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Dear Will,

Good Energy's response to the supplemental Notice of Possible Remedies

Thank you for the invitation to respond to the above document. Good Energy is a fast-growing 100% renewable electricity supply company, offering value for money and award-winning customer service. An AIM-listed PLC, our mission is to support change in the energy market, address climate change and boost energy security.

Executive Summary

Good Energy is strongly opposed to this Remedy which we believe will harm competition and favour larger suppliers such as Centrica and Scottish Power.

We are particularly concerned about the increase in credit collateral this could cause independent suppliers to fund as they would have to buy energy further ahead to set the price than is necessary with SVT tariffs, potentially locking customers into higher prices than necessary.

Many customers prefer the flexibility that Standard Variable Tariffs (SVTs) bring either because their personal circumstance makes it difficult to commit to fixed rate deals, or because they believe prices are due to fall, and do not want to be committed to a higher rate. It is wrong to assume that because most disengaged customers are on SVTs, that all SVT customers are thus disengaged.

Finally, the market requires customers to be offered a "do nothing" option (i.e. Failure to engage will not result in loss of supply), and we believe that most disengaged customers will still fail to engage irrespective of this remedy. For example, the car Insurance market is mainly fixed rate annual deals, but evidence shows even there, 60% of customers opt for the do noting option.

We have answered your specific questions below, expanding where necessary.

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?

We do not believe that this proposal would be effective in engaging the currently disengaged customers in the market, especially as the nature of electricity and gas supply (as opposed to other markets such as Insurance) means that there has to be a default option should customers "do nothing" which means their supply of electricity and gas continues.

(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?

We dispute the evidence put forward by Centrica and Scottish Power that customers on fixed rate contracts tend to engage more on receipt of their end of contract notification. Fixed rates tariffs appeal to engaged customers, and thus it is a reflection of the type of customers that sign up to fixed rate deals that causes the higher engagement levels than the end of contract notification. Suppliers will also be likely to follow through with these customers with phone calls and emails in order to retain them.

We believe that the CMA will find clear evidence in support of this position in the non-domestic segment of the energy market. Although it is true that smaller and micro-businesses demonstrate many similar characteristics to domestic customers in terms of engagement (or lack thereof), on the whole non-domestic customers are more likely to engage with energy supply because they employ people for that very purpose. Notwithstanding this, traditional suppliers have for many years operated “auto-rollover” arrangements which lock non-domestic customers into new contracts at the end of their initial fixed price period. They have been able to do this because customers did not engage with the market at the end of their fixed price period, even though they were receiving multiple notifications that their fixed price was coming to an end. Consequently, traditional suppliers were “auto-rolling” customers (often onto significantly higher prices each year), with relative impunity. We are aware that regulatory concern and scrutiny in this area had been escalating prior to the commencement of the CMA’s investigation and that British Gas has recently elected to bring this practice to an end. However, it is a practice that still exists within the non-domestic segment and few other suppliers have followed British Gas’s example.

One finds a similar phenomenon around engagement in the insurance market where fixed contracts have been the norm for many years. In its report released on 17th December 2014¹, the UK Regulators Network reported that even in the “most-engaged” segment of automobile insurance, 60% of customers did not switch provider from year to year.

The situation as regards energy supply is perhaps exacerbated by the lack of immediate consequence for a customer if they do not act at the end of their fixed period: they will still be able to consume electricity and gas at exactly the same rate as previously without giving it a second thought. Whilst it is true that the customer might end up paying more for their electricity or gas than they could have, it is apparent from the CMA’s preliminary findings that this is not sufficient incentive to drive customers to action. The proposals from Centrica and Scottish Power do not introduce any new dynamics to this situation and the most likely outcome is that we will simply see more of the same: customers selecting, through inaction, the “do nothing”/default option.

Faced with that data from both within and outside the energy sector, it is difficult to see why Centrica and Scottish Power might believe that imposing fixed deals on customers would be in those customers’ best interests. It is not however difficult to see why traditional energy suppliers might propose such a move in their own interests, as outlined below in response to question k. This is certainly not a course the CMA should pursue further when considering remedies, other than to discount it.

