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Dear David,

**Response to the proposed Energy Market Investigation (Restricted Meters)
Order 2016**

This submission was prepared by Citizens Advice. Citizens Advice has statutory responsibilities to represent the interests of energy consumers in Great Britain. This document is not confidential and may be published on your website. If you would like to discuss any matter raised in more detail please do not hesitate to get in contact.

Citizens Advice is supportive of a remedy to provide support to consumers who have been on restricted meters for long periods of time and have been prevented from accessing the benefits of competition or switching compared to consumers with single rate meters. However, we note that the Competition and Market Authority's (CMA) proposed Order requires suppliers to make complex and potentially costly changes to their billing systems in order to provide these households with additional choice, and that changes in the prices since the CMA conducted their analysis may mean that the benefit if the remedy has been reduced. As such, the CMA should consider making changes to this remedy to ensure it delivers maximum benefit for these households. If this is not possible it may be simpler, more cost effective, and provide better consumer outcomes to introduce a requirement on suppliers to compensate these households until they are able to receive a smart meter.

The structure of the remedy

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There are a number of reasons to consider that the structure of the remedy may limit the benefits to consumers with restricted meters.

The CMA's original analysis from 2015 data found that 68% of restricted meter customers would be better off by an average of £154 each if they switched to the cheapest available single rate tariff.¹ However, since that analysis was conducted the largest energy suppliers - who have the majority of restricted meter customers - have cut the price of their Standard Variable Tariffs, while in recent times the price of the cheapest deals in the market has been rising.² If this trend continues in the near term then the benefit of the remedy could decrease, especially during the first years, when it applies to the largest number of customers. An instructive example of the impact this might have comes from the CMA's analysis from Q2 2014, which showed that only 51% of consumers with restricted meters would have been better off on a single rate tariff, and they would have made a smaller average saving of £123.

Part 2 of the Order (the requirement to make all Relevant Tariffs available) only applies to suppliers with more than 50,000 customers. While this is necessary to ensure that the burden on suppliers is proportionate, it could exclude restricted meter consumers from some of the cheapest deals available. For example - at the time of writing - two of the five cheapest energy deals are offered by suppliers that would not currently have to comply with this part of the Order.³

The number of consumers affected by the remedy has also been reduced, due to the decision to exclude restricted meter customers with prepayment meters. We recognise the technical complexity of applying the remedy to these consumers, and the fact that these consumers will benefit from the Prepayment Charge Restriction Order, but are concerned that this will further decrease the benefit of the remedy.

Taking together these factors it is conceivable that only a minority of restricted meter customers will actually benefit financially from this remedy, by being able to switch and being better off if they do so. The CMA should therefore conduct new analysis of the consumer detriment and likely benefit of the remedy, and consider whether adjustments are required to improve the consumer outcome.

There are also steps that could be taken to maximise the benefit of the remedy for consumers. In our response to the CMA's provisional findings we supported expanding tariff choice to these consumers by allowing them to also switch to

¹<https://assets.publishing.service.gov.uk/media/577521a9e5274a0da3000123/fr-appendix-9-5-restricted-meters.pdf>

² Analysis by Bernstein found that the average gap between SVTs and fixed deals had shrunk from £270 to £150 between May and October 2016 See: <http://www.cornwall-insight.com/publications/energy-spectrum-and-daily-bulletin/daily-bulletin/issue-2801/policy>

³ Based on uSwitch table of cheapest energy deals, accessed on 18th November 2016.

Economy 7 tariffs.⁴ We provided analysis that showed some consumers would have greater benefit from switching to these tariffs than to a single rate tariff. In order to ensure the value of this remedy in a time of rising prices the CMA should reconsider whether this should be widened to enable switching to Economy 7 tariffs, which are specifically designed to work in tandem with electric heating systems.

The link between this remedy and the smart meter rollout means that the number of consumers affected will decrease over time, until the Order expires in 2020. This means that there will be diminishing consumer benefit over the life of the Order (although this is somewhat mitigated by the fact that some restricted meters are not likely to be replaced until late in the rollout). Therefore, in order to maximise the benefit of the remedy as many consumers who stand to benefit from changing tariff will need to do so as early as possible in the lifetime of the Order. However, there are reasons to consider that consumers may take some time to become engaged with the market, or may still face barriers to doing so. We explore these more in the subsequent sections of our response.

Information for consumers

The consumers this remedy seeks to help are more likely than others to be disengaged given their currently restricted choices. Even those restricted meter households that are able to switch (eg Economy 10) have been excluded from price comparison websites which make switching supplier simpler and easier. The proposal for new prompts on supplier communications may not be sufficient to encourage these consumers to consider whether they should switch tariffs. In our discussions with suppliers we have heard that some are planning outreach activities to their restricted meter consumers to engage with them about their options for maximising the benefit of their existing tariff, and help them consider whether another tariff may be more appropriate. We consider this best practice that all suppliers with restricted meter customers should replicate.

