

## ENERGY MARKET INVESTIGATION

### DRAFT EXPLANATORY NOTE – CONSULTATION

#### The Energy Market Investigation (Microbusinesses) Order 2016

*This note is not a part of the Order*

#### Introduction

1. The Competition and Markets Authority (CMA) published its findings in a report under section 136 of the Enterprise Act 2002 (the Act) entitled Energy market investigation: Final Report on 24 June 2016 (the Report).
2. The Report set out the CMA's findings that there are features of the markets for the SME retail supply of gas and electricity in Great Britain which, alone or in combination, give rise to adverse effects on competition (AECs).
3. The CMA decided on a package of remedies to be implemented by it in order to remedy, mitigate or prevent the AECs (and associated detriment) that it found.
4. The Energy Market Investigation (Microbusinesses) Order 2016 (the Order) gives effect to two of these remedies, namely (1) a **price transparency remedy**: a requirement on suppliers to disclose certain information online about the prices they charge or can offer microbusiness customers to supply them with electricity or gas (or both) (see paragraph 17.63 of the Report) and (2) an **auto-rollover remedy**: to prohibit suppliers from including terms in auto-rollover contracts that restrict when a microbusiness customer can give notice to terminate its contract and from charging a termination fee in certain circumstances (see paragraph 17.141 of the Report).
5. Section 15 of the Electricity Act 1989 (EA89) and section 27 of the Gas Act 1986 (GA86) provide that where the CMA makes an order under section 161 of the Act, such order may also provide for the modification<sup>1</sup> of the conditions of a particular licence, or the standard conditions of licences of any type (including supply licences for gas and electricity) to such extent as may

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<sup>1</sup> The term 'modification' includes additions, alterations and omissions.

appear to the CMA to be requisite or expedient for the purpose of giving effect to, or taking account of, any provision made by the order.

6. The Order introduces a new electricity supply licence condition 7D, and a new gas supply licence condition 7D and amends Electricity Supply Licence Condition 7A and Gas Supply Licence condition 7A (together, the Licence Conditions).<sup>2</sup>
7. This Explanatory Note applies to the Order and the Licence Conditions.
8. Nothing in this Explanatory Note is legally binding.
9. Terms defined in the Order, the Electricity Supply Licence or the Gas Supply Licence (including in the Licence Conditions) have the same meaning in the Explanatory Note. In the event of a conflict between this Explanatory Note and any provision of the Order or the Licence Conditions, the Order and Licence Conditions shall prevail.

### **Possible consequences for non-compliance**

10. Section 167 of the Act places a duty on any person to whom the Order applies to comply with it. Any person who suffers loss or damage due to a breach of this duty may bring an action.
11. The CMA has power under the Order to give directions, including directions to a person in their capacity as an office holder, for the purpose of carrying out, or ensuring compliance with, the Order.
12. Section 167 of the Act also provides that the CMA can seek to enforce the Order by civil proceedings for an injunction or for any other appropriate relief or remedy.
13. The obligations set out in Parts 2 and 3 of the Order will be introduced, pursuant to Articles 5 and 8 and Schedules 1 to 4 (as applicable), into the Electricity Supply Licence and Gas Supply Licence. To the extent that the obligations set out in the Order have been introduced into the Electricity Supply Licence and Gas Supply Licence, GEMA has a duty to monitor compliance and, where appropriate, to use its powers under sections 25 to 28 EA89 and 28 to 30F GA86, including where appropriate by imposing on the licensee a penalty of such amount as is reasonable in all the circumstances of the case. The CMA intends to collaborate with GEMA so as to put in place

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<sup>2</sup> A complete version of electricity supply licence condition 7A and gas supply licence condition 7A showing the changes to be made to these conditions to reflect the auto-rollover remedy appear at Annex 1 (for electricity) and Annex 2 (for gas) to this explanatory note.

processes to monitor and ensure compliance with the obligations set out in the Order and the Licence Conditions, where appropriate, through enforcement measures.

### **Review of the Order**

14. The CMA has a duty under section 162 of the Act to monitor the operation of the Order. This includes a duty to consider, from time to time, whether the Order should be varied or revoked in the light of a change of circumstances. Suppliers may apply for a variation or cancellation of all or part of the Order on the basis of a change of circumstances, or recommend that the CMA reviews the need for the Order or part of it.
15. GEMA has a general duty, under section 47 of the EA89 and section 34 of the GA86, to monitor activities connected with regulated energy activities (including supply of electricity and gas), as well as provide advice, information and assistance to the CMA (on its own initiative or where expressly requested).

### **Structure of the Order**

16. The Order is divided into 4 Parts and has 5 Schedules:
  - (a) Part 1 contains general provisions which include specifying when the Order comes into force, the scope of the Order, and the definitions that are used throughout the Order (and which are also used in this Explanatory Note).
  - (b) Part 2 contains obligations on suppliers to disclose certain price information to a defined segment of microbusiness customers (the price transparency remedy).
  - (c) Part 3 prohibits suppliers from including certain terms in auto-rollover contracts (the auto-rollover remedy).
  - (d) Part 4 contains provisions for monitoring compliance, including provisions allowing the CMA to give directions as to compliance with the Order and to require the supply of information for the purposes of monitoring compliance with the Order and reviewing its operation.
  - (e) Schedules 1 contains the new Condition 7D of the Electricity Supply Licence which relates to the price transparency remedy.
  - (f) Schedule 2 contains the new Condition 7D of the Gas Supply Licence which relates to the price transparency remedy.

- (g) Schedule 3 contains amendments to Condition 7A of the Electricity Supply Licence which relates to the auto-rollover remedy.
- (h) Schedule 4 contains amendments to Condition 7A of the Gas Supply Licence which relates to the auto-rollover remedy.
- (i) Schedule 5 contains a Template Microbusiness Compliance Statement.

### **Part 1 – General and Interpretation**

17. Article 1.3 provides that the Order applies to suppliers, defined as any person authorised to supply gas by virtue of a Gas Supply Licence and any person authorised to supply electricity by virtue of an Electricity Supply Licence (referred to as Retail Energy Suppliers in the Order and licensees in the Licence Conditions).
18. Article 1.2 provides that the Order shall come into force on [the day after the order] December 2016, except for Articles 3 to 5 (concerning the price transparency remedy), which come into force on 26 June 2017. Articles 6.4 and 7.2 (concerning the auto-rollover remedy), which are reflected in the Licence Conditions, provide for a later implementation date of 26 June 2017 for any auto-rollover contract, out-of-contract contract and evergreen microbusiness contract in existence as at the date of the Order. Annex 3 sets out the implementation timings for these remedies, in diagram form.
19. Article 1.4 provides that the Order shall continue to be into force until such time as it is varied or revoked under the Act. The Order is not subject to a sunset clause. The Report notes that the characteristics for determining the identity of a Relevant Micro Business Customer for the purposes of the price transparency remedy may be subject to review following the migration of consumers from profile classes 1 to 4 to half-hourly settlement (see paragraph 26 below).<sup>3</sup> With respect to the auto-rollover remedy, the CMA saw no evidence that the suppliers currently using the particular clauses with which the CMA have concerns have future intentions to remove them (absent this remedy). There was also no current licence condition that prevented any supplier from re-introducing such clauses in the future.<sup>4</sup>
20. Article 2 includes definitions of various terms used in the Order and in some instances cross-refers to terms defined in the Licence Conditions or defined elsewhere in the Electricity Supply Licence or Gas Supply Licence. To the extent possible, the terms used in the Order have been defined to have the

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<sup>3</sup> Report, paragraph 17.80.

<sup>4</sup> Report, paragraph 17.153.

same meaning as in the Electricity Supply Licence and the Gas Supply Licence (as applicable). For the avoidance of doubt, when a word or expression has been expressly defined in the Order, the definition set out in the Order shall prevail over other definitions.

