

ENERGY MARKET INVESTIGATION

EXPLANATORY NOTE

The Energy Market Investigation (Microbusinesses) Order 2016

This note is not a part of the Order

Introduction

1. The Competition and Markets Authority (CMA) published its findings in a report under section 136 of the Enterprise Act 2002 (the Act) entitled *Energy market investigation: Final Report* on 24 June 2016 (the Report).
2. The Report set out the CMA's findings that there are features of the markets for the SME retail supply of gas and electricity in Great Britain which, alone or in combination, give rise to adverse effects on competition (AECs).
3. The CMA decided on a package of remedies to be implemented by it in order to remedy, mitigate or prevent the AECs (and associated detriment) that it found.
4. The Energy Market Investigation (Microbusinesses) Order 2016 (the Order) gives effect to two of these remedies, namely (1) a **price transparency remedy**: a requirement on suppliers to disclose certain information online about the prices they charge or can offer a defined segment of microbusiness customers to supply them with electricity or gas (or both) (see paragraph 17.63 of the Report) and (2) an **auto-rollover remedy**: to prohibit suppliers from including terms in auto-rollover contracts that restrict when a microbusiness customer can give notice to terminate its contract and from charging a termination fee in certain circumstances (see paragraph 17.141 of the Report).
5. Section 15 of the Electricity Act 1989 (EA89) and section 27 of the Gas Act 1986 (GA86) provide that where the CMA makes an order under section 161 of the Act, such order may also provide for the modification¹ of the conditions of a particular licence, or the standard conditions of licences of any type

¹ The term 'modification' includes additions, alterations and omissions.

(including supply licences for gas and electricity) to such extent as may appear to the CMA to be requisite or expedient for the purpose of giving effect to, or taking account of, any provision made by the order.

6. The Order introduces a new electricity supply licence condition 7D, and a new gas supply licence condition 7D and amends Electricity Supply Licence Condition 7A and Gas Supply Licence condition 7A (together, the Licence Conditions).
7. This Explanatory Note applies to the Order and the Licence Conditions.
8. Nothing in this Explanatory Note is legally binding.
9. Terms defined in the Order, the Electricity Supply Licence or the Gas Supply Licence (including in the Licence Conditions) have the same meaning in the Explanatory Note. In the event of a conflict between this Explanatory Note and any provision of the Order or the Licence Conditions, the Order and Licence Conditions shall prevail.

Possible consequences for non-compliance

10. Section 167 of the Act places a duty on any person to whom the Order applies to comply with it. Any person who suffers loss or damage due to a breach of this duty may bring an action.
11. The CMA has power under the Order to give directions, including directions to a person in their capacity as an office holder, for the purpose of carrying out, or ensuring compliance with, the Order.
12. Section 167 of the Act also provides that the CMA can seek to enforce the Order by civil proceedings for an injunction or for any other appropriate relief or remedy.
13. The obligations set out in Parts 2 and 3 of the Order will be introduced, pursuant to Articles 5 and 8 and Schedules 1 to 4 (as applicable), into the Electricity Supply Licence and Gas Supply Licence. To the extent that the obligations set out in the Order have been introduced into the Electricity Supply Licence and Gas Supply Licence, GEMA has a duty to monitor compliance and, where appropriate, to use its powers under sections 25 to 28 of the EA89 and sections 28 to 30F of the GA86, including where appropriate by imposing on the licensee a penalty of such amount as is reasonable in all the circumstances of the case. The CMA intends to collaborate with GEMA so as to put in place processes to monitor and ensure compliance with the obligations set out in the Order and the Licence Conditions, where appropriate, through enforcement measures.

