

Roger Witcomb
CMA Market Investigation Group Chair
Competition & Markets Authority
Victoria House
Southampton Row
London
WC1B 4AD

07th April 2016

Dear Roger,

Earlier today EDF Energy submitted our response to your Provisional decision on remedies. **Our overriding aim, as it has been throughout your investigation, is to put customers first.** We agree with your core finding that too many customers are disengaged. **We want to empower every customer to make informed decisions about their supplier, their choice of tariff and their energy source – confident there is a trusted and trustworthy market.** We have worked hard to help our customers engage. The result is that 44% of our customers (representing 49% of total accounts) have actively chosen one of our market leading low carbon 'Blue' products. You are well aware that this compares very favourably to an average of 30% for the six large energy firms, with some firms having a considerably smaller proportion of customers who have actively moved away from default tariffs.

Your report comes at a time when the energy industry has already embarked on the journey to deliver major changes for consumers; installing smart meters in every home in the country, leading the effort to address climate change through the decarbonisation of energy production and securing future energy supply through significant investments in new generation capacity such as at Hinkley Point C. A digital transformation is underway in the energy sector, not just in smart technology, but in all the ways we work for our customers, driving innovation and making us more efficient. As we move to the detailed design of remedies, we must see digital as a means to empower customers and not take power or control from them. We want to keep in mind the people we serve to have "trust inside" the technological innovations.

As we showed you when you visited Hinkley Point in the early phase of your investigation, our aim is to offer the right service, the right price and the right low carbon products to attract customers to join and stay with EDF Energy. We welcome remedies that improve our ability to compete for and to win customers and that reduce the temptation or ability for any other supplier to exploit real or perceived customer inertia – whether regionally, between gas and electricity, for particular meter types such as prepayment meters or over time as customers stick with the same supplier.

A market which is trusted is vital in order for the energy industry to play its part in the UK's transition to a low carbon, digitally enabled economy. During your very thorough investigation, your team have addressed the key issues that triggered the investigation. **There are many areas where your work has objectively determined that there are no "adverse effects on competition"**. It is valuable for customers, commentators and companies to know that an independent, rigorous and fact-based review has concluded that:-

Companies owning generation and supply businesses cause no harm to customers.

The wholesale market for energy is competitive

Companies which own power stations are not making unfair returns

Companies are not coordinating their activities to the detriment of consumers

The Government's Electricity Market Reform package, including Contracts for Difference, is a robust framework

In addressing these matters, **you have now, quite rightly in our view, focussed on putting the retail supply of energy to domestic and small business customers at the heart of the proposed remedies package.**

Your proposed remedies are demanding and fair; demanding in that all companies will have to improve their performance and fair in that they promote open competition between companies within a robust market framework. Not every company will succeed in this new environment, but **those that are genuinely interested in customers should welcome the changes proposed by the CMA.** I expect that you have also satisfied yourselves that your remedies have the greatest impact on those companies who need the most improvement.

On behalf of EDF Energy I believe that you are on the verge of delivering a package of improvements to the market for the supply of energy in Great Britain, which in turn can support the industry in its ongoing efforts to re-establish trust in the sector.

At this stage, in advance of the CMA's Final Report due in June, it is quite natural there remain a number of residual areas of the proposed remedies package that can be improved. In our response we make constructive proposals that we believe will help ensure remedies are fit for purpose and importantly help avoid unintended negative outcomes for consumers. I would highlight:

EDF Energy has always considered that the main focus for solutions should be to support improved customer engagement. We also believe that healthy and robust competition is the best way to serve customers' needs over the long-term. We note that the proposed price cap outlined in the Provisional decision on remedies is limited to customers on prepayment meters, a group of customers who we agree face additional challenges in accessing all of the benefits of the competitive market that are available to other customers. **We therefore support the proposal to provide some additional transitional protection for these customers** until they have a fully functional and interoperable smart meter installed that meets the industry standard (Smart Metering Equipment Technical Specification: Second Version, 'SMETS2').

Any cap on prices must be set at a fair, sustainable level so as to avoid distortive effects on competition or drive further disengagement of customers. Whilst we broadly agree with the proposed approach the CMA has set out in the provisional decision, we do have significant concerns about the benchmark price the CMA has identified to underpin the cap and the manner in which the CMA has proposed to then review the level of the cap on an ongoing basis. In particular, using the average of just two of the smaller supply companies' tariffs, at a particular point in time, to determine the basis for the price cap in future years cannot represent a sustainable level of prices, service levels or a business model which will serve customer's needs across the industry as a whole.

