency of customer billing is essential to consolidate and increase existing consumer engagement levels.

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[3] We note that Ofgem has convened a workshop to consider effective billing and customer communications.

[4] This could be expressed as a loss to be avoided or a gain to be made and we would support further research around how most effectively such messaging can be provided.

[5] We note that Centrica's table of tenure, as part of its transitional phasing includes customers on SVT of 15+ years, 6-14 years and 3-5 years, although no proportions are given.

(i) **To what extent is the higher level of engagement observed in response to end of fixed-term contract notifications the result of the type of customer who has chosen those products, rather than a response to the notification itself?**

Our own analysis shows the response rate of customers from the FTE process compared to direct notification of SVT customers on savings potential is quite similar, as described in the paragraphs below. The difference in response rates to customers from price rise notifications, we suspect, is due to the limited financial impact of the rise (compared to a figure showing the level of savings possible from switching tariffs), and not as a result of any difference as explained by different customer types.

For customers on a fixed tariff, our latest figures for Q3 of 2015 for customers moving onto a different fixed tariff on expiry of their existing tariff (for which, please see Annex 2 of this response) show that whilst ✂% of customers take up a new tariff on the back of the mandatory communications, a further ✂% take up was achieved through our own ✂. This may indicate that the SCT is insufficient to encourage full engagement, given at FTE, the financial savings involved are much greater.

The value of notifications showing the savings possible from switching tariffs (howsoever expressed – whether as a specific gain or a prompt to avoid a lost chance to save) is very similar for SVT customers as for customers at FTE. Our own trial has shown that SVT customers will engage if prompted - suggesting that if made aware of the potential savings available, a proportion will engage (to a similar level as during the FTE process). Specifically we informed our SVT customers that they can lower their energy prices by updating to a cheaper fixed tariff. We did this through ✂ to highlight the fixed options, with the customer then updating their tariff choice via a simple (2 click) self-service online journey. Overall, ✂% of customers ✂ and ✂% converted to a fixed product.

We therefore do not agree with Scottish Power's and Centrica's analysis that if all domestic customers were to receive FTE notifications alone, that levels of engagement would materially increase. A move to a yearly FTE process for SVT customers would have minimal benefit given this would only constitute one additional communication, as noted, probably around the time of an Annual Statement, and where some Big Six suppliers only bill once every 6 months. We would instead, as per our experience with direct communication with SVT customers, advocate more regular communication - at least quarterly – with such communication to be solely focused on savings from switching tariffs. We would also, as already noted, advocate monthly billing. More frequent billing and other communications help to increase customer knowledge of their energy spend.

We also consider that how and what figures are presented are key to customer engagement: a lack of perceived potential savings inhibits the incentive to switch tariffs (as shown through limited response even to FTE notifications) let alone switching suppliers. An illustration of how effective a call to action can be and why MCT messaging is in our view essential, and how the choice of data points can impact this, can be found in the current November publication of Which?

In summary, we think that it is critical to have a standardised way of a) showing benefits of switching tariffs combined with b) the benefits of switching supplier. Communications need to be targeted (not diluted with mixed messages) with headline figures sufficient to engage the customers interest. This could be achieved through an information remedy (such as the requirements around price increase notifications) which would cover frequency of communications, key messaging and the introduction of a MCT message (which could be an Ofgem published figure offering an approximate potential of savings available). If supported by more frequent billing as we have advocated, this would further strengthen customer engagement.

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***(b)* Would this remedy be effective in protecting those customers who failed to engage in the market, even after receiving prompts, from paying high prices? Would the extension of SLC 7[6], in the manner proposed by Centrica, provide such protection?**

We are concerned that whilst this remedy may lead to a small decrease of the number of customers on SVT tariffs, there would be insufficient attrition to other tariffs or suppliers, to incentivise more competitive, cost-reflective SVT tariffs.

Instead as per our proposal for an alternative remedy for SVT customers as outlined in the response above on at least a quarterly basis, and encompassing the savings potential from a MCT perspective, our own customer research has shown this would lead to higher level engagement from SVT customers. The ensuing increased levels of competition would put more pressure on the SVTs to become more competitive, for those still remaining on that tariff. Combined with a move to monthly billing, this would help consolidate and further increase customer awareness of energy spend: promoting engagement with switching of tariffs and/or suppliers, goes hand-in-hand with that of managing energy consumption levels.

