

## CMA ENERGY MARKET INVESTIGATION

### SCOTTISHPOWER'S RESPONSE TO THE CONSULTATION ON THE MICROBUSINESS ORDER

#### 1. INTRODUCTION

- 1.1 The CMA issued an initial consultation on the proposed Microbusiness Order on 14 September 2016, following publication of its final report on 24 June 2016. It then issued a formal consultation on 18 October comprising a draft order (incorporating draft amendments to the electricity and gas supply licences) and a draft explanatory note.
- 1.2 We note that the CMA has made a number of changes since the initial consultation, including amending Article 6.2(b) so that suppliers are obliged to terminate a contract *no more than* 30 days after a microbusiness customer gives notice to terminate within the last 30 days of the Initial Period.
- 1.3 We welcome the above change, but we remain concerned that the drafting of the order and licence conditions does not provide sufficient clarity as to what set of tariffs and associated information must be displayed at the first stage of a customer's interaction with an online quotation tool (ie after the address and consumption data have been entered but before any customer-selected filters have been applied).
- 1.4 Our response focuses on four remaining issues:
- (a) relationship between Primary Information and Additional Information (section 2);
  - (b) unit rates or total bill value? (section 3);
  - (c) status of ScottishPower Standard Fixed tariff (section 4);
  - (d) obligation to display alternative prices available via different sales channels (section 5)
  - (e) compliance statement (section 6).

#### 2. RELATIONSHIP BETWEEN PRIMARY INFORMATION AND ADDITIONAL INFORMATION

- 2.1 The Final Report (para 17.53) explains that the Primary information Inputs (postcode and consumption) will be mandatory fields. However, suppliers will also be allowed to add two additional fields – MPRN and/or MPAN and spend (£) – to complement the primary information inputs, in case the customer's meter is not registered with the ECOES or SCOGES databases, or in case the customer does not immediately have access to its consumption figure. Para 32 of the explanatory note gives a similar explanation.
- 2.2 We have three observations on the order and explanatory note:
- (a) The MPAN/MPRN not being registered with the ECOES/SCOGES databases is not the only reason why suppliers may be unable to identify the MPAN/MPRN from the customer's

address. Another possibility is that more than one MPAN/MPRN is listed against the relevant address – in which case the supplier may need to ask the customer to select the relevant MPAN/MPRN (eg via a drop-down menu) as part of the Additional Information. We suggest that para 32 of the explanatory note is amended to include this latter possibility.

- (b) In order for suppliers to estimate consumption in kWh from spend in £, it will be necessary to make an assumption about the customer’s current tariff, since no information on current supplier or tariff is included in the Primary Information. We are concerned that this could result in significantly inaccurate kWh estimates (given the wide range of tariffs available in the market<sup>1</sup>) and potentially give rise to misleading comparisons between suppliers. We suggest it may be preferable to omit this option from the Additional Information. This would then oblige any customer who wished to receive a quote to guess their kWh consumption. Although this may also be inaccurate, the customer would at least receive comparable quotes from different suppliers if they use the same kWh figure.
- (c) The definitions of Primary Information and Additional Information in the draft Order do not clearly reflect the relationship between these information items as defined in the explanatory note and final report. We suggest the definition of Primary Information is amended as follows (with the text in square brackets being removed if our suggestion at (b) above is accepted):

**Primary Information** means: means (a) postcode, followed by address selection and, *where the MPAN/MPRN cannot be derived from this, relevant Additional Information; and b) consumption of electricity over a monthly, quarterly, 6 month or 12 month period (such period being at the customer’s choice) [or, where such consumption information is not available, the relevant Additional Information as applicable].*