## ***Part 2 – Price Transparency Remedy***

### *Article 3 – Obligation to disclose Required Price Information and provide Initial Quotes to Relevant Micro Business Customers*

21. The aim of Article 3 is to ensure that suppliers give a large proportion of microbusiness customers more transparent information about the prices that are available to them in relation to their electricity and/or gas supply.
22. More specifically, Article 3.1 requires suppliers to disclose the Required Price Information and provide Initial Quotes to each Relevant Micro Business Customer. Suppliers are required to make this disclosure through the use of online quotation tools made available on their website or through one or more third party online platforms. Each of these concepts are explained in more detail below.

### *Scope of the price transparency remedy – Relevant Micro Business Customers*

23. The requirements in Article 3.1 are focused on the segment of microbusiness customers that the CMA identified in the Report as being the smaller non-domestic customers who would benefit most from having reduced search costs, given they have limited resources to search for the best deals compared to larger businesses. This segment of microbusiness customers was also considered to have straightforward metering and contract/tariff requirements that are well suited to online price tools.<sup>5</sup>
24. The Report specified that the relevant segment is to be defined as microbusiness customers that meet certain criteria. These criteria are specified in the definition of “Relevant Micro Business Customers” contained in the new Electricity and Gas Licence Condition 7D that will be introduced as a result of the Order. For the supply of electricity it will capture non-domestic customers that meet all the following criteria:
  - (a) the metering point at the non-domestic premises falls under profile classes 1, 2, 3 or 4 as defined in the Balancing and Settlement Code;

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<sup>5</sup> Report, paragraph 17.40.

- (b) annual consumption of electricity of not more than 50,000 kWh per electricity meter; and
  - (c) on a metering arrangement through which that customer is required to pay different charges in no more than three consumption windows per electricity meter.<sup>6</sup>
25. In respect of the supply of gas, “Relevant Micro Business Customers” are non-domestic customers with an annual consumption of not more than 73,200 kWh per gas meter.
26. The definition of Relevant Micro Business Customer concerning the supply of electricity to microbusiness customers (as provided by the Report) has been determined with reference to the current profile classes noted in the Balancing and Settlement Code. In this regard, although there are no firm plans in place yet for the introduction of half-hourly settlement, the current expectation is that soon after the roll-out of smart meters is substantially completed, consumers in profile classes 1 to 4 could potentially be settled on a half-hourly basis.<sup>7</sup> The Report recognises that the characteristics for determining the identity of a Relevant Micro Business Customer may be subject to review once consumers from these profile classes are migrated to half-hourly settlement. However, the CMA does not consider that the introduction of half-hourly settlement for profile classes 1 to 4 will fully address the Microbusiness Weak Customer Response AEC or associated detriment and thus the price transparency remedy will continue to be necessary.<sup>8</sup>

#### *Generating the prices – Primary Information*

27. Article 3.1 provides that suppliers must disclose the Required Price Information and provide Initial Quotes. These terms are defined in Article 2 of the Order.
28. **Required Price Information** is defined as each separate combination of standing charges, unit rates and all other associated charges per meter which is capable of being entered into by a Relevant Micro Business Customer to

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<sup>6</sup> Consumption window is defined in the new Electricity Licence Condition 7D to mean each separate period within a total period of 24 hours in which electricity consumption was recorded and charged at a distinct unit rate. For the avoidance of doubt, microbusiness customers with electricity meters that are capable of offering more than three consumption windows (eg smart/advanced meters and standard time of day meters), will fall within the scope of this remedy where those microbusiness customers request the Required Price Information and Initial Quotes in relation to up to three consumption windows per electricity meter (only).

<sup>7</sup> See Appendix 17.1 of the Report.

<sup>8</sup> Report, paragraph 17.80.

purchase the supply of electricity or the supply of gas (or both) from the supplier.

29. **Initial Quote** is defined as at least one combination of standing charges, unit rates and all other associated charges per meter which is available immediately for the Relevant Micro Business Customer to enter into a contract to purchase electricity or gas (or both) from the supplier, and remains available for an identified period, subject only to the supplier conducting a successful credit check on the Relevant Micro Business Customer and any terms and conditions that may apply to any existing Micro Business Consumer Contract<sup>9</sup> between the Relevant Micro Business Customer and that supplier.
30. The relevant customers must obtain the Required Price Information and Initial Quotes based on entering their Primary Information, which is their (1) postcode and (2) energy consumption per fuel on a monthly, quarterly, six monthly or annual basis (such period being at the customer's choice).<sup>10</sup>
31. The postcode, followed by address selection,<sup>11</sup> will allow the supplier to identify the customer's address<sup>12</sup> and region and to obtain the MPAN and MPRN numbers via ECOES<sup>13</sup>, DES<sup>14</sup> or another third party database. This will allow the supplier to identify the meter type, profile class, and other meter-specific information, which, together with the customer's energy consumption, will allow the supplier to determine how much it would cost to supply that customer.
32. However, suppliers are able to include additional fields – MPRN and/or MPAN or the customer's monthly, quarterly, six monthly or annual spend (£) (such period being at the customer's choice) – to complement the Primary Information in circumstances where the customer's meter is not registered with ECOES or DES, or the customer does not immediately have access to its consumption information. This is defined as Additional Information in Article 2 of the Order.
33. Where the supplier proposes to comply with the Order through the use of an online quotation tool on its website, it must ensure that the Primary Information and, as applicable, the Additional Information are the only

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<sup>9</sup> See paragraph 44 below, for example.

<sup>10</sup> We would expect most customers to be able to use their previous annual bill to provide this information (unless they do not have access to the relevant historical consumption data).

<sup>11</sup> For example, the address selection could be via a drop-down menu.

<sup>12</sup> If there is more than one meter at an address, then the customer would have the option filling in its MPRN/MPAN.

<sup>13</sup> The Electricity Central Online Enquiry Service.

<sup>14</sup> The Data Enquiry Service.

mandatory fields.<sup>15</sup> Similarly, where the supplier proposes to comply with the Order by disclosing the Required Price Information and Initial Quotes through a third party online platform, it must ensure that the third party online platform is able to do so having the Primary Information and, as applicable, the Additional Information as the only mandatory fields.

34. Suppliers must disclose all contract prices that are available for the Relevant Micro Business Customer's meter/s once that customer enters the Primary Information. However, suppliers will be able to provide secondary information inputs which can act as filters on the search results generated from the Primary Information. For the avoidance of doubt, Article 3.1 does not prevent suppliers from having any number of secondary information inputs to allow for more tailored prices to be disclosed, especially in cases when the search results for a given set of Primary Information displays many combinations of contract prices. Examples of secondary information inputs could include contract duration, payment type, fixed/variable price, paperless billing, billing frequency and contract type. However, secondary information inputs must clearly be an additional step for the customer, who would have to manually select the secondary information inputs to filter the prices generated from the Primary Information inputs and selecting any secondary information inputs on the online tool must be at the customer's discretion.

#### *Prices to be disclosed – Required Price Information and Initial Quotes*

35. Article 3.1 requires suppliers to disclose the Required Price Information and Initial Quotes once a customer enters its Primary Information. For ease, Required Price Information and Initial Quotes are collectively referred to as contract prices in this section.
36. As provided by the Report and reflected in the Order, to make it easier for customers to compare the contract prices, for a given set of Primary Information suppliers will be required to<sup>16</sup>:
  - (a) publish a total contract price covering the duration of the contract;

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<sup>15</sup> Primary Information is defined in Article 2 of the Order as (a) postcode, followed by address selection and (b) consumption of electricity or gas (or both) over a monthly, quarterly, 6 month or 12 month period (such period being at the customer's choice) or, where such information is not available, the Additional Information as applicable.

<sup>16</sup> Report, paragraph 17.56.