Furthermore, as noted in our response to question (a) above, we have concerns that consumers would perceive a 12 month "fixed" term tariff (but with variable price) as offering reassurance where there is none. At best, it could cause or add to confusion and at worst, provide false assurance. The risk is that the Centrica proposal effectively takes the SVT, removes the media pressure placed on it and increases customer reassurance through a fixed term contract (with fixed point communications). A customer may as a result delay any action to consider switching tariffs or provider, as from their perspective, the tariff is fixed for a year, albeit that in reality the price remains variable. By effectively remaining within the one year fixed term tariff (with FTE communications once a year) consumers would not be prompted into and thereby benefit from any falls in prices nor benefit from the greater awareness of new tariffs being launched. In the worst case, therefore, it may work in practice to lock in customers operating on the mistaken assumption that their "fixed" tariff is safe for them and not being encouraged to revisit this assumption more than once a year.

In relation to the suggestion that the extension of SLC 7 would provide protection to consumers who have failed to engage in the market even after receiving such prompts, we don't believe this would make any difference. This results from deemed tariffs being priced at the same level as the SVT, at least based on our assessment and from our own experience. For ourselves, the SVT and deemed tariffs are effectively the same tariff, but with a slight difference in terms & conditions, to take account of customers taking on a contract by default simply by effecting a change of tenancy.

***(c)* Should this remedy apply to domestic customers only, or should it also be extended to microbusiness customers?**

The evidence and experience upon which we have drawn for this response concerns domestic customers. As a result, we are not best placed to comment on the potential extension of this remedy to microbusiness customers.

[6] Centrica told the CMA that 'The CMA could apply elements of existing regulation Standard Licence Condition 7, relating to deemed tariffs, to the default tariff (ie a requirement that such terms must not be unduly onerous). This would mean that competition in the market for non-default FTCs would exert price pressure on the default tariff by ensuring that:
*revenues would not significantly exceed the licensee's costs of supplying energy to the premises of default tariff customers; and
*margins earned on default tariff customers would not significantly exceed margins earned on the supply of energy to the generality of domestic customers.'

***(d)*** **The wording of the end of fixed-term notifications appears to be critical to the effective functioning of this remedy. Should Ofgem take responsibility for developing and testing appropriate wording, or should the energy suppliers retain responsibility for this?**

As we note in our responses to the earlier questions, we believe there is little benefit from changing terminology from 'standard' to 'fixed' in this context: instead we believe that the default tariff should be named an 'out of contract' tariff. If an annual FTE process is desired (in addition - as we consider essential – to other communications), this could simply be in place at the anniversary of the customer entering onto the SVT tariff.

However as set out in our proposal in question (a) (i) above, we would like to see a remedy requiring at least a quarterly targeted communication to SVT customers focused solely on the benefits to customers of switching tariffs and of switching suppliers. This would address the lack of customer engagement rather than in the worst case, fostering or encouraging it. We think that it is appropriate that suppliers could determine the form of messaging themselves (albeit please note the point made in the Summary around research on impact of messaging – whether expressing savings as gains or avoidance of loss would be more effective) and be subject to scrutiny and challenge as seen with implementation of Standards of Conduct.

(i) **If suppliers design these prompts, how can they be incentivised to maximise their effectiveness?**

Publication of switching numbers, continued media scrutiny and more effective competition led by engaged customers would work to incentivise suppliers to ensure that their communications are tailored to meet their customer needs, taking account of competition for retention and gaining of new customers. Ofgem's proposals around principles based regulation (**PBR**) also contemplate Ofgem being able to scrutinise and challenge supplier activity in this area against defined principles or outcomes, and PBR should also consider how best and most appropriately best practice in this area can be disseminated, without a "one size fits all" bias emerging.

***(e)*** **Should the default tariff be fixed price as well as fixed term, or should suppliers be allowed to roll customers onto a variable price tariff?**

Default tariffs should not be 'fixed' in any way or have exit fees associated with them given the concerns as noted under question (b) above that consumers would perceive a fixed tariff with a fixed 12 month period as offering reassurance where there is none.

