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Competition & Markets Authority

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Dear Roger

### **Implementing the Competition & Markets Authority (CMA) remedies**

This is our response to the CMA's final report into the energy market. Together with the attached document setting out the implementation strategy for industry and stakeholders, this letter summarises how we intend to take forward the remedies allocated to us, working within our statutory framework and duties, and how we will engage with stakeholders. We will publish a more detailed implementation plan in the autumn.

#### **Background**

The report marks a watershed for the industry and consumers. We referred the market to the CMA for investigation because we did not think it had been working in the interests of all consumers. The CMA found the wholesale markets to be broadly competitive and that vertical integration of the large suppliers was not detrimental to competition. But it also found that the retail market is functioning as a two-speed market, leaving two-thirds of households disengaged and paying more for their energy than customers who have switched supplier.

The CMA has put forward a package of remedies to free-up competition and innovation in the market in order to drive down bills and improve service for all consumers. Combined with other changes already happening, such as smart meters and faster switching, these remedies provide an opportunity to transform the energy market and give consumers a new, better deal.

#### **Acting quickly**

We want to work with the industry and consumer bodies to act on the recommendations addressed to us quickly and effectively. We will be making clear to suppliers that they cannot pick and choose the remedies: they are designed to be acted on as a package. We are encouraged that some suppliers are already taking the initiative to start to implement remedies before they are legally obliged to do so. We call on others to do the same.

We will be able to take immediate action in some areas. Other remedies will need more time to take effect. Consumers who are already engaged in the market will see the first benefits of competition as more innovative tariffs and services become available.

## **Changes to Retail Market Review (RMR) rules**

Today we have published a statutory consultation on removal of some of the ‘simpler tariff choices’ (‘simpler’) rules under our RMR reforms as recommended by the CMA. We had already said that we were deprioritising enforcement of these rules in April, in order to encourage suppliers to create innovative new tariffs before we are able to make changes to the licence.

Alongside the statutory consultation we have published a policy consultation on changes to the ‘clearer information’ (‘clearer’) rules under our RMR reforms and Sales and Marketing Licence Conditions. This sets out the consequential amendments that are needed to ensure the licence remains coherent and consistent once some of the ‘simpler’ rules are removed, and delivers the CMA’s proposed principle that suppliers design tariffs to support customers in making comparisons.

We are consulting on these changes together today, with a view to the changes to the licence coming into effect by early 2017. In the interim, we expect suppliers to have regard to the objective of consumers being able to understand new tariffs and make informed decisions.

## **Changes to the Confidence Code**

We have also published today a separate consultation on changes to the Confidence Code governing accredited price comparison websites. The CMA proposes removing the requirement for the ‘whole of market’ comparison of tariffs by accredited price comparison websites. Given the complexity of the remedy and its wider implications for the operation of the Confidence Code, our view is that we should not move straight to consulting on full removal of the whole of market requirement at this stage.

We are proposing an intermediate step as this will allow us to realise significant consumer benefits as quickly as possible, whilst considering the mitigation of the risks and uncertainties involved in full implementation of the remedy. We propose to remove some of the changes we made to strengthen the whole of market requirement in the 2015 Code Review and make consequential changes to ensure consistency with the overall CMA package of remedies.

The changes proposed would allow price comparison sites increased flexibility on how they display tariffs. This would give them an increased incentive to innovate and potentially work with suppliers on a wide choice of good value tariffs and exclusive deals for consumers. Under the Confidence Code, accredited websites would still be required to remain independent of suppliers and to display tariffs to consumers accurately and transparently, including the market coverage provided.

## **Engaging consumers**

Other remedies are aimed at engaging and empowering disengaged consumers, who remain on expensive standard variable tariffs, to make informed choices about their energy tariff. These remedies, which include more effective prompts on customer communications and more sharing of data, will need more time to take effect. Engaging customers who may never have switched supplier or rarely look at their energy bill will not be easy nor quick, so we are encouraging suppliers to move early in this area in particular ahead of formal steps relating to the implementation of these remedies.