Review of the Order

14. The CMA has a duty under section 162 of the Act to monitor the operation of the Order. This includes a duty to consider, from time to time, whether the Order should be varied or revoked in the light of a change of circumstances. Suppliers may apply for a variation or cancellation of all or part of the Order on the basis of a change of circumstances, or recommend that the CMA reviews the need for the Order or part of it.
15. GEMA has a general duty, under section 47 of the EA89 and section 34 of the GA86, to monitor activities connected with regulated energy activities (including supply of electricity and gas), as well as provide advice, information and assistance to the CMA (on its own initiative or where expressly requested).

Structure of the Order

16. The Order is divided into four Parts and has five Schedules:
 - (a) Part 1 contains general provisions which include specifying when the Order comes into force, the scope of the Order, and the definitions that are used throughout the Order (and which are also used in this Explanatory Note).
 - (b) Part 2 contains obligations on suppliers to disclose certain price information to a defined segment of microbusiness customers (the price transparency remedy).
 - (c) Part 3 prohibits suppliers from including certain terms in auto-rollover contracts (the auto-rollover remedy).
 - (d) Part 4 contains provisions for monitoring compliance, including provisions allowing the CMA to give directions as to compliance with the Order and to require the supply of information for the purposes of monitoring compliance with the Order and reviewing its operation.
 - (e) Schedule 1 contains the new Condition 7D of the Electricity Supply Licence which relates to the price transparency remedy.
 - (f) Schedule 2 contains the new Condition 7D of the Gas Supply Licence which relates to the price transparency remedy.
 - (g) Schedule 3 contains amendments to Condition 7A of the Electricity Supply Licence which relates to the auto-rollover remedy.

- (h) Schedule 4 contains amendments to Condition 7A of the Gas Supply Licence which relates to the auto-rollover remedy.
- (i) Schedule 5 contains a Template Microbusiness Remedy Compliance Statement.

Part 1 – General and Interpretation

17. Article 1.3 provides that the Order applies to suppliers, defined as any person authorised to supply gas by virtue of a Gas Supply Licence and any person authorised to supply electricity by virtue of an Electricity Supply Licence (referred to as Retail Energy Suppliers in the Order and licensees in the Licence Conditions).
18. Article 1.2 provides that the Order shall come into force on 15 December 2016, except for Articles 3 to 5 (concerning the price transparency remedy), which come into force on 26 June 2017. Articles 6.4 and 7.2 (concerning the auto-rollover remedy), which are reflected in the Licence Conditions, provide for a later implementation date of 26 June 2017 for any Auto-Rollover Contract, Out-of-contract Contract or Evergreen Micro Business Consumer Contract in existence as at the date of the Order. Annex 1 sets out the implementation timings for these remedies, in simplified form.
19. Article 1.4 provides that the Order shall continue to be in force until such time as it is varied or revoked under the Act. The Order is not subject to a sunset clause. The Report notes that the characteristics for determining the identity of a Relevant Micro Business Customer for the purposes of the price transparency remedy may be subject to review following the migration of consumers from profile classes 1 to 4 to half-hourly settlement (see paragraph 27 below).² With respect to the auto-rollover remedy, the CMA saw no evidence that the suppliers currently using the particular clauses with which the CMA have concerns have future intentions to remove them (absent this remedy). There was also no current licence condition that prevented any supplier from re-introducing such clauses in the future.³
20. Article 2 includes definitions of various terms used in the Order and in some instances cross-refers to terms defined in the Licence Conditions or defined elsewhere in the Electricity Supply Licence or Gas Supply Licence. To the extent possible, the terms used in the Order have been defined to have the same meaning as in the Electricity Supply Licence and the Gas Supply Licence (as applicable). For the avoidance of doubt, when a word or

² Report, paragraph 17.80.

³ Report, paragraph 17.153.

expression has been expressly defined in the Order, the definition set out in the Order shall prevail over other definitions.