Moreover as we note in our response to the question posed under (b) above, this would offer no protection to those customers who failed to engage in the market even after receiving prompts, from paying high prices. Whilst the remedy may lead to a small decrease of the number of customers on SVT tariffs, there would be insufficient attrition to other tariffs or suppliers, to incentivise more competitive, cost-reflective SVT tariffs. For example for the third of consumers highlighted in the GfK questionnaire who had either thought that switching was not possible (5%) or had never considered switching (29%), this was despite the multiple price prompts - for these people especially, an additional annual prompt is unlikely to make them engage. A 'fixed' price would further entrench the current incumbent supplier behaviour in this regard, given that consumers would not benefit from any falls in prices nor the benefit of greater awareness of new tariffs being launched.

Instead as per our proposal for SVT customers as outlined in our response to question (a) (i) on at least a quarterly basis, and encompassing savings potential from a MCT perspective, our research has shown this would lead to higher level engagement from SVT customers. The ensuing increased levels of competition would put more pressure on the SVTs to become more competitive, for those still remaining on that tariff. This should be combined with changing the naming of the current SVT tariff to an 'out of contract' tariff, so customers are in no doubt they are not on the best tariff for them.

Furthermore, returning to a situation where customers are left languishing on multiple expensive dead tariffs must be avoided: this aspect of RMR surely commands general and continued acceptance given the customer benefits. Additionally the administrative constraints that suppliers face in managing current FTE processes with regard to customer numbers, means that the most efficient way of applying an FTE process to existing SVT customers is to do so at the anniversary of that customer entering onto the SVT tariff.

(i) **If the default tariff were variable price, should energy suppliers be required to roll all customers who did not take action onto the same tariff, such that in effect there was only a single variable price default tariff per supplier?**

We believe the default tariff should continue to be of a variable price so that customers can benefit from any falls in prices. Combined with our information proposals, this would also enable such customers to receive the benefits of greater downward pressure on suppliers for their variable tariffs, as a result of increased numbers of customers moving away from the variable tariff to fixed tariff price options. Again, clarity of communication is key.

The current 'standard variable tariff' need only be renamed to 'out of contract' tariff (for those companies who offer *more than* one tariff), and suppliers could apply an FTE process to those customers, on the anniversary of the customer entering onto that tariff.

(ii) **If the default tariff were fixed price, should energy suppliers be required to roll all customers who did not take action within a given period, eg one month, onto the same default tariff? Is there a risk that the existence of multiple default tariffs (eg one for every month) would reduce the pressure on SVT pricing that currently results from media attention on changes to SVTs?**

As noted previously, we are concerned that this proposal may result in customers perceiving such a tariff as offering reassurance where there is none. This would effectively lock customers into a one year tariff (with only one annual tariff expiry communication) resulting in them not benefiting from any falls in prices nor the benefit of greater awareness of new tariffs being launched. Any default price must therefore be variable since customers will then be able to benefit from any falls in prices. Customers should also benefit from more frequent calls to action as described previously.

The existence of multiple default tariffs would reduce transparency around tariff pricing and potentially leave customers languishing on more expensive tariffs whilst perceiving their fixed tariff as offering reassurance where there is none. As we note above, the most efficient way of applying an FTE process to existing SVT customers is to do so at the anniversary of the customer entering onto the SVT tariff.

***(f)* How should this remedy be implemented in order to ensure it is effective and proportionate?**

We are concerned that the Scottish Power/Centrica proposal to have a one year FTE process will not be effective in encouraging engagement and would fall short of expectations. It risks incurring the administrative costs for managing such one-off annual communications without meeting supplier and more importantly customer expectations and the underlying aims for the proposed remedy. To be more effective and proportionate to the needs of SVT customers, a much greater frequency of communications is required.

Our experience with direct communications with SVT customers as outlined in our response to a(i) shows that targeted communications on groups of customers does lead to a higher level engagement from SVT customers - overall, ✂% of customers ✂and ✂% converted to a fixed product. This is *over and above* those customers who have therefore already converted to a new fixed tariff on their previous FTE process, given as default that as an independent supplier, the majority of customers will have switched to us (as opposed to change of tenancies for example).

Looking at our own data for end-of-life marketing/FTE process for the period Q3 2015 (for which, please see Annex 2), we can show that whilst there was a ✂% conversion rate for customers on the back of the mandatory Ofgem communication, we were able to achieve a further ✂% ✂.

