

Notice of intention to vary the Energy Market Investigation (Prepayment Charges Restriction) Order 2016

1. The [Energy Market Investigation \(Prepayment Charge Restriction\) Order 2016 \(the Order\)](#)¹ was made following a Competition Commission Market Investigation into the energy market.² The Order requires, among other matters, that retail electricity and gas suppliers ensure that the aggregate amounts of all charges for gas and electricity to retail prepayment customers do not exceed the relevant maximum charges calculated in accordance with the Order for each charge restriction period. The Order also imposes a monitoring and compliance regime. Schedules 1 and 2 introduced the Electricity Supply Licence Condition 28A and the Gas Supply Licence Condition 28A for the purpose of giving effect to the Order, having had regard to GEMA's relevant statutory functions pursuant to section 168 of the Act. These licence conditions set out the details of the determination of relevant maximum charges and benchmark maximum charges in each charge restriction periods for gas and electricity.
2. Under section 162 of the Enterprise Act 2002 (the Act), the CMA has a statutory duty to keep under review orders from its investigations. From time to time, the CMA must consider whether, by reason of any change of circumstances, enforcement orders are no longer appropriate and need to be varied or revoked.
3. On 31 January 2019 the CMA launched a review of the Order. The CMA's approach to the variation and termination of enforcement orders is covered in the CMA's guidance document published in [Remedies: Guidance on the CMA's approach to the variation and termination of merger, monopoly and market undertakings and orders \(CMA11\)](#). On 7 June 2019, the CMA published its report entitled [Review of the Energy Market Investigation \(Prepayment Charge Restriction\) Order 2016: Provisional Decision](#). For the reasons given in that report, the CMA has provisionally concluded that a change of circumstances has taken place and that consequently the Order should be varied (through an order).

¹ See also the [Explanatory Note](#) to the 2016 Order.

² [Energy Market Investigation final report, 24 June 2016](#)

4. The CMA now gives formal notice of its intention to vary the Order and has also published a [draft Variation Order, accompanying Explanatory Note and a proposed replacement prepayment price cap calculation model](#).
5. Any representations in relation to the proposed variation of the Order should be made by **8 July 2019** and sent to:

remedies.reviews@cma.gov.uk

or

Energy Prepayment Review
Competition and Markets Authority
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Kip Meek

Group Chairman

7 June 2019