### 3. UNIT RATES OR TOTAL BILL VALUE?

- 3.1 The explanatory note and draft order contain conflicting requirements as regards the type of information to be disclosed. The explanatory note (para 36) says that ‘as provided by the Report and reflected in the Order’, suppliers must publish a total contract price covering the duration of the contract and a breakdown of that total contract price. The draft Order (Article 3.1) makes no mention of the total contract price or breakdown of that price; instead it specifies that suppliers must provide Required Price Information and Initial Quote, both of which are defined as a combination of ‘Standing Charges, Unit Rates and all other associated charges’.
- 3.2 We understand from discussions with the CMA that the intent is for the following to be disclosed as part of the required price information: unit rate (p/kWh), standing charge (p/day), other costs (appropriate units) and total contract price (£). If our understanding is correct, we would make the following observations:
  - (a) The definition of Required Price Information in the Order needs to be amended to reflect this.
  - (b) The requirement to disclose total contract price is different from current industry practice which is generally to display the equivalent annual price; the latter makes it easier to compare prices for contracts with different durations and is likely to be based on a more accurate consumption value (since the Primary Information will not enable suppliers to take account of seasonal variations in consumption).

---

<sup>1</sup> For example, the CMA’s final report (para 16.107) notes that in March 2015, the annual bill for a 10 MWh deemed electricity customer would be 71% higher with the most expensive supplier compared to the least expensive supplier.

- (c) In order to calculate the total contract price it will often be necessary to know the contract start date, since many fixed price contracts available in the market are fixed end date, not fixed duration. Therefore the start date will either need to be specified in the Primary Information, or suppliers will need to assume a start date for the purpose of displaying the Required Price Information.

3.3 In practice, we think it is likely that suppliers would choose to show the annual price (ie the price for a 12 month period) alongside the total contract price, for the reasons given above. However, we believe it would be preferable to amend the definition of Required Price Information to replace total contract price with annual price (ie the price for a 12 month period). This would avoid the risk that customers mistakenly rank products according to total contract price, which is unlikely to result in the best value offer. This is illustrated in Annex 1 which shows a mock-up of how the table of Required Price Information might be presented in response to a query. The lowest total contract price (highlighted in red) offers poorer value for money than the cheapest estimated annual bill (highlighted in green).

3.4 The illustration in Annex 1 is based on our understanding of the requirements. If this reveals any misunderstanding of the requirements, we would request appropriate clarification in the explanatory note.

#### **4. STATUS OF SCOTTISHPOWER STANDARD FIXED TARIFF**

4.1 ScottishPower's 'Standard Fixed' tariff is a default tariff which customers may be moved onto at the end of a fixed term contract if they do not choose a new fixed term contract or provide a termination notice, ie it is a form of auto-rollover contract. It is fixed for 12 months but has a 30 day notice period of termination. It is not a tariff which is capable of being entered into by a Relevant Micro Business Customer other than by default, and we therefore do not believe it meets the test for Required Price Information.

4.2 We therefore believe that it should be considered as an Out-of-contract Contract<sup>2</sup>, and should be disclosed pursuant to Article 4.1 - but would appreciate confirmation on this point.

#### **5. OBLIGATION TO DISPLAY ALTERNATIVE PRICES AVAILABLE VIA DIFFERENT SALES CHANNELS**

5.1 The explanatory note (para 38) explains that Article 3.1 requires suppliers to disclose all contract prices that are available at the time the customer enters the Primary Information, irrespective of the channels through which the prices may be available at that time, including offline (eg telephone sales), online, directly through the supplier or through third party intermediaries (TPIs). The explanatory note (para 41) also states that 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).

5.2 In the explanatory note, the CMA uses 'contract prices' as shorthand for Required Price Information and Initial Quotes<sup>3</sup>, and we are concerned that this could give rise to ambiguity on the nature of the price information that suppliers are required to disclose. It is not uncommon in the industry for suppliers to use the term 'product' or 'contract' to refer to a particular energy supply offer characterised by a particular set of terms and conditions including availability window and end date. (The name of the product would typically reflect the end date, eg 'Business Fixed Jan 2018'.) This product or contract may then be offered at a number of different price points depending on, for example, location, consumption band, payment method and sales channel. It may also be sold at a price lower than the initial offer as a result of negotiation.

---

<sup>2</sup> Defined 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 to that Micro Business Consumer.