This combined evidence suggests that it would therefore be much more effective and proportionate to the requirements on suppliers to engage with SVT customers in the manner in which we've suggested: an annual FTE process with an information remedy as outlined in our response to question (a) (i) on at least a quarterly basis, and encompassing savings potential from a MCT perspective.

The success of these measures can be assessed through the provision of statistics on SVT customer conversions to alternative tariffs (as shown in Annex 2) or through the switching of supplier from SVT customers.

(i) **How long should energy suppliers be given to phase existing customers off their SVTs?**

We support the renaming of the SVT to 'out of contract' to take place immediately, with the introduction of the annual FTE process for customers to coincide with the anniversary of when the customer started on the SVT. As per our proposals for a quarterly information remedy, the first such targeted communication to 'SVT' customers highlighting potential savings on choosing an alternative supplier or MCT, would be three months after the SVT to the 'out of contract" name change. To facilitate MCT messaging, Ofgem could utilise the information it would take from market monitoring of tariffs on switching sites to come up with figures that could be placed on consumer bills to highlight the potential gains from switching given certain assumptions (using Ofgem bill projections from e.g. top 5 tariffs using their standard calculation methodology from a defined period of time).

We do not think that it is appropriate to have a staggered implementation date as proposed under (ii) below given this would leave customers languishing on the existing industry processes and not benefiting from the new requirements at no administrative benefit to suppliers, save that for greater commercial gain to them by delaying customers switching away from their SVT.

(ii) **Should the remedy be phased in starting with customers who have been on the SVT longest? Alternatively, should it be organised geographically in order to facilitate marketing by competitors and support from consumer groups in later years? For example, energy suppliers might be required to move all SVT customers in a region to the default tariff in the same month, such that the following year energy suppliers, PCWs and other TPIs would know that a large number of customers in that region might be looking to move in that month.**

We think that implementation for SVT customers should have immediate effect as outlined above under question (i) above.

Furthermore, energy suppliers, PCWs and other TPIs already know when supplier tariffs are coming to the end as these bodies already use this information in their tariff-setting strategies and industry marketing campaigns as highlighted by the Which? analysis in Annex 1. Having additional FTEs for the current SVT tariffs is unlikely to make much difference to the marketing spends of such third parties due to what we believe would be an insufficient cost / benefit analysis to justify such increased marketing spends. Instead, combined with an information remedy as we have described, and continuing efforts on industry wide switching campaigns such as from DECC and Ofgem, this would be much more effective at a much more proportionate cost.

(iii) **Should energy suppliers be required to provide contact details for all SVT customers or a subset of SVT customers (eg those who have been on the default tariff for several years in a row, eg three or five years) to Ofgem, which could then seek to contact them with further prompts? Alternatively, should suppliers be required to place the contact details of these customers on a shared database, available to all licensed energy suppliers, in order to allow targeted marketing to these customers? We note that GDF has been required to share such information on those of its customers who remain on the regulated tariff in France.**

We do not believe increasing the level of communications from third parties on the back of releasing this data would be an effective or proportionate measure or is required to increase customer engagement. As noted, these bodies are already aware of FTEs and manage their marketing and tariff setting strategies accordingly. These sites already manage customer data and communications taking account of data protection and privacy but mandated disclosure of data and communications risks causing customer concerns around privacy and risks further decreasing trust in the industry by leaving some customers feeling bombarded by more than one industry party trying to encourage them to switch tariff or provider.

Instead our experience shows that targeting SVT customers with a focused communication on potential savings from switching tariff, which should be extended also to include MCT messaging as per our proposed information remedy, can have a substantial effect in itself. As per our trial as discussed under question (a) (i), overall, ✂% of customers ✂ and ✂% converted to a fixed product. We therefore believe that suppliers should instead be required to have a quarterly communication with their SVT customers focused solely on SCT and MCT messaging, along with information on how to switch suppliers.

***(g)*** **What should the default tariff be called? Should it be the ‘emergency’ tariff to further prompt engagement or would some other wording be more appropriate? Is there a risk that certain customers will be concerned that their energy supply will be cut off if they do not engage following an end of contract prompt?**

We have suggested in our previous responses, and considered above, use of ‘out of contract’ as the default tariff name. This name describes what it is and avoids the value misconceptions associated with ‘standard’ or ‘fixed’ wording as noted earlier in this response. We would be concerned that ‘emergency tariff’ does not perform the same function in that it does not describe the circumstance of the tariff and we do not therefore think that such a description, or anything similar, is appropriate. It could engender fear in certain customers, which would be irresponsible, for example, leading them to think that they could be switched off if action is not taken.

