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Sent via email to energymarket@cma.gsi.gov.uk

14th November 2016

Dear David,

Formal Consultation on the EMI (Database) Order 2016

I am writing in response to your email dated 18th October 2016 inviting written representations on the Draft Database Order and Draft Explanatory Note.

Haven Power is a Drax Group company and is a non-domestic electricity supplier that has been supplying Small Medium Enterprises (SME), including microbusinesses since 2007. In 2009, we entered the Industrial & Commercial (I&C) sector and have been steadily growing our customer base in both areas and currently supply ~25,000 and ~14,000 MPANS in the SME and I&C sectors respectively.

We are pleased to see that a number of points raised by Haven Power at the initial consultation stage have been addressed and clarified in the latest version of the Database Explanatory Note, dated 18-10-16. We are particularly reassured to note that GEMA will be expected to conduct cost benefit analysis before determining whether suppliers should be required to provide data more frequently than on a monthly basis.

We have some remaining concerns around Data Protection and the potential for an increase in complaints if our customers unwittingly find themselves inundated with direct marketing. I have outlined our questions and concerns below referenced by the Explanatory Note paragraph number.

78(c) – The CMA has listed very specific requirements around the content of the First Contact Communication which will be sent to disengaged customers, including an obligation for suppliers to state that there will be limitations on the number and frequency of communications the customer will receive as a result of being included in the database. If suppliers are offering this reassurance, then it is inevitable we will be on the receiving end of complaints if the volume of direct marketing reaches an

unacceptable level or exceeds what the customer was told. While Ofgem may put limits on the frequency of correspondence sent, with the increasing number of energy suppliers operating in the market, there will still be the potential for multiple parties to be targeting the same customers. Further clarity is required in this area to ensure a positive consumer experience.

63. – The Explanatory Note states that “GEMA may wish to give other parties (e.g. other government or consumer bodies) access to the Relevant Customer Data”. In our view, it should be explicitly stated who these “other parties” may be. Ofgem has indicated that the database could present an opportunity for TPIs to reach out to disengaged customers. While we appreciate Ofgem and the CMA are keen to see Third Party Intermediaries expand their product offerings and help consumers, particularly those who have not engaged in the energy market before find better deals, if TPIs are given access to the database, it is likely to result in a further increase in marketing correspondence for domestic and microbusiness consumers. At the outset it must be clear who will be given the information. Any other parties should need the customer’s permission unless it is required by law.

73. – Suppliers will not be allowed to include any message in their communications with customers (e.g. bills and annual statements) about the database or the opt-out process. Haven Power periodically sends customer information together with bills to cut down on unnecessary correspondence; we expect other suppliers also adopt this approach. We would welcome clarification on whether suppliers will be permitted to send the First Contact Communication out with the customer’s bill or if it has to be sent separately.

99(a) – Whilst the process by which suppliers are required to allow consumers to opt out of processing of their data may be adequate to comply with current UK data protection legislation, it may not go far enough to satisfy the General Data Protection Regulation, due to be implemented in 2018, which will demand that consent for marketing must be unambiguous. We would urge future proofing arrangements now to avoid further change / costs in the future.

Thank you for giving us the opportunity to comment on the draft order. I hope our response is useful. Please contact me using the details below if there is any aspect you would like to discuss further.

Yours sincerely

June Mallett
Regulation Manager