Part 2 – Price Transparency Remedy

Article 3 – Obligation to disclose Required Price Information to Relevant Micro Business Customers

21. The aim of Article 3 is to ensure that suppliers give a large proportion of microbusiness customers more transparent information about the prices that are available to them in relation to their electricity and/or gas supply.
22. More specifically, Article 3.1 requires suppliers to disclose the Required Price Information in the Prescribed Format to Relevant Micro Business Customers. Suppliers are required to make this disclosure through the use of online quotation tools made available on their website or through one or more third party online platforms. Each of these concepts is explained in more detail below.

Scope of the price transparency remedy – Relevant Micro Business Customers

23. The requirements in Article 3.1 are focused on the segment of microbusiness customers that the CMA identified in the Report as being the smaller non-domestic customers who would benefit most from having reduced search costs, given they have limited resources to search for the best deals compared to larger businesses. This segment of customers was also considered to have straightforward metering and contract/tariff requirements that are well suited to online price tools.⁴
24. The Report specified that the relevant segment is to be defined as non-domestic customers that meet certain criteria. These criteria are specified in the definition of Relevant Micro Business Customer contained in the new Electricity and Gas Licence Condition 7D that will be introduced as a result of the Order. For both the supply of electricity and the supply of gas, a Relevant Micro Business Customer is defined on a per meter basis.
25. For the supply of electricity it captures non-domestic customers that meet all of the following criteria:
 - (a) the metering point at the non-domestic premises falls under profile classes 1, 2, 3 or 4 as defined in the Balancing and Settlement Code;

⁴ Report, paragraph 17.40.

- (b) annual consumption of electricity of not more than 50,000 kWh per electricity meter; and
 - (c) on a metering arrangement through which that customer is required to pay different charges in no more than three consumption windows per electricity meter.⁵
26. In respect of the supply of gas, Relevant Micro Business Customers are non-domestic customers with an annual consumption of not more than 73,200 kWh per gas meter.
27. The definition of Relevant Micro Business Customer concerning the supply of electricity has been determined with reference to the current profile classes noted in the Balancing and Settlement Code. In this regard, although there are no firm plans in place yet for the introduction of half-hourly settlement, the current expectation is that soon after the roll-out of smart meters is substantially completed, customers in profile classes 1 to 4 could potentially be settled on a half-hourly basis.⁶ The Report recognises that the characteristics for determining the identity of a Relevant Micro Business Customer may be subject to review once customers from these profile classes are migrated to half-hourly settlement. However, the CMA does not consider that the introduction of half-hourly settlement for profile classes 1 to 4 will fully address the Microbusiness Weak Customer Response AEC or associated detriment and thus the price transparency remedy will continue to be necessary.⁷

Generating the Required Price Information results – Primary Information

28. Article 3.1 provides that suppliers must disclose the Required Price Information upon the relevant customer entering their Primary Information and as applicable their Additional Information.⁸ These terms are defined in Article 2 of the Order and are set out below.
29. **Required Price Information** is defined as each separate combination of Standing Charges, Unit Rates and all other associated charges per Electricity Meter and Gas Meter which is available for a Relevant Micro Business

⁵ Consumption Window is defined in the new Electricity Licence Condition 7D to mean each separate period within a total period of 24 hours in which electricity consumption was recorded and charged at a distinct unit rate. For the avoidance of doubt, customers with electricity meters that are capable of offering more than three consumption windows (eg smart/advanced meters and standard time of day meters), will fall within the definition of Relevant Micro Business Customer where those customers request the Required Price Information in relation to up to three consumption windows per electricity meter (only).

⁶ See Appendix 17.1 of the Report.

⁷ Report, paragraph 17.80.

⁸ Also see the definition of Relevant Micro Business Customer.

