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Dear Sir / Madam

This submission was prepared by Citizens Advice. Citizens Advice has statutory responsibilities to represent the interests of energy consumers in Great Britain. This document is entirely non-confidential and may be published on your website. If you would like to discuss any matter raised in more detail please do not hesitate to get in contact.

We are writing in response to your request on 31 January for evidence from interested parties to help you carry out a review of the Energy Market Investigation (Prepayment Charges Restriction) Order 2016, and reach a conclusion on whether there has been a relevant change in circumstances in this sector, such that the Order should be varied, or revoked.

You frame your review of whether to vary or revoke it as being driven by two core drivers:

- the speed and scale of smart meter roll-out and the expected number of smart meters expected to be installed by the end of 2020; and
- the introduction by GEMA of a charge restriction for customers on default tariffs, taking into consideration the risk of unintended consequences on competition, consumers and the smart meter rollout arising from the coexistence in the retail energy markets of two charge restrictions with different methodologies and underlying data.

We think that these are broadly appropriate criteria, though we wish to make a number of observations, primarily, though not exclusively, in relation to the latter.

The speed and scale of roll-out

We believe there is now overwhelming evidence that smart meter roll-out will not be completed by the end of 2020. In our [previous submission](#), we highlighted the National Audit Office ('NAO')'s recent report, 'Rolling out smart meters,'¹ in which it was explicit and unambiguous in its view that the roll-out of smart metering will not be

¹ ['Rolling out smart meters.'](#) National Audit Office, November 2018.

complete by 2020, and that 25-30% - perhaps more - of homes and small businesses will not have received a smart meter by that date.

Further to this, recent media reports suggest major supply chain problems in the availability of SMETS2 equipment that may cause the pace of installations to fall in the coming months. It is notable that Smart Energy GB, the official promotional body for smart meter roll-out, has itself now acknowledged that, *"You don't have to be a mathematician to know that the rollout won't be completed by the end of 2020."*²

It therefore appears likely that millions of dumb meters will remain in active use at the end of 2020, though it is unclear how these will be divided between credit and prepayment meters. Our discussions with suppliers have suggested that some may have been waiting for SMETS2 meters to be available before rolling out smart prepay products. The CMA should seek to establish an estimate of how many dumb prepayment meters may remain on walls at the end of 2020, and the likely subsequent glidepath from that figure down to zero, to inform its review. This should help to inform any recommendation to Ofgem on how long any extension to protections for prepayment customers may be needed.

We are unaware of any reason to believe that the specific impediments to engagement and choice that affected PPM consumers at the time of the CMA's market investigation have been resolved by any other market developments or regulatory interventions in the period since the investigation. Revoking the Order should not be an option on the table.

Implications of the introduction of a broader cap on the prices of default tariffs

We note the CMA's observations that the two caps are underpinned by different methodologies and underlying data, which could cause them to diverge. The strong implication is given that the default tariff cap may be the more methodologically robust and that there might be value in moving to a harmonised approach where the caps for all payment methods are set using that newer methodology.

We recognise the logic in this, and are supportive of the principle of using the most robust methodology possible to calculate the caps. However we note there are a range of knock-on implications from this that need to be thought through by the review, as while there are potential unintended consequences of the current

² ["Smart meter roll out set for severe delays as energy firms told to slow down installations,"](#) Daily Telegraph, 17 February 2019.

divergent methodologies, there may also be new, and negative ones that arise from harmonisation.

How many prepayment caps?

The first of these issues is establishing how many prepayment caps are needed. As we transition towards the mass roll-out of smart meters, there will be a period where two different forms of prepay customer simultaneously exist:

- Those on legacy dumb prepayment meters that can only operate in prepay mode; and
- