

ENERGY MARKET INVESTIGATION

Summary of responses to the consultation on the Draft Energy Market Investigation (Restricted Meters) Order 2016, associated Draft Licence Condition and Draft Explanatory Note

Introduction

1. On 18 October 2016, the Competition and Markets Authority (CMA), consulted on a draft order relating to Restricted Meters (the Draft Order), including the associated draft Licence Condition (the Draft Licence Condition) and a draft explanatory note (the Draft Explanatory Note) for the implementation of the Restricted Meters remedy set out in the energy market investigation final report (the Report).¹ The consultation closed on 18 November 2016.
2. In response to its consultation, the CMA received 11 submissions relating to the Draft Order, Draft Licence Condition and the Draft Explanatory Note. Non-confidential versions of the responses received are available on the CMA's webpages.² This paper sets out the main changes which have been made to the Draft Order as a result of those submissions and also gives reasons why certain suggested changes were not made. Minor changes (such as the correction of typographical and spelling errors, minor clarifications to the Draft Explanatory Note, and other inconsequential changes) are not discussed in this paper. References to specific Articles in this paper refer to the final version of the order published on the same date as this paper (the Order), rather than to any earlier drafts. Capitalised terms in this paper have the same meaning as defined in the Order, unless otherwise specified below.
3. The comments received during the formal consultation on the Draft Order, Draft Licence Condition, and Draft Explanatory Note can be categorised under four main issues:
 - (a) the time period for implementation of the obligation to make Relevant Tariffs available to Relevant RMI Customers pursuant to Article 1.2;

¹ [Energy Market Investigation: Final Report](#).

² Responses to the draft Restricted Meters Order (see [case page](#)).

- (b) certain definitions;
- (c) the obligation to make Relevant Tariffs available to Relevant RMI Customers;
- (d) derogations from the obligation to make Relevant Tariffs available to Relevant RMI Customers contained in Articles 3.1 and 3.2;
- (e) Comments on the obligation to provide Specified Information to Relevant RMI Customers;
- (f) the obligation to provide the Relevant Citizens Advice Body with information concerning RMI Customers' metering infrastructure; and
- (g) the scope of the obligations contained in the Draft Order.

Comments on the time period for implementation of the obligation to make Relevant Tariffs available to Relevant RMI Customers

4. Article 1.2 of the Draft Order required suppliers to make their Relevant Tariffs (ie single rate tariffs) available to new and existing restricted meter customers from April 2017. A number of respondents to the formal consultation raised concerns with this timeframe, and identified a number of factors they considered made it unfeasible to comply with the remedy by our proposed date.
5. The main factors raised by the respondents were the following:
 - (a) need for suppliers to investigate and assess the changes required to update their systems to be able to comply with the relevant obligations;
 - (b) need to make significant changes to their IT systems, particularly to ensure that their restricted meter customers are billed accurately;
 - (c) need to train suppliers' staff and sales forces as regards the obligations contained in the Restricted Meters remedy to mitigate the risk of customer confusion and bad customer experience;
 - (d) need for Ofgem to develop, and for suppliers to implement, the provision of Specified Information to each Relevant RMI Customer that is required under the remedy; and
 - (e) need to address further technical complications that require additional time (eg difficulty of switching customers with more than one MPAN).