¹ <http://www.ukrn.org.uk/wp-content/uploads/2014/12/Statement-Consumer-engagement-and-switching.pdf>

- 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, in the manner proposed by Centrica, provide such protection?**

We do not believe this remedy would be any more effective than a requirement to ensure all tariffs meet SLC 7 requirements, fixed or variable. In fact we are concerned that the current popularity of fixed term contracts is based on the assumption that it prevents customers from being hit by price rises. However, if market prices fall, then fixed rates can be seen as a way of gaining a higher margin by locking customers into higher prices. For engaged customers fixed or variable is matter of personal circumstances as seen in the mortgage market.

If the default tariff is fixed price, but customers are able to exit without penalty, then suppliers will need to factor into their prices the risk of buying forward to fix the price and losing some of the customers they planned to supply. As a result the default tariff would actually be higher than currently leading to those customers being potentially subject to greater harm than at present.

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

We do not believe this remedy should be applied at all, but if it is, then it should be focused on a small subset of domestic customers currently supplied by the incumbent supplier in that region (i.e. the “stickiest” 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?**

It is generally recognised that Ofgem’s prescriptive wording implemented as part of RMR has not been successful and we therefore believe suppliers should retain responsibility. Suppliers want to communicate clearly with their customers whereas the regulator is more focussed on providing information. The complexity of the market and its many variables means that regulator prescribed wording is necessarily detailed and would contain multiple options. This would reduce, rather than increase, transparency because customers would receive too much (likely irrelevant) information without the context to assess it effectively. This is likely to discourage rather than improve engagement with the market and exacerbate the issues at hand.

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

We believe suppliers should be required to report to the regulator the number of customers who rolled onto a more expensive default tariff, than a cheaper option offered. If a supplier’s default tariff is the cheapest option available, then this would not need to be reported. Suppliers should also be obliged to inform customers if they have rolled them onto a tariff which is not the cheapest option available from that supplier for the relevant customer.

- 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?**

As we believe customers should be allowed the choice of a variable price, evergreen tariff, then we believe customers coming to the end of a fixed rate term should be able to roll onto a variable tariff.

Please also refer to our response to question (a)(i) in relation to the circumstances customers have already experienced within the energy market by being rolled onto fixed term tariffs.

(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 would support the proposal that customers who take no action get rolled onto the same variable tariff, but believe that suppliers should be able to offer customers more than one option of variable tariff provided the price difference can be justified. For example, a tariff linked to a bundled product or the option of a brown or renewable tariff would result in different pricing.

(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?

In order to set the cost of a fixed price tariff, suppliers need the certainty that a customer will stay on the tariff for the term agreed. If customers are able to leave without penalty during the fixed period, then suppliers will need to factor this risk into the pricing increasing the cost to customers who default onto this tariff. Due to economies of scale and better access to wholesale markets, traditional energy suppliers would be much better able to absorb the impacts of reduced certainty. Over time that is likely to result in an overall reduction in competition because smaller, independent suppliers will be unable to maintain a competitive price. Good Energy believes that this would lead to a concentration of market power with a small number of larger suppliers which would not be in consumers' long term interests.

With regard to media attention we notice that currently suppliers that offer fixed rate deals are reported as reducing their prices, whereas in fact this reduction only applies to new customers or to existing customers who are in a position to move onto the reduced rate. Existing customers on fixed rate deals or who do not move onto the reduced rate continue to pay the higher price. At Good Energy, because we only offer one Standard Variable tariff, any reduction applies to all our customers new and existing.

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

We do not support the implementation of this remedy. We believe that other imminent changes such as smart metering and the subsequent tariff innovation will achieve greater engagement than this remedy could deliver. As a consequence, it is questionable whether any remedy is needed at all. However, if this remedy, or its predecessor (safeguard tariff) is implemented, it should apply only to those customers of incumbent in-area suppliers who have never switched supplier since market opening, and if a customer positively indicates a wish to remain on an SVT, then they should be able to do so.