- (b) provide a breakdown for the total contract price identifying the cost for each of the standing charge/s, unit rate/s and all other associated charges that are included in the price<sup>17</sup>; and
  - (c) provide a separate contract price for each electricity and gas meter. The Relevant Micro Business Customer should be able to enter into a separate contract with the supplier in relation to each electricity meter price and gas meter price or as part of the same contract (i.e. a dual fuel contract).
37. If a supplier has products with multiple price points for a given set of Primary Information (e.g. a paperless billing price, a direct debit price), then that supplier would be required to disclose each of them separately, with the scope to filter them by way of secondary information inputs. If a supplier offers bundled products, then the total price of the bundle must be disclosed alongside the contract price.<sup>18</sup>
38. The requirement in Article 3.1 means that suppliers must disclose all contract prices that are available at the time the Relevant Micro Business Customer enters the Primary Information. For the avoidance of doubt, this includes disclosing prices that would be available to any non-domestic customer with the same Primary Information as the Relevant Micro Business Customer (i.e. all acquisition and retention contracts), irrespective of the channels through which it is available at that time, including offline (e.g. telephone sales), online, directly through the supplier or through third party intermediaries (TPIs).
39. Suppliers are expected to provide relevant signposts on their webpage that displays the contract prices. For example:
- (a) If a supplier wanted to have an exclusive TPI-only contract price, it must either provide a link to the TPI's platform which will disclose the contract price online for the Relevant Micro Business Customer, or it must describe (in summary terms) the fact that a TPI-only contract is available and the price(s) at which such contract is available.
  - (b) For a telephone only deal offered directly by the supplier, the supplier must disclose the price and telephone number the customer can call to discuss how the customer can fulfil the contract.

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<sup>17</sup> For the all other associated charges component of this breakdown, this should also include a description of what is included in these charges, for example, whether pass-through elements are included (such as, but not limited to, feed-in-tariffs/contracts, electricity market reform costs and renewable obligation costs).

<sup>18</sup> Bundled products have a component(s) of additional services/features, such as energy advice, that are embedded within the price of energy supply.

40. The prices available to the Relevant Micro Business Customer could differ between channels. The aim of Article 3.1 is to ensure that all prices (regardless of channel) are clearly displayed on the supplier's website or the third party online platform(s) once the Relevant Micro Business Customer has entered their Primary Information.
41. As set out in the Report, suppliers and their customers can negotiate on the contract prices and suppliers are permitted to contract at a price below the published contract price(s).<sup>19</sup>
42. All of the contract prices disclosed as the Required Price Information will need to be capable of being entered into for at least one Relevant Micro Business Customer. However, not all of the contract prices disclosed as the Required Price Information will need to be immediately fulfillable<sup>20</sup> for all Relevant Micro Business Customers.<sup>21</sup> Suppliers will also have flexibility concerning when a contract will start for a given Relevant Micro Business Customer.<sup>22</sup> However, the Order compels a supplier to provide at least one Initial Quote that is immediately fulfillable for the Relevant Micro Business Customer having provided the Primary Information, subject essentially to conducting a successful credit check (see below).
43. In addition to the requirements described in paragraphs 35 to 40, in relation to the Initial Quote, suppliers will be required to:
  - (a) specify how long the Initial Quote will be valid for<sup>23</sup>;
  - (b) ensure that the Initial Quote remains available to the Relevant Micro Business Customer if they pass a credit check. Suppliers will only be able to increase the quoted price if a customer were to fail a credit check.<sup>24</sup>
44. A supplier is not required to agree new contract terms with an existing customer where doing so would breach existing terms and conditions.<sup>25</sup>

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<sup>19</sup> Report, paragraph 17.56.

<sup>20</sup> It can immediately be transacted upon, or a contract entered into.

<sup>21</sup> Some of the contract prices may be available only to Relevant Micro Business Customers that self-select certain further conditions of supply (such as accepting to have an online-only account, or to pay by Direct Debit).

<sup>22</sup> For instance, this remedy does not compel suppliers to offer renewal quotations to their microbusiness customers who have recently started a fixed-term contract. See the definition of Initial Quote in Article 2 of the Order.

<sup>23</sup> If an Initial Quote has been generated based on incorrect Primary Information, a supplier may decide that the Initial Quote is invalid.

<sup>24</sup> If the customer fails the supplier's credit check, the supplier could, for example, choose not to supply that customer.

<sup>25</sup> See the definition of Initial Quote in Article 2 of the Order.

## *Means of disclosure*

45. Article 3.1 requires suppliers to disclose the Required Price Information and provide Initial Quotes online. Suppliers can disclose the Required Price Information and Initial Quotes on their websites (through an online quotation tool) or through one or more third party online platforms. For these purposes, a third party online platform is a price comparison website, internet-based price comparison service or other internet-based Micro Business TPI that provides comparisons between, and access to the Required Price Information and Initial Quotes, and may carry out, on behalf of the Relevant Micro Business Customer, an instruction to change the customer's supplier and/or supply contract.
46. Where a supplier makes the required disclosure through one or more third party online platforms, the supplier will be responsible for ensuring that the Required Price Information and Initial Quotes are disclosed in accordance with Article 3.1.<sup>26</sup> Suppliers may choose any number of third party online platforms, although it must ensure that it complies with Article 3.3 when doing so (see paragraph 47 below for more information). For the avoidance of doubt, this means the supplier is not required to use one single third party online platform to disclose all possible contract prices.
47. Article 3.2, provides that where suppliers disclose the Required Price Information and Initial Quotes on their website, they must ensure that access to this information is displayed in a clear and prominent way on their website.<sup>27</sup> Article 3.3 provides that where suppliers disclose the Required Price Information and Initial Quotes through one or more third party online platforms, they must ensure that a web-link to the third party online platform(s) is displayed in a clear and prominent way on their website. For example, suppliers could include web link(s) on their homepage and/or on any 'Microbusiness' homepage to the online quotation tool (in relation to Article 3.2) or to all the third party online platforms (in relation to Article 3.3).
48. Article 3.1 provides that suppliers must disclose the Required Price Information and provide Initial Quotes promptly. Suppliers are expected to make this information available immediately upon the customer entering its Primary Information.

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<sup>26</sup> For the avoidance of doubt, where a supplier operates more than one brand, Article 3.1 would not require that supplier to disclose the prices for each brand on its own website, provided all such prices were disclosed either on the supplier's own website or on one or more third party online platforms.

<sup>27</sup> If the same Required Price Information and Initial Quotes are available on a third party online platform as well as the supplier's website, the supplier would not be required to also comply with Article 3.3.

#### *Article 4 – Disclosure of certain price information in relation to Out-of-contract Contracts and Deemed Contracts*

49. The aim of Article 4 is to increase the ability of microbusiness customers to access and assess price information in relation to certain default contracts. This requirement applies to both the supply of electricity and the supply of gas.
50. Article 4.1 requires suppliers to disclose, on their website, the unit rate and standing charges for all their current Out-of-contract Contracts<sup>28</sup> and Deemed Contracts which apply to their microbusiness customers. The means of disclosure (e.g. price lists or interactive display tool) is at the supplier's discretion.<sup>29</sup>
51. Article 4.2 requires suppliers to display their unit rates and standing charges for all their Out-of-contract Contracts and Deemed Contracts for microbusiness customers prominently on their website. For example, suppliers could include a link on a drop-down bar on the homepage or the 'Microbusiness' section.

#### **Part 3 – Auto-Rollover Remedy**

52. The aim of Article 6 is to address barriers to switching that microbusiness customers on auto-rollover contracts face by: (a) increasing the time window during which a microbusiness customer would be able to give a termination notice to suppliers; and (b) prohibiting suppliers from including certain restrictions (termination fees) in these contracts. Article 7 prohibits suppliers from charging microbusiness customers termination fees on their Evergreen Micro Business Supply Contracts<sup>30</sup> and their Out-of-contract contracts, thereby reducing the barriers to switching for such customers. Article 2 of the Order (and in some instances, the Licence Conditions (only)), define a number of terms for the purposes of this remedy, including Auto-Rollover Contract, Initial Period, Roll-Over Period and Relevant Notice Period.

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<sup>28</sup> Defined in the Licence Conditions as a Non-Domestic Supply Contract which continues to apply to a Micro Business Consumer in circumstances where that Non-Domestic Supply Contract has been terminated or has expired through the passage of time and the same licensee continues to supply electricity or gas (or both) to that Micro Business Consumer.

<sup>29</sup> Report, paragraph 17.46.