6. In light of the above, the CMA has extended the date for implementing the obligations contained in Articles 3.1, 3.2 and 4.1 of the Order (ie the obligation to make available Relevant Tariffs to Relevant RMI Customers, and provide these customers with Specified Information) from 1 April 2017 to 1 September 2017.
7. The CMA does not consider that the issues identified above affect suppliers' ability to comply with Articles 4.2 and 4.3 of the Order (ie the obligations to provide RMI Customers with RMI Customer Information, and to supply the Relevant Citizens Advice Body with information about restricted meter customers' metering infrastructure). As a result, the CMA has not amended the date at which Articles 4.2 and 4.3 should come into force.
8. In the context of the timeframe for implementing the Restricted Meters Remedy, one party also questioned why Article 4.2 (ie the obligation to provide RMI Customers with RMI Customer Information) comes into force before Articles 3.1 and 3.2 (ie the obligation to make available Relevant Tariffs). It argued that customers would not be able to use this information before Articles 3.1 and 3.2 come into force, and, therefore, the deadline for providing customers with RMI Customer Information should be the same as the deadline for making Relevant Tariffs available.
9. However, the CMA considers that making the RMI Customer Information available ahead of the deadline for all suppliers to make their Relevant Tariffs available may be of value to customers. For example, customers may be able to make use of this information if they are trying to understand the options already available to them (eg single-rate tariffs or time of use tariffs offered by some suppliers to restricted meter customers). In addition, it is possible that some suppliers could make their single rate tariffs available to restricted meter customers ahead of the deadline, meaning that customers may be able to use this information to facilitate a switch before the final date by which suppliers have to comply with the obligation to make their single rate tariffs available.
10. Another party set out its concerns that it might not be able to comply with its obligations around the cheapest tariff messaging until its Relevant Tariffs are made available on its billing system. However, the CMA considers that this should not be an issue, given the extended deadline for complying with Articles 3.1 and 3.2 of the Order. Therefore, the CMA does not consider that any changes are required to address this issue.

Comments on certain definitions

Definition of Relevant Tariff

11. Two parties raised concerns on the definition of Relevant Tariff contained in the Order.
12. One supplier said that the definition of Relevant Tariff does not exclude smart-only tariffs or prepay/credit-only tariffs from the definition. The definition of Relevant Tariff should be amended for consistency with the Draft Explanatory Note which states that access should be subject to any other eligibility criteria that a single rate customer would have to comply with and, to ensure that tariff terms and conditions do not simply exclude Relevant RMI Customers. Another supplier sought confirmation that 'smart only' tariffs would not be captured by the definition of Relevant Tariff.
13. The CMA has made amendments to the definition of Relevant Tariff contained in the Draft Order, and paragraph 27 of the Explanatory Note to address these points.

Definition of Economy 7 Metering Infrastructure

14. A number of parties raised concerns that there is a more specific definition of Economy 7 Metering Infrastructure in the Draft Explanatory Note than in the Draft Order, and that the definition in the Order could take legal precedence over the definition in the Explanatory Note. To address these concerns, the CMA has amended the definition of Economy 7 Metering Infrastructure contained in the Draft Order to bring it into line with the definition contained in the Draft Explanatory Note.

Definition of RMI Customer Information

15. One party said that that there is a potential risk of confusing customers by including historical tariff details in the definition of RMI Customer Information. The CMA agrees that for restricted meter customers to be able to assess the savings available for switching, they need to know their current tariff rates. Therefore, the CMA has amended the definition of RMI Customer Information to address this point.

Comments on the obligation to make Relevant Tariffs available to Relevant RMI Customers

16. One party highlighted the risks restricted meter customers might face in switching to a single rate tariff; namely that suppliers would be under no

obligation to allow them to return to their previous restricted meter-specific tariff at a later date. This party said that suppliers should be obliged to allow customers to switch back onto their old restricted meter-specific tariffs. However, the CMA considers that it would not be proportionate to require suppliers to keep historic tariffs available to restricted meter customers and, therefore, the CMA has not to make any amendments to address this comment.

17. One party set out its concerns regarding what would happen to restricted meters customers if their supplier fell below the 50,000 customer threshold and, in particular, whether it would be required to comply with the obligation to make Relevant Tariffs available to Relevant RMI Customers. The CMA notes that, in such instances, the supplier would no longer be required to comply with this obligation in respect of existing or new Relevant RMI Customers. As this is self-explanatory from the Order, the CMA has decided not to make any changes to address this point.
18. One party pointed out that different network charges could apply to customers with different meter types. As a result, suppliers may face higher or lower than usual network costs when serving customers with restricted meters on single rate tariffs. The CMA acknowledges that this may be the case but considers that the impact of this is unlikely to be material, and the benefits of taking this into account would not outweigh the added complexity. Therefore, the CMA has decided not to make any amendments to the Draft Order or the Draft Explanatory Note to address this point.

