

Energy UK response to the CMA Provisional Decision on Remedies

April 2016

1. Introduction

- 1.1. Energy UK is the main trade association for the energy industry, with over 80 members; representing energy generators and suppliers of all sizes. Our members supply gas and electricity and provide network services to both the domestic and non-domestic market. Energy UK members own over 90% of electricity generation capacity in the UK market and supply 26 million homes and 5 million businesses, contributing over £25 billion to the UK economy each year. The industry employs 619,000 people across the length and breadth of the UK, not just in the South East, contributing £83bn to the economy and paying over £6bn annually in tax.
- 1.2. Energy UK strongly believes in promoting competitive energy markets to produce good outcomes for consumers. In this context, we are committed to working on behalf of our members with Government, regulators, and consumer groups to develop reforms which enhance consumer trust and effective engagement. At the same time, Energy UK believes in a stable and predictable regulatory regime that fosters innovation, market entry and growth, bringing benefits to consumers and helping provide the certainty that is needed to encourage investment and enhance the competitiveness of the UK economy.
- 1.3. These high-level principles underpin Energy UK's response to the CMA's Provisional Decision on Remedies. This is a high-level industry view; Energy UK's members may have their own positions with respect to the different issues and we defer to the individual responses that they may submit. We would be happy to discuss any of the points made in further detail with the CMA or any other interested party if this is considered to be beneficial.
- 1.4. Energy UK welcomes the CMA's report and the opportunity to respond.

2. General Comments

2. 1. Energy UK strongly believes that open and competitive markets are the route to delivering the best outcomes for customers.
2. 2. Smart meters are key to delivering the digitalisation of the energy sector and will deliver a step change in the service offerings for customers. Smart meters are a crucial enabling technology for smarter grids and smarter cities.
2. 3. Energy UK is supportive of the CMA's focus on competition and customer engagement. Last year saw four million switches occur across a market consisting of over 30 energy suppliers. In addition, research is charting a positive trend in customers' trust in energy suppliers¹.
2. 4. It is important that any remedies taken forward are evaluated on a regular basis to ensure that they continue to be appropriate and effective, and do not result in unintended consequences.

3. Wholesale Electricity Market Remedies

Allocation of Contracts for Difference

3. 1. Providing a stable and predictable policy framework is important to attract much needed investment in the UK. Ensuring that the Levy Control Framework budget is a reliable budgeting tool is key to providing this stability.

¹ Energy UK's [Customer Experience research](#) and Ofgem's RMR evaluation survey shows a general increase in customer trust in suppliers to meet key customer service goals, for example.

3. 2. Energy UK considers that competition in the allocation process for Contracts for Difference is key to delivering low carbon electricity at least cost to consumers.
3. 3. Where contracts are allocated outside of a competitive process, in circumstances where there is no - or limited - competition, we consider that more transparency from DECC is needed to ensure contracts are awarded appropriately.
3. 4. Energy UK supports the CMA's recommendation that DECC consults before allocating technologies to Contracts for Difference 'pots' and also the budget between these different pots. A level of budget visibility for any pot is required to allow projects to come forward for any future allocation round.

Locational Adjustments for Transmission Losses

3. 5. We refer the CMA to individual member responses on the issue regarding transmission losses.

4. Domestic Retail Remedies

Withdrawal of the simpler choices component of the RMR

4. 1. Energy UK is supportive of the removal of the simpler choices components of Ofgem's Retail Market Review (RMR). Consumers will benefit from this proposed remedy as it provides further opportunities to promote competition.

Reform of the settlement systems for gas and electricity

4. 2. Energy UK shares the CMA's concerns on issues with gas settlement and performance assurance and agrees that changes are needed to improve data quality and accuracy.
4. 3. Energy UK supports the recommendation on Ofgem to ensure implementation of Project Nexus by 1st October 2016. It is important that in overseeing this project Ofgem focus on ensuring Project Nexus delivers a safe and reliable set of systems for customers.
4. 4. It is also important the CMA recognises that the pre-payment release of Smart DCC functionality is currently scheduled for October 2016. It is important to ensure that industry can support the delivery of both projects.
4. 5. Energy UK supports Ofgem conducting a robust cost benefit analysis of half-hourly electricity settlement.

DAP

4. 6. Energy UK and its members have led the way in developing improvements to the Debt Assignment Protocol (DAP) over the past two years. Industry is currently considering a change proposal² to make further improvements to the process, including making a 'Point of Acquisition' approach the standard model for all suppliers looking to win customers through the DAP process. If approved the changes will go live in November 2016.

Promoting engagement

4. 7. Energy UK supports the principle of suppliers identifying and testing information remedies with the aim of promoting competition on an ongoing basis to improve engagement with customers. It is important that industry and government are able to draw on successes and learning points from previous policies.
4. 8. It is important any activities are compatible with Ofgem's proposals to move to a greater reliance on principles-based regulation. Where information is to be provided by suppliers, it is important suppliers are empowered to identify, suggest and consider how best to take forward items for improvement and testing. Activity in this area should focus on delivering better customer outcomes and only require prescribed communications in specific instances where consistency of message between suppliers is essential.