Customer to enter into a contract to purchase the supply of electricity or the supply of gas (or both) from the supplier and remains available for an identified period, subject only to the supplier conducting a Successful Credit Check and any terms and conditions that may apply to any existing Micro Business Consumer Contract⁹ between the Relevant Micro Business Customer and that supplier.¹⁰

30. **Primary Information** is defined as (a) the postcode, followed by address selection, and where the MPAN or MPRN cannot be derived from this, the relevant Additional Information; and (b) the consumption of electricity or gas (or both) 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.¹¹
31. **Additional Information** is defined as the MPAN or MPRN or the aggregate amount of all Charges for the Supply of Electricity or all Charges for the Supply of Gas, or both, in Pounds Sterling (GBP) over a monthly, quarterly, 6-month or 12-month period (such period being at the customer's choice), as applicable.
32. The process for generating the Required Price Information based on a customer's Primary Information is expected to work as follows. The postcode, followed by address selection,¹² will allow the customer's address¹³ and region to be identified and for the MPAN and MPRN numbers via ECOES¹⁴, DES¹⁵ or another third party database, to be obtained. This will enable the meter type, profile class, and other meter-specific information to be identified, which, together with the customer's electricity or gas consumption, will allow the supplier to estimate how much it would cost to supply the customer for that electricity meter or gas meter.
33. In circumstances where the customer's electricity meter or gas meter is not registered with ECOES or DES, or the customer does not immediately have

⁹ See paragraph 39 below, for example.

¹⁰ For the avoidance of doubt, suppliers will continue to have discretion over whether or not to supply a particular customer. For example, a supplier may not wish to supply a microbusiness customer located in a particular region, and a supplier will be able to identify such a customer once the customer enters its Primary Information. Another example is where a supplier may not wish to supply a customer operating in what the supplier considers to be an industry with high credit risk, and such information on credit risk can be obtained during the credit checking process.

¹¹ The CMA expects most customers to be able to use their previous annual bill to provide this information (unless they do not have access to the relevant historical consumption data).

¹² For example, the address selection could be via a drop-down menu.

¹³ If there is more than one meter at an address, then the customer may need to be asked to select the relevant MPRN or MPAN (eg via a drop-down menu) as part of the Additional Information.

¹⁴ The Electricity Central Online Enquiry Service.

¹⁵ The Data Enquiry Service.

access to its consumption information, suppliers must include fields for the Additional Information, to complement the Primary Information.

34. Where the supplier proposes to comply with the Order through the use of an online quotation tool on its website, it must ensure that the Primary Information and, as applicable, the Additional Information are the only mandatory fields. Similarly, where the supplier proposes to comply with the Order by disclosing the Required Price Information through a third party online platform, it must ensure that the third party online platform is able to do so having the Primary Information and, as applicable, the Additional Information as the only mandatory fields.

Secondary information filters

35. Suppliers can provide secondary information inputs to act as filters on the search results generated from the Primary Information. However, in order to comply with the disclosure obligation in Article 3.1 the customer must first see the results generated from the Primary Information before they can apply any of the secondary information filters. For the avoidance of doubt, Article 3.1 does not prevent suppliers from having any number of secondary information inputs to allow for more tailored results to be displayed, especially in cases when there are many search results for a given set of Primary Information. Examples of secondary information inputs could include contract duration, contract start date, whether the customer is a new or existing customer, meter type (eg Economy 7), payment type, fixed/variable price, paperless billing, billing frequency and contract type. Selecting any secondary information inputs on the online quotation tool or third party online platform/s must be at the customer's discretion.

Disclosing the Required Price Information in the Prescribed Format

36. Article 3.1 requires suppliers to disclose the Required Price Information in the Prescribed Format once a Relevant Micro Business Customer enters its Primary Information.
37. As provided by the Report and reflected in the Order¹⁶, to make it easier for customers to compare the prices available for a given set of Primary Information, suppliers will be required to:

¹⁶ See the definition of Prescribed Format in Article 2 of the Order and Report paragraph 17.56.