<sup>3</sup> EN para 35

- 5.3 We believe there is still insufficient clarity as to how the obligation to display alternative prices available via different sales channels is intended to work. To illustrate this, Table 1 provides a stylised example of how different price points (p/kWh) might be offered for different combinations of consumption and channel. The price points are in ascending order, so  $p_A < p_B < p_C < p_D < p_E$ .
- 5.4 For a customer with 40MWh annual consumption (table column shaded green), the price offered to a customer signing up online (subject to credit checks) would be  $p_B$ . (This would be the Initial Quote price). The same customer calling the supplier’s telesales line might be offered a slightly higher price  $p_C$  (to incentivise use of the more cost-effective online channel), and might be offered a slightly more competitive price  $p_A$  via PCW X. If the customer approached TPI Y, they would initially be offered a more expensive price  $p_D$ , but the TPI would be authorised by the supplier to reduce the price to  $p_C$  or  $p_B$  in the course of negotiation with the customer. (The lower the price, the less commission received by the TPI.)

**Table 1: Price points offered for a given product (illustrative)**

Channel	Annual Consumption (MWh)				
	0-15	15-25	25-35	35-60	>60
SP Online	$p_E$	$p_D$	$p_C$	$p_B$	$p_A$
SP Telesales	$p_E$	$p_E$	$p_D$	$p_C$	$p_B$
PCW X	$p_D$	$p_C$	$p_B$	$p_A$	$p_A$
TPI Y	$p_E$	$p_E$	$p_E$	$p_D$	$p_C$

- 5.5 In the above scenario, it is unclear to us which prices a supplier would be required to disclose in the Required Price Information. For example:
- (a) Based on the explanatory note (para 38) and the definition of Required Price Information (*‘each separate combination of Standing Charges, Unit Rates and all other associated charges per Electricity Meter and Gas Meter, which is capable of being entered into by a Relevant Micro Business Customer to purchase the supply of electricity or the supply of gas (or both) from the Retail Energy Supplier’*) it appears to us that for the customer with 40MWh consumption, the supplier would be required to disclose  $p_A$ ,  $p_B$ ,  $p_C$  and  $p_D$ . (We assume that the ‘per meter’ wording in the definition is intended to narrow the range down to a particular region and consumption level, so that in the above example, the supplier would not be required to disclose price  $p_E$  which is applicable only at lower consumption levels.)
  - (b) However, based on recent discussions with the CMA, we understand the intention is that suppliers need disclose only one price ‘per contract’. In the example above, this would mean that the supplier would need only disclose price  $p_B$ , being the price available online and hence the Initial Quote; it would not be necessary to display the higher or lower prices that might be available through other sales channels. We would be concerned if this is indeed the CMA’s intention as this would detract considerably from the transparency that the remedy is intended to establish.
  - (c) A possible intermediate option, which we think would have some merit, would be for suppliers to be obliged to display prices that are available through other channels if they are cheaper than the online channel, but not if they are more expensive. In the example above, this would mean  $p_A$  and  $p_B$ .

We request that the CMA makes it clear what price information it would expect a supplier to include in the Required Price Information including in situations such as the stylised example above.

- 5.6 We also request clarification of how this remedy will affect the way that suppliers interact with TPIs. [X] One possible consequence of this Order (depending on how it is interpreted) is that suppliers

would have to insist that the TPI always offered the same agreed opening price to prospective customers and then offered lower prices only in the course of negotiation. We would encourage the CMA to set out in the explanatory note how it would expect suppliers to behave in these circumstances.

**6. COMPLIANCE STATEMENT**

- 6.1 Article 9 requires suppliers to submit a Microbusiness Compliance Statement to the CMA on an annual basis, by “[Date Order comes into effect] December in each year”. If the Order comes into effect on (say) 23 December 2016, this could be read to imply that suppliers must submit the first annual compliance statement by 23 December 2016. We do not believe that this is what the CMA intends and request that this is clarified.

## ANNEX 1

### ILLUSTRATIVE EXAMPLE OF PRESENTATION OF REQUIRED PRICE INFORMATION

The tables below provide a mock-up of how (based on our understanding of the requirements) we might present the table of Required Price Information in response to a query. If this reveals any misunderstanding of the requirements on our part, we would request appropriate clarification in the explanatory note.

