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Dear David

## **DRAFT ORDER – Formal CONSULTATION**

### **The Energy Market Investigation (Database) Order 2016**

EDF Energy agrees that well-designed prompts to customers can be effective in increasing engagement. We want to be able to compete effectively for the disengaged customers of our rivals, and recognise that contacting such customers with targeted communications could be effective. However, there is also the risk that customers receive unwanted marketing materials resulting in a poor customer experience which erodes, rather than builds, trust in the industry.

EDF Energy believes that the first contact letter from existing suppliers, if designed effectively, could be a more powerful prompt than any marketing received because of being included in a database. We have found in our own trials that a message from a customer's own supplier can be very effective, and builds trust with customers.

Our key points on how to ensure that the database is an effective remedy are highlighted below, and some detailed licence condition drafting comments are included in an appendix to this letter.

Key points:

- We welcome trials of different formats for the first contact letter, as it is essential that a consistent format and wording is used across all suppliers.
- We welcome the clarification that disengaged customers are those that have been supplied at the same electricity or gas supply point for three years, although for deemed customers, suppliers may not know whether it has been the same customer for the last three years.
- If a customer is not able to switch due to being in debt, it is not appropriate for them to be included in the database.
- Utilising the standard licence condition definition of "microbusiness" is not practical due to the fact that suppliers do not hold the relevant data

EDF Energy fully supports trials of the Initial Contact letter to ensure it is effective and welcomes this approach prior to implementation. It is particularly important to ensure

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that the letter is effective in those areas with the greatest proportion of disengaged customers.

The clarification that this remedy applies to customers supplied at the same address for three or more years is welcome, although in some cases we supply customers under a deemed contract and may not know if there has been a change of customer. This might happen, for example, in a rented accommodation with a high turnover of short-term tenants. It would be helpful to have this clarified in the relevant definitions.

It would not be a good customer experience to send communications encouraging a customer to switch only to object to them switching when they try to do so. Therefore, customers that are unable to switch due to an outstanding debt should be excluded from the database. This also needs to be included in the relevant definitions within the Order.

The standard definition of "microbusiness" within the licences includes reference to the number of employees and turnover of the business, data that suppliers do not hold. The CMA state that if there is uncertainty then the business should be treated as a microbusiness. However, the number of customers for which this may be uncertain will be very large and lead to inconsistencies of approach between suppliers. A simpler method would be to utilise the definition of a "Relevant Micro Business Consumer" included in the Microbusinesses Order, namely an annual consumption of electricity of not more than 50,000 kWh per Electricity Meter. We agree with the CMA statement that this definition will include the vast majority of microbusiness customers. It is also a definition that is transparent and easy to understand for both suppliers and customers and should be used across all the CMA's remedies.

This letter and its attachment may be published on the CMA's website.

Yours sincerely,

**Paul Delamare**  
**Head of Customers Policy and Regulation**

## Appendix

### EDF Energy Comments on The Energy Market Investigation (Database) Order 2016 and Associated Supply Licence Conditions – Formal Consultation

Paragraph	Proposed Amendment	Explanation
The Order:		
2.1 “Domestic Customer Data”	After “full name” insert “where known” Amendment also to be replicated in licence condition.	Will address circumstances where a deemed contract is in place and the name of the occupier is not held by the supplier.
2.1 “Relevant Customer Data”	Remove “not” on line 4 Amendment also to be replicated in licence condition.	The definition is meant to capture disengaged customers who have not opted out and who HAVE been supplied by the same supplier on a default tariff for three years or more.
Standard Licence Condition [x]– Electricity (applies to Gas where applicable)		
1-4	We are not clear from the drafting of these paragraphs on the required process for submitting and updating Relevant Consumer Data	The current drafting requires the database to be populated by 1 October 2017 with those customers who were Disengaged prior to 31 July 2017 and who have not opted-out. This initial population of customers is updated monthly post October 2017 with those customers who have become Disengaged since complying with paragraph 1 i.e. post 1 October 2017. It is therefore unclear whether the drafting adequately captures customers who become disengaged between 31 July and 1 October 2017?