We want to attract disengaged customers from other supply companies. **We agree that additional steps are necessary to prompt engagement, particularly for those who have not made an active choice for long periods of time.** We support many of the measures the CMA has identified to address this. As regards building a central 'database' of customer data we, like many consumer bodies and others in the industry, want to protect customers from the misuse of personal data and avoid the risks of further disengaging customers who are already difficult to reach through unwanted marketing from multiple firms. We have proposed an alternative approach to the setting up and management of a customers' database. We propose that customers should be given the choice to actively opt-in to their personal information being shared. We are very mindful of the very real concerns that customers have over the privacy of their data. We propose that the letter to disengaged customers is used as the basis for jointly branded communications from Ofgem, and the customer's own supplier, tested against the standards of conduct and in the case of EDF Energy, our trust test. We believe this will provide a strong trigger for customers to engage by setting out the potential savings available in the wider market and also to opt-in to receiving marketing from other suppliers should they specifically wish to. We also propose that Ofgem should monitor the relative success of suppliers in engaging their previously disengaged customers to ensure that these efforts are having the desired impact and take further action with suppliers for customer groups, such as in particular regions, who continue to have disproportionately high levels of disengaged customers.

We argue strongly that the remedies package must apply equally to all energy suppliers. We are disappointed that the CMA has persisted with proposing that certain remedies apply only to the larger companies. This is not in customers' interests and with at least one supplier outside the six large energy firms having over one million customer accounts, we do not believe this is a fair or proportionate approach. This said, where deemed essential, we would agree that a low, de minimis, threshold might be sensible for the very smallest suppliers.

Today's energy market does not just comprise energy suppliers. Price comparison websites and other third party intermediaries are playing an increasing role in the energy sector. We recognise the additional consumer choices these parties can and should bring, by providing transparent comparisons of price, levels of service and energy sources. We note the features of the CMA's remedies package that relate to facilitating the role they play. We believe that it is in customers' best interests for the behaviour of these parties to be subject to additional scrutiny as part of the enduring arrangements put in place. We believe this is best delivered through direct and effective regulation of these bodies against a common standard comparable with that for energy suppliers.

We note the CMA's view that the energy supply sector is characterised by poor service. We are disappointed that you have not recognised the more recent, generally improving trend on service levels. Over the past 5 quarters EDF Energy has had a consistent record of improving its customer service against all of the published metrics. We continue to strive to be better and to set high standards. Should you include references to service in your final report, we believe that you must substantiate them and also reflect the importance of maintaining and improving service in the remedies package. For example if you proceed with a customer database, then customers must be given the information to compare levels of service between potential suppliers.

The industry regulator, Ofgem, is an important actor in delivering the remedies package for the benefit of customers. In particular, as we see the lifting of restrictions on the numbers and types of tariffs that companies can offer to consumers, **Ofgem will have a vital role in ensuring that companies continue to act in a manner that puts customers' interests first. We want to see a strong, independent, respected regulator, trusted by customers and companies alike.** We support the improvements the CMA has outlined. In particular, we endorse the proposals aimed at clarity of focus and strengthening the role of Ofgem in scrutinising the trade-offs between policy objectives and competitive outcomes.

We are also pleased to see the CMA address the widely held view that **Ofgem needs to take a more robust approach to providing clear, reliable and trustworthy information about our industry.** This is vital in helping customers see how effectively competition and the energy companies themselves work on their behalf. We believe the concept of establishing an Office of the Chief Economist at Ofgem is an important improvement. For this role to be truly effective, it needs clear independence from the Executive at Ofgem. We look forward to the CMA emphasising in the final report the need for Ofgem to take forward the CMA's recommendations in a practical, efficient, effective and timely manner. The design of remedies must also be robustly tested with customers to judge their efficacy before wider implementation and the costs of implementation thoroughly considered alongside the consumer benefits.

We relish the opportunity this investigation has given us to clear the air for customers. We have supported your team's investigation for almost two years and we now need to take the final step and deliver the enduring changes that our customers need. **EDF Energy strongly supports the overall direction of the remedies package the CMA has outlined.** It provides a firm basis for an improved market and in particular improved consumer engagement and access across the domestic and small business markets. We believe our residual concerns can be addressed through continued dialogue and consultation between the CMA and the industry.

I would also acknowledge the work of the Inquiry Group and of the CMA Energy Market Investigation team who have worked with dedication to develop these proposals for the benefit of consumers. I am pleased to see that the Government has already committed itself to acting on the recommendations of the Inquiry Group. It is vital that as an industry, working together with the CMA, Ofgem and Government, we now act together to finish the work you have started and deliver a package of proposals that will lead to the enduring positive changes that the market needs to work better for customers.

I am committed to working with this demanding and fair package of improvements and believe that collectively as an industry we should support the CMA's provisional conclusions and move to implementation, without further delay to the CMA's timetable. This is why today, through publishing this letter, I am calling on the whole energy industry to commit to working together positively and constructively with the CMA to finalise the Investigation and implement this package of enduring, positive changes for competition and our customers.

Yours sincerely,

A handwritten signature in blue ink, appearing to read "Vincent de Rivaz".

Vincent de Rivaz