- (a) publish the total estimated cost for the duration of each contract¹⁷ calculated from the Primary Information;
 - (b) provide a breakdown of the total estimated cost, which is made up of the Standing Charge/s, Unit Rate/s and all other associated charges, as applicable¹⁸; and
- provide (a) and (b) above on a per meter basis.¹⁹
38. In addition to the requirements described in paragraph 37 above, suppliers will be required to:
- (a) specify how long the Required Price Information will be valid for²⁰;
 - (b) ensure that the Required Price Information remains available for the Relevant Micro Business Customer to enter into a contract if it passes a credit check.^{21,22}
39. The requirement in Article 3.1 means that suppliers must disclose all the Required Price Information concerning contracts that would be available to any non-domestic customer with the same Primary Information as the Relevant Micro Business Customer (ie all acquisition and retention contracts²³).²⁴ However, suppliers would not be required to agree new contract terms with an existing customer where doing so would breach existing terms and conditions.²⁵

¹⁷ The total estimated cost for each contract would be displayed upon the Relevant Micro Business Customer entering its Primary Information, one element of which is a figure for consumption. Accordingly, suppliers may wish to make it clear to the customer that the total estimated cost of the contract may differ from the actual cost due to the difference between the estimated and actual consumption over the duration of the contract.

¹⁸ For the all other associated charges component of this breakdown, as well as providing the actual cost of these charges, suppliers should also include a description of what is included in these charges, for example, whether pass-through elements are included (such as, but not limited to, feed-in-tariffs/contracts, electricity market reform costs and renewable obligation costs).

¹⁹ See the definition of Required Price Information in Article 2 of the Order. For the avoidance of doubt, this would not prevent a supplier from offering dual fuel contracts or offering bundled products (which have component(s) of additional services/features, such as energy advice, that are embedded within the price of energy supply). However suppliers must also disclose the Required Price Information for each electricity and gas meter separately as well as the dual fuel contract price or bundled product price, as applicable.

²⁰ If the Required Price Information has been generated based on incorrect Primary Information, a supplier may decide that the ability of the Relevant Micro Business Customer to enter into a contract at the Required Price Information is no longer available.

²¹ See the definition of Successful Credit Check in Article 2 of the Order.

²² If the customer fails the supplier's credit check, the supplier could, for example, choose not to supply that customer.

²³ The Report (page 1135, footnote 116) described acquisition contracts as energy contracts made available by suppliers to acquire new microbusiness customers and retention contracts are energy contracts made available by suppliers to retain their existing microbusiness customers.

²⁴ For the avoidance of doubt, in order to comply with Article 3.1 each variation in total contract price for a given set of Primary Information will have to be disclosed as a separate Required Price Information result.

²⁵ See the definition of Required Price Information in Article 2 of the Order. For instance, this remedy does not compel suppliers to enter into a renewal contract with an existing customer who has recently started a fixed-term

40. As set out in the Report, suppliers and customers will be able to negotiate the Required Price Information results that are displayed online. However, a supplier will not be permitted to increase the Required Price Information that is disclosed if the Relevant Micro Business Customer passes a credit check.²⁶

Means of disclosure

41. Article 3.1 requires suppliers to disclose the Required Price Information online. Suppliers can disclose the Required Price Information on their websites (through an online quotation tool) or through one or more third party online platforms. For these purposes, a third party online platform is a price comparison website (PCW), internet-based price comparison service or other internet-based Micro Business TPI that provides comparisons between, and/or access to the Required Price Information in the Prescribed Format, and may facilitate, on behalf of the Relevant Micro Business Customer, a change of supplier, supply contract or both.
42. Where a supplier makes the required disclosure through one or more third party online platforms, the supplier will be responsible for ensuring that the Required Price Information is disclosed in accordance with Article 3.1.²⁷ Suppliers may choose any number of third party online platforms, although it must ensure that it complies with Article 3.3 when doing so (see paragraph 44 below for more information). For the avoidance of doubt, this means the supplier is not required to use one single third party online platform to disclose all possible Required Price Information results.
43. Article 3.1 provides that suppliers must disclose the Required Price Information promptly. Suppliers are expected to make this information available immediately upon the customer entering its Primary Information.
44. Article 3.2, provides that where suppliers disclose the Required Price Information on their website, they must ensure that access to this information is displayed in a clear and prominent way on their website.²⁸ Article 3.3 provides that where suppliers disclose the Required Price Information through one or more third party online platforms, they must ensure that a web-link to the third party online platform(s) is displayed in a clear and prominent way on

contract. However, the supplier is required to disclose their available renewal prices, together with their available acquisition prices to this customer based on the customer's Primary Information.