² MRA Change Proposal 0271 – <http://tinyurl.com/zjselfq>

4. 9. Energy UK and its members have led the way in developing the Energy Switch Guarantee, due to be launched this year, with the aim of promoting customer trust and engagement in the switching process. For the Guarantee to achieve its purpose support across industry and stakeholders (e.g. Ofgem, DECC, Citizens Advice) will be needed.
4. 10. Energy UK members have also led work to help make it quicker and easier to switch by reducing the time it takes for most customers to switch energy supplier to just three days following the statutory two week cooling off period. We support Ofgem's work to further improve the switching process via its ongoing Significant Code Review.

Principles-based regulation

4. 11. Energy UK is supportive of Ofgem's move towards principles-based regulation. Energy UK hopes that principles-based regulation will provide a new framework that will allow suppliers to be more innovative when designing and implementing services and products for their customers.
4. 12. Members agree that in some instances prescriptive rules may need to be retained, for example where a common set of rules are needed to enable interoperability between suppliers, or where certain safeguards are needed for particular customer groups.
4. 13. It is important that Ofgem's approach to compliance and monitoring also evolves to be compatible with more principle-based rules within the licence. With this in mind, Energy UK welcomes Ofgem's intent to develop a safe environment for suppliers to trial new products and services.

TPIs

4. 14. TPIs play an important role in the market and can be key conduits to encouraging customers to engage. Energy UK supports any measures which make the marketplace more favourable for the majority of TPIs who act in the customers' interest while providing appropriate constraints and challenge to those who do not meet those standards.

Database

4. 15. Energy UK agrees that customers should have the information they need to make an informed choice, but that customers should be able to choose whether they get marketing information or not.
4. 16. Any implementation of this proposal will need to be carefully considered to ensure that customers' personal data and right to privacy remains protected. Companies' treat customers' information with the upmost care. If customer data is not handled appropriately the remedy risks unintentional customer detriment undermining trust and engagement.
4. 17. It is important that CMA ensure that the requirements of the UK current Data Protection Act and the EU Commission's forthcoming General Data Protection Regulation (GDPR) are robustly implemented and maintained as part of this proposed remedy and that the highest standards of Information Security are observed by all those holding and accessing the collated data.

PPM safeguard tariff

4. 18. Energy UK strongly believes that open and competitive markets are the route to delivering the best outcome for all customers.
4. 19. CMA should carefully consider the impacts its proposals might have on the industry and different business models, whilst being cognisant of any unintended consequences for customers.
4. 20. Members note that there are a number of prepayment tariffs on offer and consumers can save up to £200 by switching to the cheapest prepayment deal.

5. Microbusiness Retail Remedies

5. 1. A TPI Code of Practice for non-domestic customers would be a positive step towards ensuring customers can interact with the market safely, and would promote trust in the market. Initial proposals for a non-domestic TPI Code of Practice have been in train for several years and Energy UK suggests that the CMA recommends a deadline by which Ofgem should aim to finalise its code.

6. Remedies Relating to the Governance of the Regulatory Framework

Ofgem's role

6. 1. Energy UK believes that competition should be the principal mechanism by which Ofgem achieves its duties.
6. 2. Energy UK believes that there needs to be greater clarity in the relationship between DECC and Ofgem, and agrees that Ofgem's statutory duties should be revised in order to increase its ability to promote competition effectively.
6. 3. The remedies proposed by the CMA give Ofgem additional duties as a regulator, and it is important that Ofgem is sufficiently resourced to ensure its current and new duties can be carried out effectively.

Code mapping

6. 4. Energy UK believes that fewer codes would be preferable and, that - where possible - these should be rationalised. Reducing the number of codes or rationalising them would imply a resource burden, and this activity is most likely to be cost and resource-efficient if delivered alongside other change programmes that affect the codes.
6. 5. Therefore, we consider that a clear vision of the optimal structure and number of industry codes should be developed, with steps then taken to achieve this vision at suitable opportunities.

Accessibility

6. 6. The implementation of European Network Codes offers a genuine opportunity to rationalise the existing GB Code structure and make it more accessible to users.
6. 7. Users should be able to easily identify the obligations associated with their rating, connection voltage and technology without reference to multiple sources. This should coincide with work to enhance Ofgem's website to include key information on the various network codes.
6. 8. In addition to the names of the various codes and links to the relevant administrators' websites, it would be useful if Ofgem provided an easy-to-follow introductory guide providing an overview of codes including, for example, which codes parties need to sign up to, the code modification process, appeals process, collateral and compliance requirements, and the relevant objective(s). This would be particularly useful for new entrants.