There may also be extra information that could be added to the Restricted Meter Infrastructure (RMI) Customer Information they are required to provide to make it more pertinent. This could include providing customers with information on the proportion of their energy that is used during different consumption periods, as well as the breakdown in kWh, and providing them with information on how this compares with the breakdown that would be required for them to benefit from their existing tariff (the 'break even' point). Suppliers could provide information on the break even point for both internal tariffs and the best tariff available among the relevant suppliers for Part 2 of this remedy. This would give consumers more personalised information on how to maximise the benefit they get from their existing tariff, and/or what kind of saving they could make by switching to another supplier.

⁴<https://www.citizensadvice.org.uk/about-us/policy/policy-research-topics/energy-policy-research-and-consultation-responses/energy-consultation-responses/response-to-the-cmas-provisional-decision-on-remedies/>

Citizens Advice's role

As part of the draft Order, Citizens Advice also has a role to play in providing information to consumers with restricted meters to help them make a decision on switching. We welcomed the CMA's recommendation that we should be a recognised advice provider for consumers with restricted meters. Since the publication of the CMA's final report we have had positive engagement with the largest energy suppliers to understand their plans for implementing this remedy and the impacts on their customers. We support the inclusion of an Obligation to Report Information set out in the draft Order, as this will ensure that suppliers give us the necessary information for us to develop advice for consumers with different types of restricted meters. This could be delivered through the Citizens Advice Consumer Service, our web advice and through the local Citizens Advice and Citizens Advice Scotland networks.

However, this will be a complex landscape for consumers to navigate. The restricted meter segment is comprised of an array of tariffs and meters with different brand names and configurations. Some of these consumers may already have some limited choices to switch without having a meter replacement, while others have never been able to switch provider without this upfront barrier. There will also be uneven implementation of the remedy across the market, as the remedy applies only to suppliers with more than 50,000 customers, and there may be some derogations in place which restrict the choices for some consumers even further. This will pose a challenge to us to provide clear and helpful advice, and for consumers in making tariff choices. As a result, we also consider that some further action to improve protection for these consumers is required (see below).

More proactive steps to engage consumers

Despite these steps to provide information to these consumers, the CMA may need to consider more interventions beyond information prompts to ensure that consumers receive the benefit of this remedy. This is especially likely given that the savings on offer to some consumers are likely to be relatively small. An average saving for these consumers of somewhere between £120 and £160 will mean that a large numbers of consumers will save significantly lower than this, which will provide less incentive to switch. Recent research for Citizens Advice showed that less than a quarter of consumers would be willing to switch to a supplier they hadn't heard of if the saving was less than £50. However, given that the cheapest deals in the market are often not offered by the six largest energy suppliers, it is likely that some of these consumers will have to switch to an unknown supplier in order to make a saving. This, taken together with the historic lack of engagement by these consumers, suggests that more action will be needed to overcome consumer inertia.

In our consultation response to the CMA's provisional decision on remedies we repeated a previous recommendation that suppliers should proactively switch restricted meter customers onto a better internal single rate or Economy 7 tariff where they would clearly be better off on such a tariff. We still consider that this should be added to the remedy, with appropriate safeguards (for example allowing a consumer to opt-out and/or return to their original tariff).

Ofgem should closely monitor switching among consumers with restricted meters following the imposition of the remedy, and set a short timeline (of up to 6 months) after which, if there is insufficient increase in switching, they will use their power to specify the manner in which the Relevant RMI information must be provided to consumers. The drafting of the Licence Condition should also be extended to other forms of communication beyond written correspondence, to allow the Authority to direct both the form and content of these communications as they feel is appropriate to engage consumers with restricted meters.

Citizens Advice will separately monitor the remedy through the consumer contacts we receive via the Citizens Advice Consumer Service and the Extra Help Unit. We will raise these through our ongoing tripartite monitoring arrangements with Ofgem and Ombudsman Services: Energy.

Consumer protection

The consumers affected by this remedy will almost exclusively use electric storage heating, which their tariffs are designed to complement. In 2015 Ofgem found that this group are more likely to be in vulnerable situations than consumers with other forms of heating.⁵ As such, it is important that there are sufficient safeguards in place to protect these consumers from any unintended consequences of this Order.

