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Dear David,

This response was prepared by Citizens Advice. Citizens Advice has statutory responsibilities to represent the interests of energy consumers in Great Britain and welcomes the opportunity to respond to the consultation on the Prepayment Charge Restriction Order.

The investigation has now finished, so we confine our comments to areas where the Order, the draft licence conditions, or the accompanying Explanatory Note could benefit from clarification, rather than a consideration of the merits of the intervention.

Assumed consumption splits for Economy 7 PPM customers

You highlight in the Explanatory Note that for Economy 7 Tariffs, the Electricity Licence Condition assumes that a consumption split of 38:62 between off-peak and peak usage will be appropriate for all tariffs and throughout the life of the price cap, with this split being an average derived from actual consumption data.

That off-peak/peak split differs somewhat from the assumptions used elsewhere in the industry. A number of advice providers and price comparison websites use a 55:45 split[1], while BEIS statements suggest it thinks the split is in the region of 50:50.[2]

[1] For example, MoneySavingExpert.com: http://tinyurl.com/p53pm92, GoCompare: http://tinyurl.com/naeftxx
[2] Eg DECC March 2014: http://tinyurl.com/oq9wrxf

We do not hold data that would allow us to understand why these different groups of stakeholders hold varying views of the off-peak/peak split and, for the avoidance of doubt, are not suggesting that a 38:62 split is wrong.

But we note that there is the potential for consumers to receive bad advice and/or inaccurate price comparison quotations if the basis of standard assumptions on usage profile differs substantially from their likely actual usage.

We encourage you to consider whether any follow up work is needed to ensure advice providers and PCWs have the information they need to make accurate price comparisons for Economy 7 PPM customers, and to understand why the split you are putting forward differs materially from the industry norm.

Credit overhang at the time of price changes

You highlight in paragraph 48 of the explanatory note that there may be some periods immediately following price changes where consumers are charged at the incorrect rate (eg that until they top-up they may be charged at the old rate). You suggest that for compliance purposes the assumption should be that energy is consumed during the same pricing period as it is purchased.

We are comfortable with this approach, not least because there appears to be little practical alternative given the lack of sophistication in pre-smart prepayment technology. However, we note it may influence consumer behaviour. For example, if consumers are aware that a price rise is coming they may wish to top-up by more than they would otherwise do in order to reduce their exposure to the price rise - or vice versa.

As an advice provider, we will have to consider what advice to give to consumers when we are aware that a significant price movement is coming. It will be important that top-up systems are able to cope with any peaks and troughs in the profile of when consumers are topping up, given that millions of households would see the Relevant Maximum Charges change on the same day. There may also be a need for enhanced market monitoring of suppliers behaviour around the time of price movements in order to mitigate the risk of any gaming in messages on when to top-up that are designed to maximise revenue rather than help the consumer.

When does a SMETS1 meter become a SMETS2 meter?

Paragraph 38 of the Explanatory Note envisages a process whereby suppliers can apply to have SMETS1 meters treated as SMETS2 meters and therefore excluded from the price cap. The CMA would make the determination on whether this would be allowed.

We have two observations on this process.

Firstly, the Note is silent on whether any stakeholders would be involved in this process other than the applying supplier and the CMA. We imagine that in practice you would wish to seek views and evidence more broadly, but this is an assumption on our part. We would take more comfort if the Note explicitly stated that the views of Ofgem, Citizens Advice and other suppliers would be sought before a decision is made that a SMETS1 meter is an Excluded Smart Meter.

Secondly, there is a lack of detail on the timing and notice period for how an affected consumer would be notified that they no longer qualify for the price capped tariff as a result of a determination that their meter is now an Excluded Smart Meter. As an advice provider, we will need more detail on how this process will work so we can explain it to consumers seeking our help.

Latitude on non-compliant tariffs

You envisage that there may be scenarios where a supplier may wish to offer a tariff that does not comply with the price cap at all consumption levels.

The draft insertion of 28A.21 of the electricity licence states that a supplier *'may apply to the Authority to request a direction concerning the compliance of a particular Prepayment Tariff with the Prepayment Charge Restriction where, due to the structure of the relevant Prepayment Tariff, the Charges for Supply Activities at certain consumption levels would exceed the Relevant Maximum*

Charge, but the licensee can provide evidence to the reasonable satisfaction of the Authority that it is unlikely that any Relevant Customer subject to such Prepayment Tariff will have a consumption level which would cause them to incur Charges for Supply Activities in excess of the Relevant Maximum Charge.'

28A.22 then goes on to say that at the end of each Charge Restriction Period the licensee must assess whether any Relevant Customer incurred charges in excess of the Relevant Maximum Charge and, if so, to rebate them the difference.