<sup>30</sup> Defined in the Licence Conditions as a Micro Business Consumer Contract which is for a period of an indefinite length and which does not contain a fixed-term period that applies to any of the terms and conditions of that Micro Business Consumer Contract, and that is not an Out-of-contract Contract.

## *Article 6 – Auto-Rollover Contracts*

53. Article 6.1(a) prohibits suppliers from entering into or performing an Auto-Rollover Contract containing a restriction on when a microbusiness customer can give notice to terminate the Auto-Rollover Contract during (a) the Initial Period or (b) any Roll-Over Period.
54. In relation to termination during the Initial Period, a microbusiness customer will be able to give a termination notice at any time up to the last day of the Initial Period. Article 6.2 provides that the termination of the Auto-Rollover Contract will take effect:
- (a) at the end date of the Initial Period, if the termination notice is given in accordance with the notice period stated in the contract, or at least 30 days before the end date of the Initial Period; or
  - (b) if the termination notice is given in the last 30 days of the Initial Period, no more than 30 days after the date when the termination notice has been given by the microbusiness customer (i.e. in this case, the termination of the Auto-Rollover Contract will take effect during the Roll-Over Period).
55. In relation to termination during the Roll-Over Period, microbusiness customers can give a termination notice at any time and regardless of whether the Roll-Over Period is for a fixed or non-fixed period. Article 6.3(a) provides that the termination of the Roll-Over Period must take effect at most 30 days after the date when the microbusiness customer has given a termination notice.
56. Article 6.1(b) prohibits suppliers from entering into or performing an Auto-Rollover Contract that allows the supplier to charge the microbusiness customer a termination fee where the customer gives notice to terminate the Auto-Rollover Contract during the Roll-Over Period. Article 6.3(b) provides that, where a microbusiness customer has given notice to terminate during the Roll-Over Period, suppliers must not engage in any course of action which has the effect of increasing the standing charge, unit rate or any other charges which the microbusiness customer may pay pursuant to the Auto-Rollover Contract.
57. The aim of Article 6.3(b) is to prevent suppliers transferring microbusiness customers that have given a termination notice during the Roll-Over Period to a more expensive pricing arrangement during the Relevant Notice Period. For the avoidance of doubt, Article 6.3(b) would not apply to any of the following circumstances:

- (a) if the supplier has given notice of a price change prior to the termination notice being given by the microbusiness customer;
- (b) if the microbusiness customer has given the termination notice and has not switched to a new supplier/contract after the Relevant Notice Period; and
- (c) if a microbusiness customer elects to change its contract after giving notice to terminate the Auto-Rollover Contract.

*Article 7 – Requirements in relation to Out-of-contract Contracts and Evergreen Micro Business Consumer Contracts*

58. Article 7 prohibits suppliers from entering into or performing an Out-of-contract Contract or Evergreen Micro Business Consumer Contract containing a term that allows suppliers to charge the microbusiness customer a termination fee where the customer has given notice to terminate such contract. A similar provision exists in GEMA's standard Gas and Electricity Licence Conditions in relation to Deemed Contracts (Standard Licence Condition 7.6). The aim of this Article is to ensure there is consistency with regards to termination fees on all default contracts for microbusiness customers.

*When the auto-rollover remedy takes effect<sup>31</sup>*

- 59. In relation to Auto-Rollover Contracts which were entered into on or before the [date of the Order] December 2016, the requirements in Articles 6.1 to 6.3 will take effect on 26 June 2017.<sup>32</sup>
- 60. In relation to Out-of-contract Contracts and Evergreen Micro Business Consumer Contracts commenced on or before the [date of the Order] December 2016, Article 7.1 will take effect on 26 June 2017.
- 61. In relation to Auto-Rollover Contracts, Out-of-contract Contracts and Evergreen Micro Business Consumer Contracts commenced after the [date of the Order] December 2016, Articles 6.1 to 6.3 and 7.1 (as applicable) will take effect immediately.

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<sup>31</sup> This information is also set out in Annex 3, in diagram form.

<sup>32</sup> Report, paragraph 17.155 provides that, for existing auto-rollover contracts, the CMA will set a deadline for implementation by suppliers within 12 months of the publication of the final report. We consider that this will give suppliers adequate time to adjust their forward purchasing strategies in the wholesale energy markets concerning the roll-over periods to which they were already contractually committed as we understand that the furthest period ahead that a supplier typically purchases energy for roll-over periods is 12 months ahead.

#### ***Part 4 – Monitoring compliance and reporting***

62. Article 9 of the Order and the Licence Conditions set out the detailed compliance reporting requirements in relation to Parts 2 and 3 of the Order.
63. Articles 9.1 to 9.3 require suppliers to submit compliance statements to the CMA in the format specified in Schedule 5 to the Order. Compliance statements must be submitted to the CMA on [date Order comes into effect] December in each year.
64. These compliance statements are required to assist the CMA in complying with its statutory duty to monitor compliance with the Order.
65. Article 10 provides that the CMA may give directions as to compliance with the Order. Article 11 provides for any person to whom this Order applies to provide information required by the CMA to allow it to monitor and review compliance with and operation of the Order. GEMA has a general power, under the Electricity Supply Licence and the Gas Supply Licence, to obtain from licensees information that it considers may be necessary to enable it to perform any functions given or transferred to it by or under any legislation.
66. Paragraph 7D.6 of new Licence Condition 7D and new paragraph 7A.13C of Standard Licence Condition 7A require suppliers to provide any information that GEMA reasonably requests concerning compliance with the Licence Conditions.

## **Annex 1 – Electricity Supply Licence Condition 7A showing changes to be made to reflect the auto-rollover remedy**

### **Condition 7A. Supply to Micro Business Consumers**

#### **Identification and treatment of Micro Business Consumers**

7A.1 If the licensee intends to:

- (a) enter into a Non-Domestic Supply Contract with a Customer; or
- (b) extend the duration of a Non-Domestic Supply Contract (including the duration of any fixed term period which may form part of a Contract of an indefinite length)

the licensee must either take all reasonable steps to identify whether that Non-Domestic Customer is a Micro Business Consumer, or deem that Non-Domestic Customer to be a Micro Business Consumer.

7A.2 Where any Contract or Contract extension as described in paragraph 7A.1 is entered into with a Non-Domestic Customer that has been identified as, or deemed to be, a Micro Business Consumer, that Contract shall be a “Micro Business Consumer Contract” for the purposes of this Condition.

7A.3 The licensee must not include a term in a Micro Business Consumer Contract which enables it to terminate the Contract or apply different terms and conditions to that Contract during a fixed term period on the grounds that the Customer no longer satisfies the definition of Micro Business Consumer.

#### **Notification of Micro Business Consumer Contract terms and other information**

7A.4 Before the licensee enters into a Micro Business Consumer Contract, it must take all reasonable steps to bring the following information to the attention of the Micro Business Consumer and ensure that the information is communicated in plain and intelligible language:

- (a) a statement to the effect that the licensee is seeking to enter into a legally binding Contract with the Micro Business Consumer; and
- (b) the Principal Terms of the proposed Contract.

7A.5 The licensee must ensure that all the express terms and conditions of a Micro Business Consumer Contract are:

- (a) set out in Writing; and
- (b) drafted in plain and intelligible language.

7A.6 Where the licensee enters into, or extends the duration of, a Micro Business Consumer Contract for a fixed term period, it must prepare a statement (hereafter referred to as a “Statement of Renewal Terms”) which:



- (a) is set out in Writing;
- (b) is drafted in plain and intelligible language;
- (c) displays the following information in a prominent manner:
  - (i) the date the fixed term period is due to end, or if that date is not ascertainable the duration of the fixed term period;
  - (ii) the Relevant Date, or if not known at the time of providing the Statement of Renewal Terms, a description of how the Relevant Date will be calculated by reference to the end of the fixed term period;
  - (iii) (if applicable) a statement to the effect that the Micro Business Consumer may send a notification in Writing to the licensee at any time before the Relevant Date in order to terminate the Micro Business Consumer Contract with effect from the end of any fixed-term period which currently applies and, where paragraph 7A.13 applies, in order to prevent the licensee from extending the duration of the Micro Business Consumer Contract for a further fixed term period;
  - (iv) a postal and Electronic Communication address to which the Customer may send a notification in Writing for that purpose; and
  - (v) a statement explaining the consequences of the Micro Business Consumer not renewing the Micro Business Consumer Contract or agreeing a new Contract before the Relevant Date.