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

As a matter of customer choice and effective competition we believe that customers on an SVT should be able to positively opt to remain on an SVT tariff, but we believe suppliers should be required to stagger their phasing to ensure that it does not create a peak switching date that larger suppliers will be better resourced to manage than smaller independent suppliers, who need a steady stream of customers entering the market.

(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 believe the danger is that the phasing creates peaks and troughs in fixed term end dates that larger parties such as Centrica and Scottish Power are able to manage better than smaller suppliers and particularly new entrants who need a more constant stream of customers switching on a daily basis. We therefore believe creating monthly peaks in certain locations or types of customers will be detrimental to competition as it will favour larger parties.

(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.

Suppliers would require the customers' consent for their data to be processed in this way, whether shared with the regulator, or placed on a database for 3rd party marketing. One must also consider the customers' marketing preferences which would be at best unclear – a customer may have elected that they wish to receive marketing correspondence from their supplier but might not wish to be marketed by other suppliers. . Achieving informed consent will be key (as well as a legal requirement) but obtaining the appropriate, indeed any, degree of consent from disengaged customers is likely to be extremely challenging. It may in fact cause customers to “opt out” of marketing even more than they currently do, which in turn would make it even harder for anyone to engage with them.

- 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 are aware of several instances where customers have been misled into switching suppliers by 3rd party intermediaries by claiming to customers they are on an emergency tariff, and believe such a description would not be treating customers fairly or honestly as set out in the standard of conduct. We believe “shock” tactics are inappropriate and could lead to customers moving to a tariff less suited to them than the default tariff they are on. We also believe that such measure would reduce trust in the industry at a time when it should be beginning to improve. Good Energy does not believe that this remedy, however structured, is necessary or appropriate in the market for the reasons outlined in this response and in our response to the CMA's initial proposals for remedies dated 3rd August 2015. As such, we do not consider it appropriate to name this tariff.

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

We do not believe the CMA should be taking any actions which cause customers distress so there should be no requirement to assess costs. Before implementing any action whatsoever, the CMA

should carefully consider the demographics of those customers who have never switched away from their incumbent in-area supplier and remain on their SVT. Although Good Energy does not have access to relevant data, we believe that a significant proportion of such customers may be vulnerable (including elderly or infirm) who might be very easily confused and distressed by intervention. This might also be open to abuse by unscrupulous operators, making the need for caution and proper consideration paramount.

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

The CMA should not use shock tactics and should leave it to suppliers to identify suitable wording for their tariffs.

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)?

We would support Ofgem monitoring the number of customers on default tariffs provided it was not assumed that all customers on an evergreen SVT were on default tariffs. Good Energy's customers have chosen to be on our single SVT and would not consider themselves to be on a default tariff.

i. Should all energy suppliers be subject to the prohibition on evergreen tariffs?

No. We are not supportive of the proposal to deny customers a choice. We believe that suppliers who have won their customers through switching and maintained them through good service and product offering should not be prevented from offering evergreen tariffs to their customers. If prohibition of evergreen tariffs is considered then it should be targeted on properties/customers who have been on that SVTs since market opening and who have never switched from the incumbent in-area supplier.

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

We are not aware of any, but the CMA would need to consider the impact on white label providers.

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

If implemented on all suppliers, then this measure would tilt the market in favour of larger suppliers such as Centrica and Scottish Power for several reasons.

1. Credit collateral

In order to offer fixed price tariffs, most suppliers need to buy their energy ahead to lock in their costs. This requires suppliers to place more collateral in the market and thus reduce the working capital available to the business. Larger suppliers are able to manage the increased collateral requirements better using their own generation, their credit rating or by issuing parent company guarantees which in effect do not cost anything. This creates a significant advantage over independents and especially new market entrants for whom posting collateral represents a very real and significant cash cost. This can operate as a barrier to expansion by independent suppliers and may deter new market entrants. Furthermore, market expectations for the amount of collateral required often far exceed the true risk of default, locking up significantly more cash than is necessary to mitigate the potential harm. Despite the CMA's initial conclusions in this area, Good Energy believes that this aspect of the energy market is fundamentally flawed and that it results in an adverse effect on competition.