We have some concerns that the wording in 28A.21 may be so tight that it results in unintended negative consequences for consumers. The requirement that the upfront evidence to Ofgem needs to show that it is unlikely that *any* Relevant Customer would exceed the Relevant Maximum Charge would appear to mean that even if only one customer probably would, the tariff might be blocked. This could have the consequence of meaning that tariffs that benefited the vast majority of consumers could not go ahead, if any individual customer was worse off. In particular, it may discourage the offering of 'no standing charge' tariffs as these by nature would likely see a steeper incline (unit rate) than those with standing charges and may fail to comply at high consumption levels (as you acknowledge in paragraph 67 of the Explanatory Note).

In practice, we would like to see Ofgem given slightly more flexibility here so that it can take a proportionate view of whether most consumers would be better off if a tariff was offered, rather than needing to see universal benefit before one is allowed. The requirement of 28A.22 to rebate any adversely affected customer should be sufficient to ensure no-one is worse off.

The sunset provision should be caveated

The Order sets out (in provision 3.4) that the Prepayment Charge Restriction will cease to have effect on 31 December 2020 - no ifs, no buts.

The Explanatory Note (for example, in paragraph 16), and multiple other statements made by the CMA, suggest that there will be a mid term review in 2019 of the progress that has been made in rolling out smart meters, and that a result of that review could be either to revoke the Order early, or to recommend it be extended, to reflect that roll-out progress was faster or slower than expected.

We think there may be value in extending 3.4 to reflect this conditionality, eg along the lines

> *'3.4 Articles 3.1 and 3.2 shall cease to have effect on 31 December 2020* ***or such other time as may be determined by the Competition and Markets Authority, following review.****'*

There are two advantages we perceive from this.

The first is that it may avoid the need for a wholly new Order to be put in place if the smart meter roll-out timetable changes, because it would allow the existing Order to flex to accommodate that scenario. While we are supportive of the Prepayment Charge Restriction we are very aware that it is considerably less popular with suppliers and that there may be considerable challenge associated with any attempt to introduce a replacement Order.

Secondly, we think it would be good practice for the Order to reflect the CMA's stated policy position: that the expectation is that this remedy will lapse on 31 December 2020, but that this could be flexed, subject to review. Currently the Order does not reflect this.

Treatment of ECO and other bill levies that are not governed by the Levy Control Framework

The Explanatory Note splits out six different types of input costs that will be used in calculating the Relevant Maximum Charges: wholesale costs, network costs, policy costs, other indirect cost allowance, the prepayment uplift allowance, and headroom.

The policy cost item is defined (in electricity licence condition 28A.12) as

> *'The value of this term in each Charge Restriction Period is defined as the sum of the values relating to environmental levies for any forthcoming Charge Restriction Period, excluding environmental levies relating to the Carbon Reduction Commitment, as included in the forecast of current*

receipts presented in the most recent Economic and Fiscal Outlook published by the Office for Budgetary Responsibility before the date 60 days prior to the start of the relevant Charge Restriction Period. In the event that this data is not available the Authority will, following consultation, identify an alternative data source. Should there be a period in which the Authority needs to determine the value of PIj but no alternative data source has been so identified the Authority shall use such value as it considers reasonable.'

The Explanatory Note expands on this, stating that the baseline figure 'was based on 2015-16 environmental levies outlined within Table 2.7 of the March 2016 Economic and Fiscal Outlook,' but with the Carbon Reduction Commitment ('CRC') excluded.

Table 2.7 of the Economic and Fiscal Outlook includes five policy costs other than the CRC: the Warm Home Discount; Feed-in Tariffs; the Renewable Obligation; Contracts for Difference; and the Capacity Market. But this is not an exhaustive list of policy costs that are recouped through levies on consumer bills. One major absentee is the Energy Company Obligation, which is expected to cost £450m in 2017, rising to £640m/year in subsequent years.[3] Other major policies with significant costs attached such as the roll-out of smart metering are not explicitly priced in the Economic and Fiscal Outlook.

We would therefore like to make two points:

Firstly, to seek assurance that policy costs that are not being captured within the 'policy costs' item are being captured elsewhere. We suspect this is the case, and that they are simply being captured under supplier costs, but would welcome this clarification.

Secondly, that there needs to be further nuance in the explanation of 'policy costs' as used by both the CMA (in introducing this intervention) and by Ofgem (in applying it) as there is a risk that it may be misleading otherwise. In its current form, it appears likely that the 'policy cost' item will actually systematically underestimate policy costs due to the absence of some

[3] Government answer to Parliamentary question, 3 November 2016. http://tinyurl.com/pzlyenl

relevant policies from the basket. Given pre-existing public confusion on how bills are broken down, this is unhelpful.

We trust this submission is clear but please do not hesitate to get in contact if you would like to discuss any issue it raises in further detail.

Yours sincerely,

Richard Hall
Director of Strategic Infrastructure, Consumer Futures