7A.7 Where the licensee enters into or extends the duration (including the duration of any fixed term period) of a Micro Business Consumer Contract, it must take all reasonable steps to provide the Micro Business Consumer with the following information within 10 days, or do so as soon as reasonably practicable thereafter:

- (a) a copy of all the express terms and conditions of the Micro Business Consumer Contract; and
- (b) if the Micro Business Consumer Contract contains a fixed term period, the Statement of Renewal Terms.

7A.8 On or about 30 days before the Relevant Date, unless the licensee has already agreed a new Micro Business Consumer Contract with the Micro Business Consumer, the licensee must provide the Micro Business Consumer with:

- (a) the Statement of Renewal Terms;
- (b) if paragraph 7A.13 applies and subject to paragraph 7A.8(d):
  - (i) a copy of the relevant Principal Terms which might apply to the Micro Business Consumer after the current fixed-term period of the

Micro Business Consumer Contract ends, including in the event that the Customer does nothing and the licensee extends the duration of the Contract in accordance with paragraph 7A.13A; and

- (ii) a copy of the Principal Terms which would apply after the current fixed-term period of the Micro Business Consumer Contract ends, in the event that the Customer sends (or has already sent) a notice in Writing before the Relevant Date to prevent renewal of the Micro Business Consumer Contract but does not appoint another supplier;
- (c) if paragraph 7A.13 does not apply, a copy of the Principal Terms, which would apply if the Customer does not change supplier or does not expressly agree a new Micro Business Consumer Contract or a further fixed-term period of the existing Micro Business Consumer Contract by the date that the current fixed-term period is due to end.
- (d) if paragraph 7A.13 applies but the licensee has already prevented the Micro Business Consumer from extending the duration of the Micro Business Consumer Contract for a further fixed-term period, the requirements in paragraph 7A.8(b) shall be replaced with a requirement to provide the Micro Business Consumer with a copy of the Principal Terms which would apply after the current fixed-term period of the Micro Business Consumer Contract ends if the Customer continues to be supplied by the licensee.
- (e) a statement displaying the Charges for the Supply of Electricity which apply to the Customer as at the date on which such statement is provided; and
- (f) the Customer's Annual Consumption Details.

7A.9 Where pursuant to paragraphs 7A.4 or 7A.8 the licensee is required to provide a Micro Business Consumer with any relevant Principal Terms:

- (a) it must ensure that the Principal Terms are:
  - (i) set out in Writing; and
  - (ii) drafted in plain and intelligible language;
- (b) if the terms of the Micro Business Consumer Contract provide that the Charges for the Supply of Electricity may vary or fluctuate from time to time, it must provide:
  - (i) an explanation that the Charges for the Supply of Electricity are subject to change from time to time; and, as applicable,
  - (ii) the precise variations to the Charges for the Supply of Electricity or the method by which the Charges for the Supply of Electricity will fluctuate automatically; or
  - (iii) where there is no agreed schedule of variations or an agreed fluctuation method in respect of the Charges for the Supply of

Electricity, information about how the Micro Business Consumer may obtain the current Charges for the Supply of Electricity from the licensee

7A.10 Where pursuant to paragraph 7A.8(b) the licensee provides a Micro Business Consumer with any offers of terms that relate to Charges for the Supply of Electricity, it must ensure that at least one offer is made in Writing which may be accepted at any time before the Relevant Date.

### **Information on Bills etc**

7A.10A Where the licensee has entered into a Micro Business Consumer Contract for a fixed term period, the licensee must provide the information specified in paragraph 7A.10B on each Bill and statement of account and display that information in a prominent position and ensure that it is drafted in plain and intelligible language.

7A.10B The specified information is:

- (a) the date the fixed term period of a Micro Business Consumer Contract is due to end;
- (b) where the licensee has entered into a Micro Business Consumer Contract for a fixed term period and it may, in accordance with that Micro Business Consumer Contract, be extended for a further fixed term period:
  - (i) the Relevant Date (or, where applicable, such a later date as may be specified in the Micro Business Consumer Contract);
  - (ii) a statement to the effect that the Micro Business Consumer may send a notification in Writing to the licensee before the Relevant Date (or, where applicable, such a later date as may be specified in the Micro Business Consumer Contract) in order to prevent the licensee from extending the duration of the Micro Business Consumer Contract for a further fixed term period and in order to terminate the Micro Business Consumer Contract with effect from the end of any fixed term period which currently applies; and
- (c) where the licensee has entered into a Micro Business Consumer Contract for a fixed term period and it does not have the ability to extend that Micro Business Consumer Contract for a further fixed term period:
  - (i) the latest date the Micro Business Customer could give notice in order to terminate the Micro Business Consumer Contract with effect from the end of any fixed term period which currently applies; and
  - (ii) a statement to the effect that this is the latest date the Micro Business Customer could give notice in order to terminate the

Micro Business Consumer Contract with effect from the end of any fixed term period which currently applies.

### **Length of notice periods in Micro Business Consumer Contracts**

7A.11 The notice period for termination of a Micro Business Consumer Contract by a Micro Business Consumer must be no longer than 30 days.

7A.12 Paragraph 7A.11 is without prejudice to the licensee's ability to enter into a Micro Business Consumer Contract with a Customer for a fixed term period which is longer than 30 days.

### **Termination of Micro Business Consumer Contracts which do not include a fixed term period**

7A.12A Without prejudice to any notice period that complies with paragraph 7A.11, in relation to any Micro Business Consumer Contract that does not include a fixed term period, the licensee must ensure that the Micro Business Consumer is entitled to give notice to terminate the Micro Business Consumer Contract at any time.

### **Termination during Initial Period of Micro Business Consumer Contracts which include a fixed term period**

7A.12B.1 Subject to paragraph 7A.12B. 2 in relation to any Micro Business Consumer Contract which includes a fixed term period, the licensee must ensure that during the Initial Period

~~(a) a Micro Business Consumer is entitled to give notice of termination before the Relevant Date (or, where applicable, such a later date as may be specified in the Micro Business Supply Contract) at any time in order to terminate the Micro Business Consumer Contract. with effect from the end of any fixed term period which currently applies; and~~

~~(b) without prejudice to any notice period which complies with paragraph 7A.11, if, at the end of any the fixed term period, a Micro Business Consumer is not subject to a further fixed term period, the Micro Business Consumer is entitled to give notice to terminate the Micro Business Consumer Contract at any time.~~

7A.12B.2 Where a Micro Business Consumer gives notice to terminate the Micro Business Consumer Contract during the Initial Period, the licensee must:

(a) terminate the contract at the end of the Initial Period, if the Micro Business Consumer gives notice to terminate at least 30 days before the end of the Initial Period;

(b) terminate the contract no more than 30 days after the Micro Business Consumer gives notice to terminate, if such notice is given within the last 30 days of the Initial Period.

## **Termination during Roll-Over Period of Micro Business Consumer Contracts**

7A.12BA This paragraph applies to Micro Business Consumer Contracts during the Roll-Over Period.

7A.12BAA. The licensee must ensure that a Micro Business Consumer is entitled to give notice of termination at any time in order to terminate the Micro Business Consumer Contract with effect from the end of the Relevant Notice Period.

7A.12BAB. Where a Micro Business Consumer gives notice of termination under paragraph 7A.12BAA, the licensee must not:

- (a) charge the Micro Business Consumer a Micro Business Termination Fee; or
- (b) engage in any course of action which has the effect of increasing the Standing Charge, Unit Rate or any other charge which the Micro Business Consumer must pay pursuant to the Micro Business Consumer Contract.

## **Acknowledgement of receipt of termination notice**

7A.12C If the licensee receives notice of termination in accordance with 7A12.A or 7A.12B it must take all reasonable steps to notify the Micro Business Consumer in Writing within 5 Working Days of receipt of such notice of termination, or as soon as reasonably practical thereafter, that such notice of termination has been received.