Using ‘out of contract’ as the tariff name would avoid misleading customers about the nature of the circumstances, which should assist with boosting transparency and openness in the market, and contributing to the rebuilding of consumer trust.

We think that this tariff name, when combined with MCT messaging, would be a much greater call to action given the much greater potential for saving costs through switching supplier.

(i) **How should the CMA assess the costs of such potential distress to customers?**

As noted above, we don’t consider such messaging in the tariff name to be appropriate and it follows that assessing the costs as suggested is not needed. The risk of distress is sufficient to prevent further consideration of such an approach.

(ii) **Are there means by which this distress could be avoided or mitigated?**

As noted above, a simple renaming to an 'out of contract' tariff would achieve improved customer understanding that better tariffs were available, whilst avoiding panic particularly amongst vulnerable customers: naming of an 'emergency tariff' could cause more harm than benefit as noted above. Customer panels could be used to test understanding of this name, or any other similar descriptors.

***(h)*** **Should Ofgem monitor the proportion of customers on default tariffs, their average tenure and/or the pricing of default tariffs (eg with a view to publishing summary information)?**

The collation of statistics on the number of customers on default tariffs and tenure would be useful as part of assessing whether the changes are working, and as indicators as to whether supplier efforts have been sufficient in this area, along with publication of summary information.

Regional granularity of this data will be useful in order to facilitate marketing by competitors, PCWs, other TPIs and support from consumer groups in later years, which could take into account lessons learned from previous years.

**(i) Should all energy suppliers be subject to the prohibition on evergreen tariffs?**

We do not think that this is necessary: an FTE information remedy can be put in place on the annual anniversary of the customer going onto the SVT tariff as discussed above. We also note that there are customers who actively switch to these tariffs. Some independent suppliers also only have one tariff available, an evergreen tariff, for example GB Energy.

For suppliers who offer more than one tariff, these suppliers should instead be mandated to implement an information remedy as we have described in this response, informing customers on a quarterly basis of the potential savings they could achieve through switching tariff and or supplier. We would also suggest a review of bill clarity to ensure that those customers who wish to are able to scan and receive what they need from the bill. As we have said in previous answers in this response, clarity is key.

Whilst it is recognised that tenants have been less likely to engage in the switching market, such an information remedy with SCT and MCT messaging, may increase their awareness of ability to switch. Furthermore there are some fixed term tariffs on the market which also have no exit fees, so even short term tenants can benefit from changing tariffs and or supplier.

***(j)*** **Would any energy suppliers have the ability to circumvent the remedy? If so, how could they do this?**

Clear rules on the requirements and a rolling monitoring programme should combine to ensure that suppliers understand and meet their obligations. As suggested above, those suppliers with only one tariff would be exempt from the obligation to offer the information remedy we have proposed.

***(k)*** **Could this remedy give rise to unintended consequences and, if so, what these might be and how they might be prevented or mitigated?**

We think that there could be unintended consequences if e.g. the SVT is renamed as a fixed term product since naming conventions using the word 'fixed' add to confusion (given fixed term tariffs, a fixed price tariff with a fixed term, and fixed payments i.e. fixed direct debits). Using the word 'fixed' implies some level of comfort and security, reducing the incentive for customers to consider switching. Whilst no exit fees would be applied, customers may perceive the use of 'fixed' term as little if any requirement to act in the meantime. Therefore whilst this remedy may lead to a small decrease of the number of customers on SVT tariffs, there would be insufficient attrition to other tariffs or suppliers, to incentivise more competitive, cost-reflective SVT tariffs.

We have set out above our thoughts around tariff name and the approach to information provision.

***(l)* Are there any relevant customer benefits to which we should have regard as being affected by the proposed remedy?**

As we also note above, increasing customer awareness of energy spend and promoting engagement with switching of tariffs and or suppliers, should go hand-in-hand with that of managing energy consumption levels. Greater frequency of customer billing is therefore essential to consolidate and increase existing consumer engagement levels. With the roll-out of smart meters, the absence of more frequent billing and understanding of the relationship between energy consumption and monthly spend, it will be difficult to maximize the benefits of the technology rollout.