2. Unknown costs

Only a certain proportion of a suppliers costs can be forecasted out further than a year. This means suppliers setting fixed rate tariffs need to forecast other liabilities and include a risk premium to protect against a situation where these forecasts underestimate the actual cost. Smaller suppliers with less experience of costs, or less resource to predict regulatory changes leading to costs may therefore underestimate the required prices to cover these costs. If they have customers on SVTs then they can adjust their prices when required to meet these cost increases (or reductions), and thus do not need a risk premium. This allows them to remain competitive. This will be particularly evident where customer needs to renew before network companies publish their network charges. So suppliers have to prudently price a risk premium to ensure they do not undercharge network costs.

3. Market lock in

If current SVT customers are moved to fixed rate tariffs then this will create key dates when customers are able to switch suppliers. Larger suppliers will be able to resource their sales teams around these key dates, whereas smaller suppliers will not. Equally, smaller suppliers may find it difficult to retain sales staff if there are long periods where the number of customers able to switch is relatively low and will also impact inbound calls to customer care teams leading to a potential deterioration in service.

4. Rapid growth/losses impact

If switching is focused on key dates then suppliers could be looking at dates where their portfolio changes significantly on certain days. If next day switching is implemented then it will be difficult for all suppliers to accurately predict their customer numbers looking forward, but larger suppliers are likely to better manage this change as they will know a certain proportion of their customer base will default onto the default tariff. This means that Independent suppliers will find forecasting their resource and staffing requirements difficult and could lead to a deterioration in the quality of customer care that many independent suppliers offer.

We also believe that this proposal has unintended consequences for customers:

1. Customer choice

Many customers prefer the flexibility of a Standard Variable evergreen tariff. For some their circumstances means they cannot commit to a long term deal, whereas others believe an SVT means that any reduction in costs will be passed through quicker. We also believe that some of the issues for smaller suppliers mentioned above could reduce the number of suppliers in the market. We are also concerned that a fixed rate market would focus on costs and not on other components such as quality of service or renewable energy offerings.

2. Lock in at high prices in a falling market

Whilst fixed rate deals are a good choice in a rising market as they protect against price rises, in a falling market they can lock customers into higher prices than they need to pay. This would probably lead to accusations of suppliers overcharging consumers. We are aware of some suppliers offering a hybrid to address some of this accusation but the inherent properties of a fixed rate deal (as described elsewhere in this response) will mean that prices do not come down as quickly or as deeply as they otherwise could have.

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

As stated above, locking customers into fixed rate deals could result in customers not receiving the benefits of any wholesale market price reductions until their fixed rate deal ended. We would also be concerned about customers having to pay exit fees when they changed properties.

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

We believe that any remedy to engage the disengaged should not create a material impact on engaged customers through a restriction of choice. This has happened with Ofgem's RMR reform where engaged customers have found the number of possible tariffs reduced, without any significant increase in engagement from customers who have never switched. There is little point in working to encourage sticky customers to engage with the market if, as a consequence of those actions the market becomes less enticing to engage with.

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 there are several measures in progress to help engage customers in the market, not least greater competition from independent suppliers. Smart metering is likely to engage customers further, and making switching easier will also have an impact.

A move to reduce regulation to allow innovation by suppliers will help engage customers as well.

We believe the CMA should allow the market to respond to clear signals to innovate without the artificial constraints of RMR and only take steps to intervene if the situation does not improve within [3-5 years].

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 do not believe this remedy is appropriate and therefore have no view as to whom should be responsible for its implementation.

I hope you find this response useful. If you have any questions or require clarification, please do not hesitate to contact me.

Kind regards,

Chris Welby

Policy & Regulatory Affairs Director