

## **ENERGY MARKET INVESTIGATION**

### **The Energy Market Investigation (Gas Tariff Codes) Undertakings 2016**

#### **Notice of a proposal to accept Undertakings given under sections 159 and 165, and Schedule 10 to, the Enterprise Act 2002 and public consultation on the proposed Undertakings**

##### **Background**

1. On 26 June 2014, the Gas and Electricity Markets Authority (GEMA), in exercise of its powers under sections 131 and 133 of the Enterprise Act 2002 (the Act) (as provided for by section 36A of the Gas Act 1986 (GA86) and section 43 of the Electricity Act 1989 (EA89)), made an ordinary reference to the Chair of the Competition and Markets Authority (CMA) for the constitution of a group under Schedule 4 to the Enterprise and Regulatory Reform Act 2013 for an investigation into the supply and acquisition of energy in Great Britain.<sup>1</sup>
2. The CMA investigated the matters referred to it pursuant to sections 131 and 133 of the Act and concluded (a) in accordance with section 134(1) of the Act that there are features of the markets for the supply and acquisition of energy in Great Britain which, either alone or in combination, prevent, restrict or distort competition; and (b) in accordance with section 134(2) of the Act, that there are adverse effects on competition (AECs). The CMA published its findings in a report under section 136 of the Act entitled *Energy market investigation: Final report* published on 24 June 2016 (the Report).
3. One of the AECs identified by the CMA was the Prepayment AEC.
4. The features identified by the CMA as giving rise to the Prepayment AEC were the following:
  - (a) Technical constraints that limit the ability of all suppliers, and in particular new entrants, to compete to acquire prepayment customers, and to

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<sup>1</sup> [Energy market investigation terms of reference.](#)

innovate by offering tariff structures that meet demand from prepayment customers who do not have a smart meter; and

- (b) Softened incentives on all suppliers, and in particular new entrants, to compete to acquire prepayment customers due to: (i) actual and perceived higher costs to engage with, and acquire, prepayment customers compared with other customers; and (ii) a low prospect of successfully completing the switch of indebted customers, who represent about 7 to 10% of prepayment customers.
5. The CMA considered, in accordance with section 134(4) of the Act, (a) whether action should be taken by it for the purpose of remedying, mitigating or preventing the AECs or any detrimental effect on consumers; (b) whether it should recommend the taking of action by others for the purpose of remedying, mitigating or preventing the AECs or any detrimental effect on consumers; and (c) in either case, if action should be taken, what action should be taken and what is to be remedied, mitigated or prevented.
6. In the Report, the CMA decided on a package of remedies to remedy, mitigate or prevent the AECs and/or associated detriment that it found. Among other things, the CMA decided to seek undertakings from relevant gas suppliers (ie the Six Large Energy Firms, Centrica plc, EDF Energy plc, E.ON UK plc, RWE npower plc, Scottish and Southern Energy plc and Scottish Power Ltd) including the following three components: (a) a cap on the number of gas tariff pages that each relevant gas supplier can hold at no more than 12; (b) an obligation on the relevant gas suppliers to provide relevant information for GEMA to monitor the allocation of the gas tariff codes; and (c) an undertaking from the relevant gas suppliers to follow a direction from GEMA to transfer one or more gas tariff pages to another supplier.
7. The CMA also recommended that, absent such undertakings, GEMA should introduce a new licence condition in suppliers' standard licence conditions, to implement this remedy.
8. In accordance with section 165 and paragraph 2(1)(a) of Schedule 10 of the Act, the CMA hereby gives notice of its intention to accept undertakings on the terms attached to this Notice (the Proposed Undertakings).
9. The CMA invites written representations on the Proposed Undertakings from any interested person or persons. The CMA will have regard to any representations made in response to this Notice. The CMA may also make modifications to the Proposed Undertakings as a result of any representations. In the absence of any written representations, or in the event that the CMA decides, on consideration of representations made, not to

amend the Proposed Undertakings, the CMA proposes to accept the Proposed Undertakings in their present form pursuant to sections 138 and 159 of the Act. If the CMA considers that any representation necessitates a material change to the Proposed Undertakings, the CMA will give notice of the proposed modifications and consider any further representations.

10. Representations should reach the CMA by **5pm on 10 November 2016**. Representations should be made in writing and should be addressed to:

Project Manager  
Energy market investigation  
Competition and Markets Authority  
Victoria House  
Southampton Row  
London  
WC1B 4AD

or by email to: [david.fowlis@cma.gsi.gov.uk](mailto:david.fowlis@cma.gsi.gov.uk) and  
[energymarket@cma.gsi.gov.uk](mailto:energymarket@cma.gsi.gov.uk)

*(signed)* ROGER WITCOMB  
*Group Chair*  
20 October 2016