## **Extending the duration of Micro Business Consumer Contracts**

7A.13 This paragraph applies where the relevant Micro Business Consumer Contract is for a fixed-term period and contains a ~~term entitling the licensee to extend the duration of the Micro Business Consumer Contract for a further fixed term period~~ Roll-Over Clause.

7A.13A Where paragraph 7A.13 applies, the licensee may only extend the duration of that Contract for a further fixed term period if:

- (a) it has complied with paragraphs 7A.7 and 7A.8;
- (b) the Micro Business Consumer has not sent the licensee a notification in Writing before the end of the Initial period ~~Relevant Date~~ in order to prevent it from extending the duration of the Micro Business Consumer Contract for a further fixed term period and in order to terminate the Micro Business Consumer Contract with effect from the end of any fixed term period which currently applies; and
- (c) the duration of the further fixed term period is 12 months or less.

## **Termination of Out-of-contract Contracts and Evergreen Micro Business Contracts**

7A.13B. If the licensee supplies electricity to a Micro Business Consumer's premises under an Out-of-contract Contract or Evergreen Micro Business Consumer Contract, the licensee must not charge the Micro Business Consumer a Micro Business Termination Fee.

### **Reporting obligation**

7A.13C.1 The licensee must give the Authority any Information that it reasonably requests about the licensee's compliance with paragraphs 7A.12B.1 to 7A.13B as soon as reasonably practicable after receiving a request from the Authority.

7A.13C.2 The licensee must give the Authority any Information that it reasonably request to assess the impact and effectiveness of the obligations contained in paragraphs 7A.12B.1 to 7A.13B.

### **Transitional provisions for standard condition 7A covering notice periods, termination fees and rollovers**

7A.13D.1 Until the Specified Date, this condition 7A.13D applies to any Transitional Micro Business Consumer Contracts.

7A. 13D.2. For the purposes of this condition 7A.13D, a "Transitional Micro Business Consumer Contract" is a Micro Business Consumer Contract which was entered into before the Order Date.

7A.13D.3. In respect of the Transitional Micro Business Consumer Contract, the licensee is not required to comply with:

(a) paragraphs 7A.12B.1 and 7A.12B.2 of standard condition 7A

(b) paragraphs 7A.12BA, 7A.12BAA and 7A.12BAB of standard condition 7A

(c) paragraphs 7A.13 and 7A.13A of standard condition 7A

(d) paragraphs 7A.13B, 7A.13C.1 and 7A.13C.2 of standard condition 7A,

and instead, paragraphs 7A.13D.4 to 7A.13D.6 apply.

7A.13D.4. Paragraph 7A.12B.1 of standard condition 7A is replaced with:

**Termination of Micro Business Consumer Contracts which include a fixed term period**

7A.12B In relation to any Micro Business Consumer Contract which includes a fixed term period, the licensee must ensure that:

(a) a Micro Business Consumer is entitled to give notice of termination before the Relevant Date (or, where applicable, such a later date as may be specified in the Micro Business Supply Contract) in order to terminate the Micro Business Consumer Contract with effect from the end of any fixed term period which currently applies; and

(b) without prejudice to any notice period which complies with paragraph 7A.11, if, at the end of any fixed term period, a Micro Business Consumer is not subject to a further fixed term period, the Micro Business Consumer is entitled to give notice to terminate the Micro Business Consumer Contract at any time.

7A.13D.5. Paragraph 7A.13 of standard condition 7A is replaced with:

7A.13 This paragraph applies where the relevant Micro Business Consumer Contract is for a fixed-term period and contains a term entitling the licensee to extend the duration of the Micro Business Consumer Contract for a further fixed-term period.

7A.13D.6. Paragraph 7A.13A of standard condition 7A is replaced with:

7A.13A. Where paragraph 7A.13 applies, the licensee may only extend the duration of that Contract for a further fixed term period if:

(a) it has complied with paragraphs 7A.7 and 7A.8;

(b) the Micro Business Consumer has not sent the licensee a notification in Writing before the Relevant Date in order to prevent it from extending the duration of the Micro Business Consumer Contract for a further fixed term period and in order to terminate the Micro Business Consumer Contract with effect from the end of any fixed term period which currently applies; and

(c) the duration of the further fixed term period is 12 months or less.

**Definitions for condition**

7A.14 In this condition:

**Evergreen Micro Business**

means a Micro Business Consumer Contract which is for a period of an indefinite length and which does not contain a fixed-term period that

**Consumer Contract**

applies to any of the terms and conditions of that Micro Business Consumer Contract and is not an Out-of-contract Contract.

**Initial Period**

means a period of fixed duration from the start of a contract concerning the supply of electricity.

**“Micro Business Consumer”**

means a Non-Domestic Customer:

(a) which is a “relevant consumer” (in respect of premises other than domestic premises) for the purposes in article 2(1) of The Gas and Electricity Regulated Providers (Redress Scheme) Order 2008 (S.I. 2008/2268); or

(b) which has an annual consumption of not more than 100,000 kWh

**Micro Business Termination Fee**

means any sum of money or other compensation (whether financial or not) which might be demanded from a Micro Business Consumer solely because his Micro Business Consumer Contract has ended and/or any sum of money or other reward (whether financial or not) which would have been provided to a Micro Business Consumer if he continued to be supplied under a Micro Business Consumer Contract for a particular period of time and would not be provided to that Micro Business Consumer solely because that contract has ended before that period of time has elapsed.

**Out-of-contract Contracts**

means a Non-Domestic Supply Contract which continues to apply to a Micro Business Consumer in circumstances where that Non-Domestic Supply Contract has been terminated or has expired through the passage of time and the same licensee continues to supply electricity to that Micro Business Consumer.



<b><u>Order Date</u></b>	<u>means [day after CMA Order is made] December 2016</u>
<b>“Relevant Date”</b>	means the date which is 30 days, before the date any fixed term period of a Micro Business Consumer Contract is due to end.
<b><u>Relevant Notice Period</u></b>	<u>means a notice period of up to 30 days.</u>
<b><u>Roll-Over Period</u></b>	<u>means the period of time after the Initial Period for which a Micro Business Consumer Contract will continue pursuant to the Roll-Over Clause.</u>
<b><u>Roll-Over Clause</u></b>	<u>means a term providing for a contract to continue (automatically, or at the sole option of the licensee) beyond the expiry of the Initial Period in the event that, during the Initial Period, the Micro Business Consumer has not terminated the Micro Business Consumer Contract or otherwise expressly agreed that the Micro Business Consumer Contract will continue for a period of fixed duration or an indefinite length.</u>
<b><u>Specified Date</u></b>	<u>means 25 June 2017.</u>

## **Annex 2 – Gas Supply Licence Condition 7A showing changes to be made to reflect the auto-rollover remedy**

### **Condition 7A. Supply to Micro Business Consumers**

#### Identification and treatment of Micro Business Consumers

7A.1 If the licensee intends to:

- (a) enter into a Non-Domestic Supply Contract with a Customer; or
- (b) extend the duration of a Non-Domestic Supply Contract (including the duration of any fixed term period which may form part of a Contract of an indefinite length)

the licensee must either take all reasonable steps to identify whether that Non-Domestic Customer is a Micro Business Consumer, or deem that Non-Domestic Customer to be a Micro Business Consumer.

7A.2 Where any Contract or Contract extension as described in paragraph 7A.1 is entered into with a Non-Domestic Customer that has been identified as, or deemed to be, a Micro Business Consumer, that Contract shall be a “Micro Business Consumer Contract” for the purposes of this Condition.

7A.3 The licensee must not include a term in a Micro Business Consumer Contract which enables it to terminate the Contract or apply different terms and conditions to that Contract during a fixed term period on the grounds that the Customer no longer satisfies the definition of Micro Business Consumer.

