

Gas and electricity suppliers,  
consumer groups and other  
interested parties

14 April 2016

### **CMA provisional remedies: removal of certain RMR 'simpler choices' rules**

In its Provisional Decision on Remedies Report<sup>1</sup>, the Competition & Markets Authority (CMA) proposed a recommendation that Ofgem remove certain elements of the 'simpler choices' component of our Retail Market Review (RMR) rules (see Annex). In the light of this, we have received a number of queries regarding our approach to enforcing compliance with these rules. This letter addresses these queries.

The CMA proposes to recommend that Ofgem deprioritises taking enforcement action against any supplier that operates in breach of these licence conditions until they are removed. The CMA also proposes introducing a new principle-based requirement on suppliers to enable consumers to compare their tariffs easily.<sup>2</sup>

Making these changes to the supply licence is a top priority for us, given Ofgem's support for the aims behind the CMA's recommendations to promote competition and innovation. As soon as possible after publication of the CMA's final report, we will issue a statutory consultation proposing to remove the licence conditions identified in the CMA's final report and a policy consultation on a proposed new principle about comparing tariffs. This will let us bring the new arrangements into effect around the end of this year. This is consistent with our intention to rely more on principles and less on prescription in the way we regulate retail markets.

In the meantime, we do not generally envisage that it would be appropriate to take enforcement action in relation to the specific rules mentioned by the CMA in its Provisional Decision. Although we note that these proposals are still being consulted on by the CMA, we consider that it is right that we take this approach with immediate effect. As a result, consumers will benefit sooner from the changes, before we modify the supply licence.

We are keen that this transition is smooth. Should suppliers take the opportunity this presents to offer a wider variety of tariffs, we expect them to make sure that any potentially non-compliant tariffs are consistent with the CMA's proposed new principle. This means that consumers should be able to understand any new tariffs and assess the value for money compared to other tariffs that the supplier offers. We also expect suppliers to consider the risk of causing detriment to consumers (including those in vulnerable situations) and take appropriate steps to address this.

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<sup>1</sup> CMA's Energy Market Investigation Provisional Decision on Remedies, 17 March 2016:

[https://assets.digital.cabinet-office.gov.uk/media/56efe79040f0b60385000016/EMI\\_provisional\\_decision\\_on\\_remedies.pdf](https://assets.digital.cabinet-office.gov.uk/media/56efe79040f0b60385000016/EMI_provisional_decision_on_remedies.pdf)

<sup>2</sup> "...suppliers to have regard in the design of tariffs to the ease with which customers can compare value for money with other tariffs they offer".

We are mindful of the interactions between the relevant 'simpler choices' components of the RMR rules and 'clearer information' components, notably the cheapest tariff message, the tariff comparison rate, the tariff information label and the personal projection. These information tools will require amendments to reflect suppliers' ability to offer a wider variety of tariffs. We intend to consult on these consequential amendments in due course.

In the meantime, if suppliers want to offer more sophisticated tariffs, we note that these tariffs may not be fully compatible with the prescriptive requirements of certain 'clearer information' rules. Therefore, in these circumstances and until suitable consequential changes or alternative arrangements are put in place by Ofgem, we would expect suppliers to adapt their approach to complying with the applicable 'clearer information' rules in a way which ensures that customers (including those in vulnerable situations) continue to receive appropriate prompts to engage, are not misled and are able to make properly informed decisions.

We will set our plans this summer for making the licence changes referred to in this letter, as part of a broader plan for implementing the package of CMA remedies.

If you would like to discuss any of the issues raised by this letter, you can contact us at [DomesticRetailPolicy@ofgem.gov.uk](mailto:DomesticRetailPolicy@ofgem.gov.uk).

Yours sincerely,

**Rachel Fletcher**  
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**Consumers & Competition**

## **ANNEX**

We want all suppliers to have clear and consistent information about which aspects of the 'simpler choices' component of the RMR rules we will deprioritise enforcing.

The CMA proposed to recommend Ofgem remove the conditions in the suppliers' standard licences that ban:

- complex tariffs (SLC 22A.3 (a) & (b))
- having more than four core tariffs (SLC 22B.2 (a) and (b))
- certain discounts (SLCs 22B.3-6 and 22B.24-28)
- certain bundled products (SLCs 22B.9-16 and 22B.24-28)
- certain reward points (SLCs 22B.17-23 and 22B.24-28)
- tariffs exclusive to new/existing customers (SLC 22B.30-31).

We note that the CMA has **not** proposed to recommend that Ofgem remove all of the 'simpler choices' RMR rules. For example, there are no plans to remove:

- the requirement for charges for supply activities to be incorporated within unit rates and/or a standing charge (SLC 22A.2)
- the restrictions on fixed-term contracts (SLC 22C)
- the restrictions on dead tariffs (SLC 22D).

We will continue, where appropriate and proportionate, to enforce compliance with these remaining RMR 'simpler choices' rules and with the Standards of Conduct and relevant consumer protection legislation if they apply in relation to such matters.