

## ENERGY MARKET INVESTIGATION

### Summary of responses to the consultation on the draft Energy Market Investigation (Gas Tariff Codes) Undertakings 2016

#### Introduction

1. On 20 October 2016, the Competition and Markets Authority (CMA) consulted on draft undertakings relating to the allocation of gas tariff codes and gas tariff pages among gas suppliers (the Draft Undertakings) for the implementation of the remedy set out in paragraph 20.25(b) of the energy market investigation final report (the Report).<sup>1</sup> The consultation closed on 10 November 2016.
2. In response to its consultation, the CMA received seven submissions relating to the Draft Undertakings. Non-confidential versions of the responses received are available on the CMA's webpages.<sup>2</sup> This paper sets out the main changes which have been made to the Draft Undertakings as a result of those submissions. Minor changes (such as the correction of typographical and spelling errors and other consequential changes) are not discussed in this paper. References to specific Articles in this paper refer to the final version of the undertakings published on the same date as this paper (the Undertakings), rather than to any earlier drafts. Capitalised terms in this paper have the same meaning as defined in the Undertakings, unless otherwise specified below.

#### Parties' submissions

3. Two respondents noted that they are currently using all of their Tariff Pages to supply customers (albeit using only some, but not all, Tariff Codes on each Tariff Page). They explained that, in order to comply with Article 6.2 of the Draft Undertakings (obligation to relinquish Tariff Pages containing only Unused Tariff Codes)<sup>3</sup>, they would need to move customers from one Tariff Page to another ('migrating' customers). This process of 'migration' requires customers on one Tariff Page to collect a message from a vending terminal in order to be 'migrated' to another Tariff Page of the same supplier. In practice, not all customers are likely to collect such message (and be migrated) within a

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<sup>1</sup> [Energy Market Investigation: Final Report](#).

<sup>2</sup> [Responses to the consultation on the Draft Undertakings](#).

<sup>3</sup> Now Article 5.2 of the Undertakings.

short timeframe. To illustrate the likelihood of such a message being collected, one respondent submitted evidence relating to a previous attempt to provide customers with refunds (using the messaging service). After 18 months, a material percentage of these customers had not collected such a message.

4. There is therefore a risk that, if this migration process is followed in order to comply with the Undertakings, some customers on a Tariff Page to be relinquished might not collect the 'migration' message by the time that Tariff Page is transferred to another supplier. As a result, those customers' prepayment meters would be likely to start charging for the purchase of gas at a price set by that other supplier. This price therefore would not be in line with the supply contract between those customers and their gas supplier.
5. In view of these responses, and having further explored the limitations of the prepayment infrastructure on this point with Ofgem and the Prepayment Meter Infrastructure Provider, the CMA acknowledges the fact that a supplier may not be able to migrate all customers on one Tariff Page to another, pursuant to Article 6.2 of the Draft Undertakings within the timeframes set out in Article 5.2 of the Draft Undertakings, and that in certain circumstances this has the potential to create unintended customer detriment.
6. The CMA expects suppliers to take steps to rationalise their use of Tariff Pages, thereby maximising the likelihood of being able to comply with any future obligation to release Tariff Pages by releasing whole Tariff Pages (ie without having to migrate customers pursuant to Article 6.2 of the Draft Undertakings<sup>4</sup>).
7. However, to mitigate this risk, the CMA has decided to add a mechanism whereby, under certain circumstances, GEMA can direct a gas supplier to relinquish 11 Unused Tariff Codes in place of one Tariff Page (see Article 7 of the Undertakings). Within this context, GEMA should consider steps taken by the gas supplier to mitigate the risk as per paragraph 6, and the extent to which customers may be expected to suffer detriment for the reasons set out in paragraph 3.
8. In addition, the CMA has accepted that the two energy firms that currently hold more than 12 Tariff Pages will be permitted to meet the obligations under Articles 3 and 4 of the Undertakings (if these obligations arise on 1 April 2017) by relinquishing 11 Unused Tariff Codes in lieu of each Tariff Page they are obliged to return. This is provided for in Article 5.3 of the Undertakings signed

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<sup>4</sup> Now Article 5.2 of the Undertakings.

by Centrica and EDF. In reaching this view, the CMA considered the fact that these two parties held more than 12 Tariff Pages at the time of the Report and that there is a realistic likelihood that these suppliers will be under an obligation, on 1 April 2017, to relinquish Tariff Pages. The CMA also considered evidence submitted to it relating to the number of customers likely to be affected on 1 April 2017 if an obligation to relinquish Tariff Pages were to arise.

9. None of the modifications made to the Draft Undertakings were considered to be material so as to require further consultation.