#### Notification of Micro Business Consumer Contract terms and other information

7A.4 Before the licensee enters into a Micro Business Consumer Contract, it must take all reasonable steps to bring the following information to the attention of the Micro Business Consumer and ensure that the information is communicated in plain and intelligible language:

- (a) a statement to the effect that the licensee is seeking to enter into a legally binding Contract with the Micro Business Consumer; and
- (b) the Principle Terms of the proposed Contract.

7A.5 The licensee must ensure that all the express terms and conditions of a Micro Business Consumer Contract are:

- (a) set out in Writing; and
- (b) drafted in plain and intelligible language.

7A.6 Where the licensee enters into, or extends the duration of, a Micro Business Consumer Contract for a fixed term period, it must prepare a statement (hereafter referred to as a “Statement of Renewal Terms”) which:

- (a) is set out in Writing;
- (b) is drafted in plain and intelligible language;
- (c) displays the following information in a prominent manner;
  - (i) the date the fixed term period is due to end, or if that date is not ascertainable the duration of the fixed term period;
  - (ii) the Relevant Date, or if not known at the time of providing the Statement of Renewal Terms, a description of how the Relevant Date will be calculated by reference to the end of the fixed term period;
  - (iii) (if applicable) a statement to the effect that the Micro Business Consumer may send a notification in Writing to the licensee at any time before the Relevant Date in order to terminate the Micro Business Consumer Contract with effect from the end of any fixed-term period which currently applies and, where paragraph 7A.13 applies, in order to prevent the licensee from extending the duration of the Micro Business Consumer Contract for a further fixed term period;
  - (iv) a postal and Electronic Communication address to which the Customer may send a notification in Writing for that purpose; and
  - (v) a statement explaining the consequences of the Micro Business Consumer not renewing the Micro Business Consumer Contract or agreeing a new Contract before the Relevant Date.

7A.7 Where the licensee enters into or extends the duration (including the duration of any fixed term period) of a Micro Business Consumer Contract, it must take all reasonable steps to provide the Micro Business Consumer with the following information within 10 days, or do so as soon as reasonably practicable thereafter:

- (a) a copy of all the express terms and conditions of the Micro Business Consumer Contract; and
- (b) if the Micro Business Consumer Contract contains a fixed term period, the Statement of Renewal Terms.

7A.8 On or about 30 days before the Relevant Date, unless the licensee has already agreed a new Micro Business Consumer Contract with the Micro Business Consumer, the licensee must provide the Micro Business Consumer with:

- (a) the Statement of Renewal Terms;
- (a) if paragraph 7A.13 applies and subject to paragraph 7A.8(d):

- (i) a copy of the relevant Principal Terms which might apply to the Micro Business Consumer after the current fixed-term period of the Micro Business Consumer Contract ends, including in the event that the Customer does nothing and the licensee extends the duration of the Contract in accordance with paragraph 7A.13A; and
  - (ii) a copy of the Principal Terms which would apply after the current fixed-term period of the Micro Business Consumer Contract ends, in the event that the Customer sends (or has already sent) a notice in Writing before the Relevant Date to prevent renewal of the Micro Business Consumer Contract but does not appoint another supplier;
- (b) if paragraph 7A.13 does not apply, a copy of the Principal Terms, which would apply if the Customer does not change supplier or does not expressly agree a new Micro Business Consumer Contract or a further fixed-term period of the existing Micro Business Consumer Contract by the date that the current fixed-term period is due to end.
  - (c) if paragraph 7A.13 applies but the licensee has already prevented the Micro Business Consumer from extending the duration of the Micro Business Consumer Contract for a further fixed-term period, the requirements in paragraph 7A.8(b) shall be replaced with a requirement to provide the Micro Business Consumer with a copy of the Principal Terms which would apply after the current fixed-term period of the Micro Business Consumer Contract ends if the Customer continues to be supplied by the licensee.
  - (d) a statement displaying the Charges for the Supply of Gas which apply to the Customer as at the date on which such statement is provided; and
  - (e) the Customer's Annual Consumption Details.

7A.9 Where pursuant to paragraphs 7A.4 or 7A.8 the licensee is required to provide a Micro Business Consumer with any relevant Principal Terms:

- (a) it must ensure that the Principal Terms are:
  - (i) set out in Writing; and
  - (ii) drafted in plain and intelligible language;
- (b) if the terms of the Micro Business Consumer Contract provide that the Charges for the Supply of Gas may vary or fluctuate from time to time, it must provide:
  - (i) an explanation that the Charges for the Supply of Gas are subject to change from time to time; and, as applicable,

- (ii) the precise variations to the Charges for the Supply of Gas or the method by which the Charges for the Supply of Gas will fluctuate automatically; or
- (iii) where there is no agreed schedule of variations or an agreed fluctuation method in respect of the Charges for the Supply of Gas, information about how the Micro Business Consumer may obtain the current Charges for the Supply of Gas from the licensee.

7A.10 Where pursuant to paragraph 7A.8 (b) the licensee provides a Micro Business Consumer with any offers of terms that relate to Charges for the Supply of Gas, it must ensure that at least one offer is made in Writing which may be accepted at any time before the Relevant Date.

### **Information on Bills etc**

7A.10A Where the licensee has entered into a Micro Business Consumer Contract for a fixed term period, the licensee must provide the information specified in paragraph 7A.10B on each Bill and statement of account and display that information in a prominent position and ensure that it is drafted in plain and intelligible language.

7A.10B The specified information is:

- (a) the date the fixed term period of a Micro Business Consumer Contract is due to end;
- (b) where the licensee has entered into a Micro Business Consumer Contract for a fixed term period and it may, in accordance with that Micro Business Consumer Contract, be extended for a further fixed term period:
  - (i) the Relevant Date (or, where applicable, such a later date as may be specified in the Micro Business Consumer Contract);
  - (i) a statement to the effect that the Micro Business Consumer may send a notification in Writing to the licensee before the Relevant Date (or, where applicable, such a later date as may be specified in the Micro Business Consumer Contract) in order to prevent the licensee from extending the duration of the Micro Business Consumer Contract for a further fixed term period and in order to terminate the Micro Business Consumer Contract with effect from the end of any fixed term period which currently applies; and
- (b) where the licensee has entered into a Micro Business Consumer Contract for a fixed term period and it does not have the ability to extend that Micro Business Consumer Contract for a further fixed term period:

- (i) the latest date the Micro Business Customer could give notice in order to terminate the Micro Business Consumer Contract with effect from the end of any fixed term period which currently applies; and
- (ii) a statement to the effect that this is the latest date the Micro Business Customer could give notice in order to terminate the Micro Business Consumer Contract with effect from the end of any fixed term period which currently applies

### **Length of notice periods in Micro Business Consumer Contracts**

7A.11 The notice period for termination of a Micro Business Consumer Contract by a Micro Business Customer must be no longer than 30 days.

7A.12 Paragraph 7A.11 is without prejudice to the licensee's ability to enter into a Micro Business Consumer Contract with a Customer for a fixed term period which is longer than 30 days.

### **Termination of Micro Business Consumer Contracts which do not include a fixed term period**

7A.12A Without prejudice to any notice period that complies with paragraph 7A.11, in relation to any Micro Business Consumer Contract that does not include a fixed term period, the licensee must ensure that the Micro Business Consumer is entitled to give notice to terminate the Micro Business Consumer Contract at any time.

### **Termination during Initial Period of Micro Business Consumer Contracts which include a fixed term period**

7A.12B.1 Subject to paragraph 7A.12B. 2 in relation to any Micro Business Consumer Contract which includes a fixed term period, the licensee must ensure that during the Initial Period

- (a) a Micro Business Consumer is entitled to give notice of termination ~~before the Relevant Date (or, where applicable, such a later date as may be specified in the Micro Business Supply Contract)~~ at any time in order to terminate the Micro Business Consumer Contract. ~~with effect from the end of any fixed term period which currently applies; and~~
- (b) ~~without prejudice to any notice period which complies with paragraph 7A.11, if, at the end of any the fixed term period, a Micro Business Consumer is not subject to a further fixed term period, the Micro Business Consumer is entitled to give notice to terminate the Micro Business Consumer Contract at any time.~~

7A.12B.2 Where a Micro Business Consumer gives notice to terminate the Micro Business Consumer Contract during the Initial Period, the licensee must:

- (a) terminate the contract at the end of the Initial Period, if the Micro Business Consumer gives notice to terminate at least 30 days before the end of the Initial Period;
- (b) terminate the contract no more than 30 days after the Micro Business Consumer gives notice to terminate, if such notice is given within the last 30 days of the Initial Period.