*(m)* **What are the relevant costs and benefits that we should take into account when considering the proportionality of this remedy?**

When considering the relevant costs and benefits, the objectives of the remedy must be considered. Firstly Scottish Power and Centrica put forward this proposal as an alternative to the CMA's safeguard tariff, so one objective is about helping to ensure that those customers who are on this tariff, are paying a fair price which is subject to competitive pressures. Secondly the CMA consider this proposal as one that seeks to increase customer engagement in the energy market, whether by switching tariffs or suppliers.

The benefits of our alternative remedy, where the SVT is renamed as an 'out of contract' tariff, where FTE communications are sent on each yearly anniversary of the customer starting on this tariff, and a quarterly supplier cheapest tariff / MCT notification is sent to all such customers, alongside more frequent billing, is that this would lead to a higher level engagement from SVT customers, as against just a yearly FTE process on its own.

It is also important to minimize the costs of implementing new regulations, which customers ultimately pay for, and of working alongside and/or within - as far as practicable – applicable industry processes, and data points to facilitate speed and efficiency of implementation. Consequently a FTE process would not work for suppliers with only one tariff, and administrative processes for processing FTE need to be staged in order to manage communication volumes and risk management issues with regards tariff setting and wholesale energy procurement. This is also why timing the FTE communication on each yearly anniversary of the customer starting on this tariff makes a much better and more proportionate proposition.

***(n)* Are there any alternative remedies that would be as effective as the proposed remedy in addressing the provisional AEC and that would be less costly and/or intrusive?**

We believe that our alternative remedy would be more effective in addressing the provisional AEC and be less costly to implement.

Whilst the current Scottish Power/Centrica proposal is a move in the right direction, it would achieve little by way of increased customer engagement and may instead lead to a re-emergence of confusing dead tariffs, lead to customers languishing on more expensive tariffs and failing to increase awareness around the potential value of switching suppliers, through an absence of MCT messaging.

It would also be disproportionate and very intrusive to share SVT customer details as proposed under question 3 (iii): the level of communications could become overwhelming and counterproductive, alongside the administrative wholesale risk costs of managing much larger volumes of requests around FTE.

Instead, our alternative remedy would be both cheaper and more effective as outlined in our responses to questions (e), (k) and (m) where we highlight the potential costs of the proposed remedy compared to the lower cost and higher returns of our own proposed alterations.

We also consider that it suppliers should be free as possible to innovate and test for themselves how best to engage customers with the messaging outlined in our alternative remedy, with only the key pieces of information to include being mandated by Ofgem. As discussed in our response to question (h) the collation of statistics on number of customers on default tariffs and tenure would be useful as part of assessing whether reforms are working, and as indicators as to whether supplier efforts have been sufficient in this area.

***(o)* Should the CMA seek to implement this remedy itself via an order (eg to make a licence modification), or whether it should make a recommendation that another body, such as Ofgem or DECC, implement the remedy?**

We would suggest that the CMA make a recommendation for Ofgem to implement the remedy.

## Annex 1 - Which? Graphic on Tariff Expiries in Nov/Dec 2015

The November 2015 edition of the Which? magazine covers on page 5 an article entitled 'Is your energy deal coming to an end? The accompanying graphic shown below highlights the additional costs customers are likely to incur on an annual basis if they do nothing on their FTE, and get transferred onto the SVT.

The graphic shows the annual price customers will pay once their fixed term contracts have come to an end - for those tariffs finishing in both November and December. For British Gas customers, the graphic suggests they will only pay £54 a year extra if they were not to take any action and go onto the SVT. Yet if a customer is with one of the cheaper independents, the call to action is much greater, for example with ExtraEnergy where customers are shown they could end up paying around £225 extra per year. The messaging may therefore suggest that if you are a Big Six customer, there is less benefit to seeking a cheaper tariff than if you are with a non-Big Six supplier. Furthermore, this analysis does not show the costs white label customers face when the acquisition tariff they joined on comes to an end - in this scenario for example, Sainsbury's Energy customers (the white label of British Gas) would be paying a much greater amount when moving onto the SVT.

Taking this into account, the presentation of the figures could be viewed as potentially misleading given they may suggest that if a customer is with one of the Big Six, there is less benefit to seeking a cheaper tariff than if a customer is with a non-Big Six supplier. But to the contrary, it is non-Big Six suppliers which are offering the most competitive tariffs in the market. This highlights why SCT messaging alone is insufficient to encourage customers to consider switching supplier, and why a MCT messaging is instead required.