²⁶ Report, paragraph 17.56.

²⁷ For the avoidance of doubt, where a supplier operates more than one brand, Article 3.1 would not require the supplier to disclose the prices for each brand on all of its websites (including those of all its brands), provided that all such prices were disclosed either on each relevant brand's website, or on the supplier's own relevant website or on one or more third party online platforms.

²⁸ If the same Required Price Information is available on a third party online platform as well as the supplier's website, the supplier would not be required to also comply with Article 3.3.

their website. For example, suppliers could include web link(s) on their homepage and/or on any 'Microbusiness' homepage to the online quotation tool (in relation to Article 3.2) or to all the third party online platforms (in relation to Article 3.3).

Sales channels

45. The Required Price Information available to a Relevant Micro Business Customer could differ between sales channels, which can be categorised separately as follows:
 - (a) the supplier's direct sales channels such as its own website and/or telephone sales; and
 - (b) indirect sales channels involving third party intermediaries (TPIs), which can either be online (such as PCWs) or offline (such as some brokers).
46. Article 3.1 requires that once a Relevant Micro Business Customer enters the Primary Information, the Required Price Information, regardless of sales channel, must be promptly disclosed on the supplier's online quotation tool, or one or more third party online platform(s).
47. Article 3.2 requires the Required Price Information to be displayed clearly and prominently on the supplier's online quotation tool (where that is the means of disclosing the Required Price Information), and Article 3.3 requires a web-link to any third party online platform to be displayed clearly and prominently (where that is the means of disclosing the Required Price Information).
48. In practice, compliance with Articles 3.2 and 3.3 will differ according to the sales channel/s which the supplier uses. In this regard, the 'clearly and prominently' requirements of Articles 3.2 and 3.3 are to be interpreted as follows:

Sales through multiple channels

- (a) for **contracts available only from a supplier's direct sales channels**, the supplier must disclose the Required Price Information for each direct sales channel through its online quotation tool or via one or more third party online platform(s), including, in relation to any contract available through telephone sales, a telephone number the customer can call to fulfil the contract;
- (b) for **contracts available from a supplier's direct sales channels and also via TPI(s)** in order to be clearly and prominently displayed, the supplier must:

(i) disclose the Required Price Information for each direct sales channel through its online quotation tool or via one or more third party online platform(s), including, for any contract available through telephone sales, a telephone number the customer can call to fulfil the contract; and

(ii) indicate on its online quotation tool (or via one or more third party online platform(s)) that the contract is also available through TPI(s);

Sales through a single channel

(c) for a **contract available online only from a supplier**, the supplier must disclose the Required Price Information through its online quotation tool or via one or more third party online platform(s);

(d) for a **contract available via the supplier's telephone sales channel only**, the supplier must disclose the Required Price Information and a telephone number the customer can call to fulfil the contract through its online quotation tool or via one or more third party online platform(s);

(e) for a **contract available only through TPIs**, the supplier must ensure that the Required Price Information is disclosed either (i) on its online quotation tool (or via one or more third party online platform(s)), indicating that the associated contract is available through TPIs, including instructions on how to contact any such TPI, or (ii) on the TPI's website, by providing a web link to such TPIs.

Article 4 – Disclosure of certain price information in relation to Out-of-contract Contracts and Deemed Contracts

49. The aim of Article 4 is to increase the ability of microbusiness customers to access and assess price information in relation to certain default contracts. This requirement applies to both the supply of electricity and the supply of gas.

