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Submitted via email to: [david.fowlis@cma.gsi.gov.uk](mailto:david.fowlis@cma.gsi.gov.uk)

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## The Energy Market Investigation (Prepayment Charge Restriction) Order 2016

Dear David,

Energy UK is the main trade association for the energy industry, with over 90 members; representing energy generators and suppliers of all sizes. Our members supply gas and electricity and provide network services to both the domestic and non-domestic market. Energy UK members own over 90% of electricity generation capacity in the UK market and supply 26 million homes and 5 million businesses, contributing over £25 billion to the UK economy each year. The industry employs 619,000 people across the length and breadth of the UK, not just in the South East, contributing £83bn to the economy and paying over £6bn annually in tax.

Energy UK strongly believes in promoting competitive energy markets that produce good outcomes for consumers. In this context, we are committed to working with Government, regulators, consumer groups and our members to develop reforms which enhance consumer trust and effective engagement. At the same time, Energy UK believes in a stable and predictable regulatory regime that fosters innovation, market entry and growth, bringing benefits to consumers and helping provide the certainty that is needed to encourage investment and enhance the competitiveness of the UK economy.

These high-level principles underpin Energy UK's response to the CMA's consultation on the Prepayment Charge Restriction Order 2016. We anticipate that our members will respond individually on the makeup and structure of the Prepayment Charge Restriction itself. Energy UK would, however, like to take this opportunity to comment on the wider compliance framework, as set out in the draft electricity (E) and gas (G) Supply Licence Conditions (SLCs), the Explanatory Note, and the draft Order. Our detailed comments are set out below.

### Detailed comments

Links with E and G SLC 23.4 - We continue to have concerns that under E and G SLC 23.4, suppliers are required to provide customers with notice of any price increases at least 30 days in advance of the change taking effect. Should a supplier, following a change to the Maximum Charges, wish to increase the cost of a tariff from the first day of the new Charge Restriction Period (CRP), they would have approx. 22 days after the publication of the updated Benchmark Maximum Charges to implement their pricing

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strategy for the next CRP. This includes, for example, drafting, testing and sending out letters to all customers affected.

Energy UK welcomes the CMA's commitment to giving suppliers as much notice as possible of any change to the Benchmark Maximum Charges for the forthcoming CRP. We would like to see Ofgem follow the CMA's lead and consider how it could flex the requirements of SLC 23.4 in relation to customer accounts covered by the Charge Restriction. A shorter and/or more flexible notice period under SLC 23.4 would help ensure that suppliers have sufficient time to review any changes to the Benchmark Maximum Charge and make any required consequential changes to implement their pricing strategy.

Rebates in respect of Economy 7 (E7) meter consumption splits: Paragraph 60 of the Explanatory Note says (emphasis added):

*“Where projections have been made by a supplier, and there is a material discrepancy between forecast and actual consumption taking place in the peak period such that Relevant Customers on a given tariff have incurred charges materially in excess of the Relevant Maximum Charge, GEMA may direct the supplier to pay a rebate to such Relevant Customers. [...] For the avoidance of doubt: (a) the potential for payment of rebates exists **for both Economy 7 Tariffs** as well as other Multi-Register Prepayment Tariffs”.*

We are unclear under what circumstances the CMA envisages that a rebate might be payable for E7 tariffs. Paragraph 56 of the Explanatory Note states that Ofgem will direct the split for E7, so there would be no reason for a supplier to be making a projection in respect of E7.

Impact on smart meter rollout – Energy UK and its members have significant concern about the following proposal made by the CMA in the Explanatory Note:

*“...any Relevant Customer who is not supplied, for any reason, through an Excluded Smart Meter will remain protected by the Prepayment Charge Restriction until an Excluded Smart Meter has been effectively installed at their premises”*

While we note that this provision provides industry with encouragement to push ahead with the smart roll-out for prepay customers, there is a risk it will have the opposite effect on domestic customers by providing a disincentive to customers covered by the Charge Restriction to take up smart metering. Should customers refuse SMETS2 installations in favour of continuing to be captured under the Charge Restriction, the proposed provision risks creating significant challenges for the smart meter rollout programme and putting in doubt some of the wider associated benefits of smart metering identified by the CMA in its final report. Energy UK also notes that should this provision have a negative material impact on the progress of the smart roll-out programme it will in turn have a negative impact on the lifetime of the Prepayment Charge Restriction itself.

Compliance Statements – Energy UK urges the CMA to carefully consider whether 30 days is sufficient to allow suppliers to prepare a Prepayment Charge Restriction Compliance Statement. We note that this may be a particularly tight timescale should a supplier also first be required to inform the Authority that a Relevant Customer has been charged an amount in excess of the Relevant Maximum Charges and to pay the required rebate to the affected customer within the same 30 day period.

More generally, Energy UK would also welcome further clarification from the CMA on the rationale for requiring suppliers to submit a six monthly Prepayment Charge Restriction Compliance Statement directly to the CMA. We note that in line with the proposed changes to the Electricity and Gas SLCs, the Authority should be monitoring suppliers' compliance and notifying the CMA of any incidents of non-compliance.

I hope you find our comments helpful, should you require any more information please do not hesitate to contact me directly. Energy UK and our members are always willing to discuss with the CMA ways in which we can work together for the benefit of consumers and the industry.

Yours sincerely,

Daniel Alchin  
**Head of Retail Policy**