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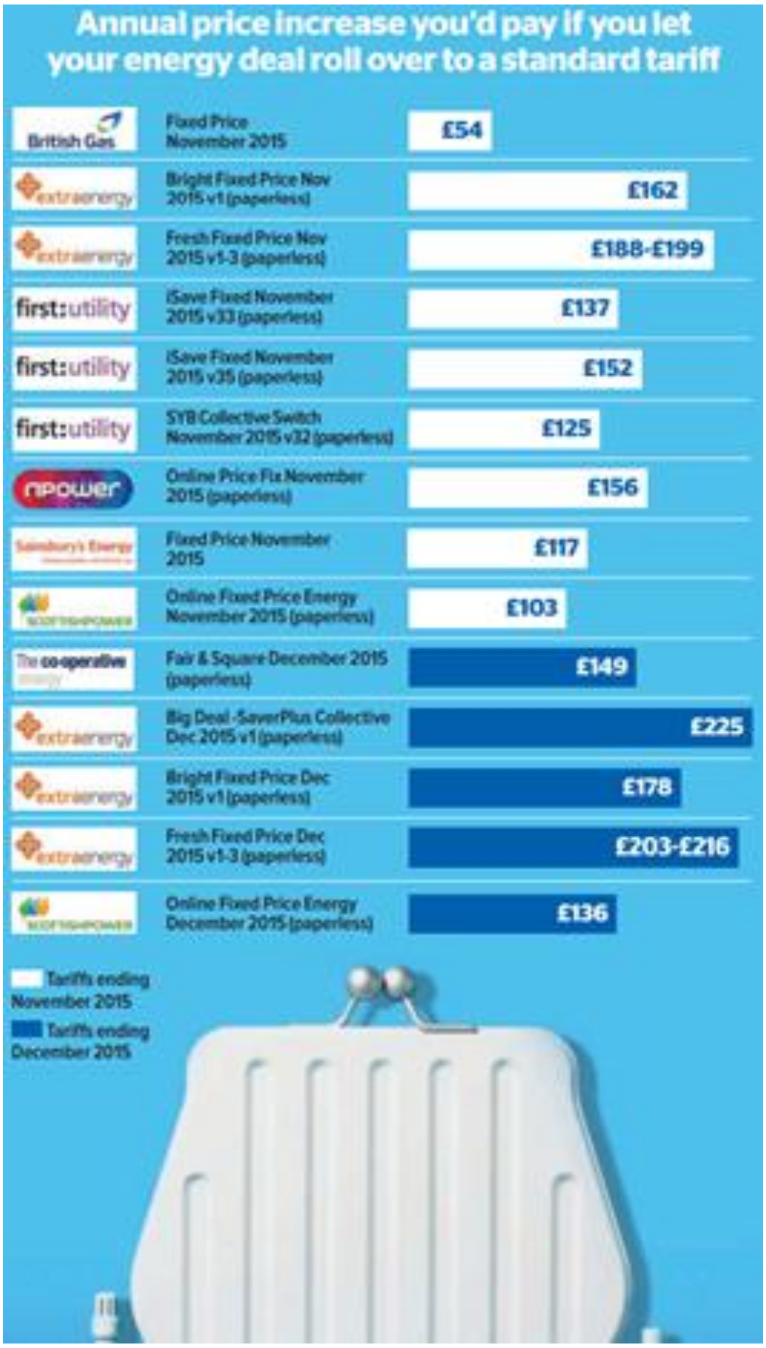

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## Annex 2 - Customers Moving to the SVT Tariff During Fixed Tariff Expiry for Q3 2015

This graphic summarises the number of customers who were on a Fixed Tariff which was coming to an end during Q3 2015. 49 days prior to the tariff expiry, we had over ✂ customers on such tariffs, but following the mandatory FTE notice, ✂% of those customers had switched to an alternative fixed tariff. We subsequently ✂ remaining customers,✂. On these occasions, a further ✂ converted to another fixed tariff. In total over ✂ we were able to achieve a conversion rate to another fixed tariff of ✂% of customers, compared to achieving ✂% if based upon the mandatory communication alone.

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