50. Article 4.1 requires suppliers to disclose, on their website, the Unit Rates and Standing Charges for all their current Out-of-contract Contracts²⁹ and Deemed Contracts which apply to their microbusiness customers. The means of

²⁹ Defined in Article 2 of the Order 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 Retail Energy Supplier continues to supply electricity or gas (or both) to that Micro Business Consumer.

disclosure (eg price lists or interactive display tool) is at the supplier's discretion.³⁰

51. Article 4.2 requires suppliers to display their Unit Rates and Standing Charges for all their Out-of-contract Contracts and Deemed Contracts clearly and prominently on their website. For example, suppliers could include a link on a drop-down bar on the homepage or the 'Microbusiness' section.

Part 3 – Auto-Rollover Remedy

52. The aim of Article 6 is to address barriers to switching that microbusiness customers on auto-rollover contracts face by: (a) increasing the time window during which a microbusiness customer would be able to give a termination notice to suppliers; and (b) prohibiting suppliers from including certain restrictions (termination fees) in these contracts. Article 7 prohibits suppliers from charging microbusiness customers termination fees on their Evergreen Micro Business Consumer Contracts³¹ and their Out-of-contract Contracts, thereby reducing the barriers to switching for such customers. Article 2 of the Order, defines a number of terms for the purposes of this remedy, including Auto-Rollover Contract, Initial Period, Roll-Over Period and Relevant Notice Period.

Article 6 – Auto-Rollover Contracts

53. Article 6.1(a) prohibits suppliers from entering into or performing an Auto-Rollover Contract containing a restriction on when a microbusiness customer can give notice to terminate the Auto-Rollover Contract during (a) the Initial Period or (b) any Roll-Over Period.
54. In relation to termination during the Initial Period, a microbusiness customer will be able to give a termination notice at any time up to the last day of the Initial Period. Article 6.2 provides that the termination of the Auto-Rollover Contract will take effect:
 - (a) at the end date of the Initial Period, if the termination notice is given in accordance with the notice period stated in the contract, or at least 30 days before the end date of the Initial Period; or
 - (b) if the termination notice is given in the last 30 days of the Initial Period, no more than 30 days after the date when the termination notice has been

³⁰ Report, paragraph 17.46.

³¹ Defined in Article 2 of the Order as a Micro Business Consumer Contract which is for a period of an indefinite length and which does not contain a fixed-term period that applies to any of the terms and conditions of that Micro Business Consumer Contract, and is not an Out-of-contract Contract.

given by the microbusiness customer (ie in this case, the termination of the Auto-Rollover Contract will take effect during the Roll-Over Period).

55. In relation to termination during the Roll-Over Period, microbusiness customers can give a termination notice at any time and regardless of whether the Roll-Over Period is for a fixed or non-fixed period. Article 6.3(a) provides that the termination of the Roll-Over Period must take effect at most 30 days after the date when the microbusiness customer has given a termination notice.
56. Article 6.1(b) prohibits suppliers from entering into or performing an Auto-Rollover Contract that allows the supplier to charge the microbusiness customer a termination fee³² where the customer gives notice to terminate the Auto-Rollover Contract during the Roll-Over Period.
57. Article 6.3(b) provides that, where a microbusiness customer has given notice to terminate during the Roll-Over Period, suppliers must not engage in any course of action which has the effect of increasing the Standing Charge, Unit Rate or any other charges which the microbusiness customer may pay pursuant to the Auto-Rollover Contract. The aim of Article 6.3(b) is to prevent suppliers transferring microbusiness customers that have given a termination notice during the Roll-Over Period to a more expensive pricing arrangement during the Relevant Notice Period. For the avoidance of doubt, Article 6.3(b) would not apply to any of the following circumstances:
 - (a) if the supplier has given notice of a price change prior to the termination notice being given by the microbusiness customer;
 - (b) if the microbusiness customer has given the termination notice and has not switched to a new supplier/contract after the Relevant Notice Period; and
 - (c) if a microbusiness customer elects to change its contract after giving notice to terminate the Auto-Rollover Contract.