We will run a programme of trials and conduct consumer research to test the most effective engagement approaches and share the results with suppliers as they become available. In particular, we will build on the capability we have already developed at Ofgem to run randomised controlled trials to test prompts with customers.

For the CMA database remedy, which will go live nationally in spring 2018, we will initiate testing of the likely communications with consumers. Protecting consumers’ personal data is a priority. We will work with consumer bodies, amongst others, on how best to protect personal data and, where our investigations suggest it is appropriate, we will refine the CMA’s proposed design for the database remedy to make sure it is effective.

## **Prepayment meters (PPM)**

The CMA's conclusion on the PPM sector supports our own findings. We note that smart meters will redefine the PPM sector but it is important that detriment suffered by these customers is mitigated during the smart meter rollout.

One of the remedies the CMA is implementing, as an interim measure pending the roll-out of prepayment smart meters, is a price cap for the more than four million customers on prepayment meters, who are among the most vulnerable and least able to switch to the cheapest deals. This price cap will save customers on traditional prepayment meters about £75 a year from April 2017. The cap will expire in 2020, when the roll-out of smart meters is expected to be substantially complete. Customers on smart prepayment meters should find it easier to engage in the market and switch supplier. We will continue to assist the CMA as it implements the price cap and ensure we are ready to take on our role of monitoring compliance with the cap from April 2017 as well as updating the level of the cap as required.

## **Long term improvements**

We will also be taking forward those remedies which will make long-term improvements to the overall governance of the energy sector and the central IT systems which underpin its operation. These remedies will promote competition, by reforming the industry code governance arrangements, and improve outcomes for consumers who indirectly rely on these systems, for example to switch energy supplier. They will also allow consumers to benefit from smart technology, for example through settlement reform for both gas and electricity.

All these interventions demand a new approach from suppliers. Continuing with the status quo is not an option. That goes for Ofgem too. Removing rules which may restrict competition and innovation is part of our move away from a rules-based approach to regulation. Under our Future Retail Regulation initiative, we are proposing new principles which put the onus on suppliers to achieve better outcomes for consumers and enable us to take tough action against suppliers who fail to do so.

The CMA has also emphasised the importance of having an independent and robust regulator which provides high quality evidence and analysis. In 2017 we will publish our annual State of the Market report. The report will provide an independent analysis of GB energy market developments and will monitor the effectiveness of the remedies.

We already have powers to publish advice or information which would promote the interests of consumers, and we will publish opinions on government policy where necessary. At the same time, we recognise the CMA's call for greater coherence where the responsibilities of Ofgem and government overlap, and will work closely with government in these areas.

## **Ongoing projects**

In parallel with our work on the implementation of the CMA remedies, we are also working on other programmes which will deliver real benefits for consumers in the coming months. The GB-wide programme to roll out smart meters, which will help households control their energy use and engage in the market, begins in earnest this summer. We are working with government to make switching faster and more reliable. We have a programme of work to support vulnerable consumers. And we are continuing our 'Be An Energy Shopper' campaign which has provided advice to over one million people about how to get a better deal for their energy. We are encouraged that more people are switching and that new entrants to the market are able to grow their market share.

The CMA's final report into the energy market points the way to a better future for consumers. We expect suppliers to compete for all consumers by offering good value and innovative deals and providing good customer service. Ultimately, it is in suppliers' interests to make sure the CMA's reforms lead to lasting benefits for consumers. We are acting on these reforms and we expect

energy companies, consumer groups and government to seize this opportunity to deliver a more competitive and fairer energy market for all consumers. We will closely monitor how the energy market develops as these reforms are implemented, and will do so with a particular focus on consumer outcomes. We are committed to assessing competition and consumer outcomes in the GB energy market, and we will not hesitate to take action if we feel that outcomes for consumers are not as good as they could be.

Yours sincerely



Dermot Nolan  
Chief Executive