Comments on derogations from the obligation to make Relevant Tariffs available to Relevant RMI Customers

19. A number of parties submitted that suppliers should be exempted from complying with the obligation to make Relevant Tariffs available contained in the Draft Order under certain circumstances. These are set out below.
20. One party said that it would face significant costs in offering single rate tariffs to the 2% of restricted meter customers with meters containing four or more registers. However, the CMA notes that paragraph 22G.4 of the Electricity Licence Condition allows suppliers to seek a direction from Ofgem when they are unable to comply with the obligation to make Relevant Tariffs available for material technical reasons which cannot be resolved within a reasonable period of time. As a result, the CMA has not made any amendments to the Draft Order or Draft Explanatory Note to address this point.
21. One respondent submitted that the 50,000 customer threshold should be extended to white label providers that have their own IT systems since it is

likely that significant system changes would be required to comply with the obligation to make Relevant Tariffs available to Relevant RMI Customers.

22. The CMA understands that the need for system changes and developments to comply with the obligation to make the Relevant Tariffs available to Relevant RMI Customers would also apply where a white label provider has a standalone IT platforms. The CMA considers that there is a risk that, if white label providers with fewer than 50,000 customer are required to comply with this obligation without being able to seek a derogation from GEMA, there is a risk that the costs of any system developments would be disproportionate given the size of their customer base.
23. Therefore, the CMA has amended the Electricity Licence Condition to allow suppliers in partnership with a white label provider which has a standalone IT platform, and supplies electricity to fewer than 50,000 Domestic Customers, to seek a direction from Ofgem concerning the compliance the obligation to make Relevant Tariffs available by the white label provider.

Comments on the obligation to provide Specified Information to Relevant RMI Customers

24. One party said that suppliers should be afforded a degree of flexibility when providing Specified Information to Relevant RMI Customers (for example, flexibility in respect of where to place messages, and what format and font should be used for these messages). The CMA considers that it is important that Ofgem has the final say on the details of the provision of Specified Information and, therefore, has not made any changes to the Draft Order or Draft Explanatory Note in this area.
25. One party asked for clarification that suppliers would be consulted during development of the Specified Information. The CMA has amended paragraph 40 of the Explanatory Note to address this point.

Comments on the obligation to provide the Relevant Citizens Advice Body with information concerning RMI Customers' metering infrastructure

26. One party requested the CMA to be more specific about the information suppliers would have to provide to the Relevant Citizens Advice Body as part of their obligation under Article 4.3 of the Draft Order. Paragraph 45 of the Explanatory Note gives examples of the type of information that suppliers may be asked to provide to the Relevant Citizens Advice Body. The CMA notes that the relevant Citizens Advice Body requires flexibility in this area to ensure it is able to gather relevant information to advise consumers effectively. As a

result, the CMA has not made any amendments to the Draft Order or Draft Explanatory Note to address this point.

Comments on the scope of the obligations contained in the Order

27. Prior to publishing its Report, the CMA considered multiple options to address the Domestic Weak Customer Response AEC in respect of customers on restricted meters, and ultimately decided upon the design of the Restricted Meters remedy set out in the Report.
28. One respondent questioned the effectiveness of the requirement to provide information to restricted meter customers to address customer inertia, and suggested that the CMA may need to consider more interventions beyond information prompts to ensure that consumers receive the benefit of this remedy.
29. In particular, this respondent said that the remedy should also require suppliers to proactively switch restricted meter customers onto a better internal single rate or Economy 7 tariff automatically, with appropriate safeguards (eg allowing a customer to opt-out and/or return to their original tariff). The CMA considers that such a proposal goes considerably beyond the scope of the remedy set out in the Report. The CMA has received no evidence from the respondents to the formal consultation that would justify a departure from the Report. As a result, the CMA has not made any amendments to the Order to address this point.

Appendix 1: Respondents to the consultation on the Draft Order, Draft Explanatory Note and Draft Licence Condition

1. The CMA received 11 responses to the Draft Order, Draft Explanatory Note and Draft Licence Condition. These were:
 - (a) Centrica;
 - (b) Citizens Advice;
 - (c) EDF;
 - (d) Energy UK;
 - (e) EON;
 - (f) First Helpline;
 - (g) First Utility;
 - (h) npower;
 - (i) Scottish Power;
 - (j) SSE; and
 - (k) Utilita.

2. Non-confidential versions of these responses are published on the [Energy market investigation case page](#).