### **Termination during Roll-Over Period of Micro Business Consumer Contracts**

7A.12BA This paragraph applies to Micro Business Consumer Contracts during the Roll-Over Period.

7A.12BAA. The licensee must ensure that a Micro Business Consumer is entitled to give notice of termination at any time in order to terminate the Micro Business Consumer Contract with effect from the end of the Relevant Notice Period.

7A.12BAB. Where a Micro Business Consumer gives notice of termination under paragraph 7A.12BAA, the licensee must not:

- (a) charge the Micro Business Consumer a Micro Business Termination Fee; or
- (b) engage in any course of action which has the effect of increasing the Standing Charge, Unit Rate or any other charge which the Micro Business Consumer must pay pursuant to the Micro Business Consumer Contract.

### **Acknowledgement of receipt of termination notice**

7A.12C If the licensee receives notice of termination in accordance with 7A.12.A or 7A.12B it must take all reasonable steps to notify the Micro Business Consumer in Writing within 5 Working Days of receipt of such notice of termination, or as soon as reasonably practical thereafter, that such notice of termination has been received.

### **Extending the duration of Micro Business Consumer Contracts**

7A.13 This paragraph applies where the relevant Micro Business Consumer Contract is for a fixed-term period and contains a ~~term entitling the licensee to extend the duration of the Micro Business Consumer Contract for a further fixed term period~~ Roll-Over Clause.

7A.13A Where paragraph 7A.13 applies, the licensee may only extend the duration of that Contract for a further fixed term period if:

- (a) it has complied with paragraphs 7A.7 and 7A.8;
- (b) the Micro Business Consumer has not sent the licensee a notification in Writing before the end of the Initial period ~~Relevant Date~~ in order to

prevent it from extending the duration of the Micro Business Consumer Contract for a further fixed term period and in order to terminate the Micro Business Consumer Contract with effect from the end of any fixed term period which currently applies; and

- (c) the duration of the further fixed term period is 12 months or less.

### **Termination of Out-of-contract Contracts and Evergreen Micro Business Contracts**

7A.13B. If the licensee supplies electricity to a Micro Business Consumer's premises under an Out-of-contract Contract or Evergreen Micro Business Consumer Contract, the licensee must not charge the Micro Business Consumer a Micro Business Termination Fee.

### **Reporting obligation**

7A.13C.1 The licensee must give the Authority any Information that it reasonably requests about the licensee's compliance with paragraphs 7A.12B.1 to 7A.13B as soon as reasonably practicable after receiving a request from the Authority.

7A.13C.2 The licensee must give the Authority any Information that it reasonably request to assess the impact and effectiveness of the obligations contained in paragraphs 7A.12B.1 to 7A.13B.

### **Transitional provisions for standard condition 7A covering notice periods, termination fees and rollovers**

7A.13D.1 Until the Specified Date, this condition 7A.13D applies to any Transitional Micro Business Consumer Contracts.

7A. 13D.2. For the purposes of this condition 7A.13D, a "Transitional Micro Business Consumer Contract" is a Micro Business Consumer Contract which was entered into before the Order Date.

7A.13D.3. In respect of the Transitional Micro Business Consumer Contract, the licensee is not required to comply with:

(a) paragraphs 7A.12B.1 and 7A.12B.2 of standard condition 7A

(b) paragraphs 7A.12BA, 7A.12BAA and 7A.12BAB of standard condition 7A

(c) paragraphs 7A.13 and 7A.13A of standard condition 7A



(d) paragraphs 7A.13B, 7A.13C.1 and 7A.13C.2 of standard condition 7A,

and instead, paragraphs 7A.13D.4 to 7A.13D.6 apply.

7A.13D.4. Paragraph 7A.12B.1 of standard condition 7A is replaced with:

**Termination of Micro Business Consumer Contracts which include a fixed term period**

7A.12B In relation to any Micro Business Consumer Contract which includes a fixed term period, the licensee must ensure that:

(a) a Micro Business Consumer is entitled to give notice of termination before the Relevant Date (or, where applicable, such a later date as may be specified in the Micro Business Supply Contract) in order to terminate the Micro Business Consumer Contract with effect from the end of any fixed term period which currently applies; and

(b) without prejudice to any notice period which complies with paragraph 7A.11, if, at the end of any fixed term period, a Micro Business Consumer is not subject to a further fixed term period, the Micro Business Consumer is entitled to give notice to terminate the Micro Business Consumer Contract at any time.

7A.13D.5. Paragraph 7A.13 of standard condition 7A is replaced with:

7A.13 This paragraph applies where the relevant Micro Business Consumer Contract is for a fixed-term period and contains a term entitling the licensee to extend the duration of the Micro Business Consumer Contract for a further fixed-term period.

7A.13D.6. Paragraph 7A.13A of standard condition 7A is replaced with:

7A.13A. Where paragraph 7A.13 applies, the licensee may only extend the duration of that Contract for a further fixed term period if:

(a) it has complied with paragraphs 7A.7 and 7A.8;

(b) the Micro Business Consumer has not sent the licensee a notification in Writing before the Relevant Date in order to prevent it from extending the duration of the Micro Business Consumer Contract for a further fixed term period and in order to terminate the Micro Business Consumer Contract with effect from the end of any fixed term period which currently applies; and

(c) the duration of the further fixed term period is 12 months or less.

## Definitions for condition

7A.14 In this condition:

**Evergreen Micro  
Business  
Consumer  
Contract**

means a Micro Business Consumer Contract which is for a period of an indefinite length and which does not contain a fixed-term period that applies to any of the terms and conditions of that Micro Business Consumer Contract and is not an Out-of-contract Contract.

**Initial Period**

means a period of fixed duration from the start of a contract concerning the supply of gas.

**“Micro Business  
Consumer”**

means a Non-Domestic Customer:

(a) which is a “relevant consumer” (in respect of premises other than domestic premises) for the purposes of article 2(1) of The Gas and Electricity Regulated Providers (Redress Scheme) Order 2008 (S.I. 2008/2268); or

(b) which has an annual consumption of gas of not more than 293,000 kWh.

**Out-of-contract  
Contracts**

means a Non-Domestic Supply Contract which continues to apply to a Micro Business Consumer in circumstances where that Non-Domestic Supply Contract has been terminated or has expired through the passage of time and the same licensee continues to supply gas to that Micro Business Consumer.

**“Relevant Date”**

means the date which is 30 days, before the date any fixed term period of a Micro Business Consumer Contract is due to end.

**Relevant Notice  
Period**

means a notice period of up to 30 days.

**Roll-Over Period**

means the period of time after the Initial Period for which a Micro Business Consumer Contract will continue pursuant to the Roll-Over Clause.

**Roll-Over Clause**

means a term providing for a contract to continue (automatically, or at the sole option of the licensee) beyond the expiry of the Initial Period in

the event that, during the Initial Period, the Micro Business Consumer has not terminated the Micro Business Consumer Contract or otherwise expressly agreed that the Micro Business Consumer Contract will continue for a period of fixed duration or an indefinite length.

**Specified Date**

means 25 June 2017.

### Annex 3 – Implementation timings for price transparency and auto-rollover remedies

Timeline	Price transparency	Auto-rollover	
		Contracts entered into on or before 23 December 2016	Contracts entered into after 23 December 2016
23 December 2016	CMA order expected to be made on 23 December 2016	CMA order expected to be made on 23 December 2016	CMA order expected to be made on 23 December 2016
24 December 2016			These contracts will need to comply with the CMA's order (and new licence conditions) immediately (ie from 24 December 2016)
26 June 2017	Suppliers will need to comply with the CMA's order (and new licence conditions) by 26 June 2017	These contracts will need to comply with the CMA's order (and new licence conditions) from 26 June 2017	