Article 7 – Requirements in relation to Out-of-contract Contracts and Evergreen Micro Business Consumer Contracts

58. Article 7 prohibits suppliers from entering into or performing an Out-of-contract Contract or Evergreen Micro Business Consumer Contract containing a term that allows suppliers to charge the microbusiness customer a termination fee where the customer has given notice to terminate such contract. A similar

³² See the definition of Micro Business Termination Fee in Article 2 of the Order.

provision exists in GEMA's standard Gas and Electricity Licence Conditions in relation to Deemed Contracts (Standard Licence Condition 7.6). The aim of this Article is to ensure there is consistency with regards to termination fees on all default contracts for microbusiness customers.

*When the auto-rollover remedy takes effect*³³

59. In relation to Auto-Rollover Contracts which were entered into on or before 15 December 2016, the requirements in Articles 6.1 to 6.3 will take effect on 26 June 2017.³⁴
60. In relation to Out-of-contract Contracts and Evergreen Micro Business Consumer Contracts commenced on or before 15 December 2016, Article 7.1 will take effect on 26 June 2017.
61. In relation to (a) Auto-Rollover Contracts which were entered into after 15 December 2016, and (b) Out-of-contract Contracts and Evergreen Micro Business Consumer Contracts commenced after 15 December 2016, Articles 6.1 to 6.3 and 7.1 (as applicable) will take effect immediately.

Part 4 – Monitoring compliance and reporting

62. Article 9 of the Order and the Licence Conditions set out the compliance reporting requirements in relation to Parts 2 and 3 of the Order.
63. Articles 9.1 to 9.4 require suppliers to submit compliance statements to the CMA in the format specified in Schedule 5 to the Order. The first compliance statement must be submitted to the CMA by 15 December 2017. Each subsequent compliance statement must be submitted to the CMA by 15 December in each year.
64. These compliance statements are required to assist the CMA in complying with its statutory duty to monitor compliance with the Order.
65. Article 10 provides that the CMA may give directions as to compliance with the Order. Article 11 provides for any person to whom the Order applies to provide information required by the CMA to allow it to monitor and review compliance with and operation of the Order.

³³ This information is also set out in Annex 1, in simplified form.

³⁴ Report, paragraph 17.155 provides that, for existing auto-rollover contracts, the CMA will set a deadline for implementation by suppliers within 12 months of the publication of the final report. The CMA considers that this will give suppliers adequate time to adjust their forward purchasing strategies in the wholesale energy markets concerning the roll-over periods to which they were already contractually committed as the CMA understands that the furthest period ahead that a supplier typically purchases energy for roll-over periods is 12 months ahead.

66. Paragraph 7D.6 of new Licence Condition 7D and new paragraph 7A.13C of Standard Licence Condition 7A require suppliers to provide any information that GEMA reasonably requests concerning compliance with and the effectiveness of the Licence Conditions.

**Annex 1 – Implementation timings for price transparency and auto-rollover remedies
(in simplified form)***

Timeline	Price transparency	Auto-rollover	
		Contracts entered into on or before 15 December 2016	Contracts entered into after 15 December 2016
15 December 2016			CMA Order comes into force on 15 December 2016
16 December 2016			These contracts will need to comply with the CMA's Order (and associated new licence conditions) immediately (ie from 16 December 2016)
26 June 2017	Suppliers will need to comply with the CMA's Order (and associated new licence conditions) by 26 June 2017	These contracts will need to comply with the CMA's Order (and associated new licence conditions) from 26 June 2017	

* Refer to the CMA's Order for greater detail on the implementation timings for the price transparency and auto-rollover remedies.