#### Primary Information Inputs:

Postcode / Address Lookup	G44 4GA
Consumption (3 months)	[<]

#### Primary Information Inputs (if no address / MPAN match)

MPAN	03 12 22 18 1234 5678 999
Annual Spend (£)	

#### Information derived from the Primary Information Inputs:

PES / Region	18 (SP)
Meter Type	Standard Rate
Annual Consumption	[<]
Daily Consumption	[<]

#### Assumption required for Required Price Information (customer can vary at Secondary Input stage):

Contract Start Date	01/12/2016
---------------------	------------

#### Required Price Information:

Contract Name:	Fuel	Payment Method	Contract End Date	Total Days	Daily Standing Charge p/day	All Units p/kWh	Estimated Annual Bill	Total Contract Price
Business Electricity Fixed vX 1 Year	Electricity	Monthly DD	31-Jan-2018	426	[<]	[<]	£2,958.75	£3,453.23
Business Electricity Fixed vX 2 Year	Electricity	Monthly DD	31-Jan-2019	791	[<]	[<]	[<]	[<]
Business Electricity Fixed vX 3 Year	Electricity	Monthly DD	31-Jan-2020	1,156	[<]	[<]	[<]	[<]
Business Electricity Fixed vX 1 Year	Electricity	Quarterly DD	31-Jan-2018	426	[<]	[<]	[<]	[<]
Business Electricity Fixed vX 2 Year	Electricity	Quarterly DD	31-Jan-2019	791	[<]	[<]	[<]	[<]
Business Electricity Fixed vX 3 Year	Electricity	Quarterly DD	31-Jan-2020	1,156	[<]	[<]	[<]	[<]
Business Electricity Fixed vX 1 Year	Electricity	Cash Quarterly	31-Jan-2018	426	[<]	[<]	[<]	[<]
Business Electricity Fixed vX 2 Year	Electricity	Cash Quarterly	31-Jan-2019	791	[<]	[<]	[<]	[<]
Business Electricity Fixed vX 3 Year	Electricity	Cash Quarterly	31-Jan-2020	1,156	[<]	[<]	[<]	[<]
Business Electricity Fixed vS 1 Year	Electricity	Monthly DD	31-Oct-2017	334	[<]	[<]	£3,262.31	£2,985.24
Business Electricity Fixed vS 2 Year	Electricity	Monthly DD	31-Oct-2018	699	[<]	[<]	[<]	[<]
Business Electricity Fixed vS 1 Year	Electricity	Quarterly DD	31-Oct-2017	334	[<]	[<]	[<]	[<]
Business Electricity Fixed vS 2 Year	Electricity	Quarterly DD	31-Oct-2018	699	[<]	[<]	[<]	[<]
Business Electricity Fixed vS 1 Year	Electricity	Cash Quarterly	31-Oct-2017	334	[<]	[<]	[<]	[<]
Business Electricity Fixed vS 2 Year	Electricity	Cash Quarterly	31-Oct-2018	699	[<]	[<]	[<]	[<]
Business Electricity Fixed vU 1 Year	Electricity	Monthly DD	30-Nov-2017	364	[<]	[<]	[<]	[<]
Business Electricity Fixed vU 2 Year	Electricity	Monthly DD	30-Nov-2018	729	[<]	[<]	[<]	[<]
Business Electricity Fixed vU 1 Year	Electricity	Quarterly DD	30-Nov-2017	364	[<]	[<]	[<]	[<]
Business Electricity Fixed vU 2 Year	Electricity	Quarterly DD	30-Nov-2018	729	[<]	[<]	[<]	[<]
Business Electricity Fixed vU 1 Year	Electricity	Cash Quarterly	30-Nov-2017	364	[<]	[<]	[<]	[<]
Business Electricity Fixed vU 2 Year	Electricity	Cash Quarterly	30-Nov-2018	729	[<]	[<]	[<]	[<]