

Will Fletcher  
Competition and Markets Authority

*By Email*

4 November 2015

Dear Will

**Energy Market Investigation – Supplementary Notice of Possible Remedies, Opus Energy Response**

We write to provide our response to the above notice of possible remedies. As a supplier to the business sector alone, we have only responded to question (c)

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

No. We do not believe that the remedy should be applied to microbusiness customers.

We continue to be concerned that the CMA is not carrying out enough sector specific analysis before proposing remedies for the microbusiness sector. The remedy proposed in this supplementary notice is designed with domestic consumers in mind and both Centrica and Scottish Power's submissions and analysis relates to the domestic market.

Businesses, even the smallest ones, have different characteristics and needs from domestic consumers, and what might be appropriate as a solution in a domestic setting is unlikely to be appropriate for business customers. The advantages and disadvantages of different remedies to different consumer sectors must be fully analysed in their own right to ensure that any remedies implemented are proportionate, correctly targeted and do not create new disadvantages which are disproportionate to the aim.

The business market is much more competitive than that of the domestic sector and has higher levels of engagement. There have been positive increases in engagement over the last year driven by the informational remedies implemented by Ofgem's business RMR. This is in contrast to those more interventionist RMR policies designed for the domestic sector (ie the four tariff rule) which have been seen to have failed and which the CMA has recommended be dropped. It would not be appropriate or proportionate to introduce a policy which restricts tariff innovation to the microbusiness sector, and which could turn out to have disadvantageous effects on microbusiness consumers, when the informational remedies of the business RMR are already having demonstrably positive effects on engagement.

As well as differences between the needs of domestic and business consumers, there are also a number of significant differences between the two markets, the most relevant ones in this case being:

- 1) The number of customers who are supplied under disengaged default tariffs is materially smaller in the microbusiness sector than the domestic sector. Whereas the figure is around 70% for domestic consumers, evergreen tariffs amount to only 9% of supply to microbusinesses<sup>1</sup>. Similarly the CMA give evidence that only 7.6% of EON's SME customers were 'legacy' customers who had not switched supplier.<sup>2</sup>

It would be difficult to make a case that an interventionist policy which prescribes tariff types would be proportionate for the microbusiness sector in the same way as it would be for the domestic sector.

- 2) Whilst the four tariff rule has been found to stifle innovation in the domestic sector and not led to any increased engagement in the domestic sector, two sector specific remedies already implemented in the microbusiness sector are having a demonstrably positive impact on engagement. As confirmed by the CMA<sup>3</sup> these are:
  - a. The end of auto rollover products by suppliers covering the vast majority of microbusiness customers, and
  - b. The introduction of the non-domestic Retail Market Review reforms, such as the requirement to put contract end dates on bills.

The full effects of the above two remedies will not yet have been fully realised as those customers on two and three year contracts (which is common within the microbusiness sector) will not yet have received the new 'end of fixed term' letter which has lots of engagement prompts and which has been very successful in increasing engagement rates.

Taking the above into account, a complete ban on rollovers (as proposed under remedy 8), along with a continuation of Ofgem's existing RMR business requirements, is the set of remedies mostly likely to support a continued increase in engagement levels for those microbusiness customers on evergreen tariffs.

We hope that the above gives a clear description of our views, but we would be happy discuss these in more detail if that would be helpful.

Yours sincerely,

Gemma Newsham  
**Head of Regulations**

---

<sup>1</sup> CMA Microbusiness Appendix 9.1 Figure 9

<sup>2</sup> CMA Microbusiness Appendix 9.1 Clause 53

<sup>3</sup> CMA Microbusiness Appendix 9.1 Clause 58