The draft explanatory note states that there will not be any requirement for suppliers to allow consumers to return to their previous tariff once they have switched. This is likely to deter some consumers from switching in case they subsequently face higher bills, and as a provider of advice to consumers with restricted meters we will need to flag this as a potential risk. We understand there may be technical constraints which prevent suppliers from allowing consumers back onto their old tariff, but some other mitigating measures could be put in place to ensure that consumers are able to return and do not pay more than they did before switching to a single rate tariff. These could include removing exit fees for these customers or requiring their original supplier to allow them to return, and provide compensation for any increased costs).

In order to comply with the draft Order suppliers will have to make changes to their systems to accurately bill consumers. As set out in the explanatory note, these

⁵ Ofgem (2015) (page 23)
<https://www.ofgem.gov.uk/ofgem-publications/98027/insightpaperonhouseholdswithelectricandothernon-gasheating-pdf>

systems may not be ready by April 2017 in all cases. The note set out that where a supplier is 'unable, for technical reasons, to make the Relevant Tariffs immediately available... or within a reasonable period of time' they may 'make arrangements which mean that, once the tariff is available, the supplier will retrospectively apply the tariff to the customer as from an earlier date'. It is not clear from the note whether the CMA expects that suppliers would need to apply for a derogation from the Authority in order for this option to apply.

There is also nothing in the proposal to suggest that this period of inaccurate billing would be time limited. The longer the this exception applies, the greater the risk that consumers will decide to leave their supplier or move house, at which point the supplier will not be able to provide an accurate closing bill. This proposal may also make it impossible for suppliers to provide information required under SLC 31A to provide an accurate personal projection of costs.⁶ It also appears likely that the prospect of inaccurate billing would, at best, provide consumers who chose to exercise this right to switch to a single rate tariff with a poorer quality service than they deserve and, at worst, actively disincentivise them from taking that step at all. This seems like a perverse outcome, and one which may frustrate the CMA's stated desire to improve consumer engagement.

Furthermore, it is not clear how signatories of Energy UK's Code of practice for accurate bills would be able to comply with their obligations, as the Code requires suppliers to ensure that charges on consumer bills accurately reflect their tariff. It is also not clear whether the backbilling principle, (which all suppliers should follow) would apply. The principle states that 'if your supplier is at fault and has not sent you an accurate bill that they should have sent you, they will not ask you to pay any extra for energy you used (and which you did not receive an accurate bill for) more than one year before they issued the bill.'⁷ It is our view that this principle should continue to apply to these consumers.

We consider that the proposed approach for suppliers who are unable to deliver the remedy in full by April 2017 holds too many risks for consumers. To mitigate these the CMA should either:

1. Include the option to bill inaccurately as part of the Order (rather than the explanatory note) to ensure that it is enforceable, and set out appropriate consumer protections that would need to apply as part of this (this could include a time limit for the option to apply, or making clear that the backbilling principle would continue to apply); or

⁶ Ofgem's consultation 'Helping consumers make informed choices – proposed changes to rules around tariff comparability and marketing' has proposed removing the prescriptive formula for the Estimated Annual Costs, but will retain the requirement for a Personal Projection.

⁷<http://www.energy-uk.org.uk/customers/energy-industry-codes/code-of-practice-for-accurate-bills.html>

2. Require suppliers to apply for a direction from the Authority (as set out in paragraph 3 of the draft Licence Condition) if they are unable to fully comply by April 2016 deadline.

Our preference is the second of these options, as this will enable Ofgem to scrutinise the supplier's reasoning for being unable to apply the remedy, and decide on specific actions by suppliers to mitigate the impacts of their delay (which may or may not take the form of the proposal set out in the explanatory guidance to allow a period of inaccurate billing).

A further risk of the proposed option to bill inaccurately is if large numbers of suppliers are able to fully comply by April (i.e. offer Relevant Tariffs with accurate bills). This could mean the benefit of the remedy is severely undermined, with consumers facing limited tariff choices or having to be billed inaccurately for an extended period of time. The CMA could consider setting a threshold for compliance by suppliers (ie a certain percentage of suppliers being able to apply the remedy in full) by April 2017. If this threshold was not met then the new options for consumers to switch would not apply, and a later deadline for compliance could be set. Compensation, paid for by those suppliers who are not yet able to comply with the Order, could be given to relevant consumers until the compliance threshold is reached.

Finally, the CMA should clarify how the Order will apply to suppliers moving above and below the threshold for the Order. There should be a clear timescale to comply from the point at which a supplier passes the 50,000 customer threshold. This should take account of the endpoint of the Order, such that suppliers are not forced to comply for a very short period of time before the Order is lifted. Provision should also be made to protect restricted meter consumers with suppliers which shrink below the 50,000 threshold, after previously complying with the Order. They be able to continue to receive their tariff until the end of the Order, although the supplier could choose to no longer take on new restricted meter customers.

Yours sincerely,

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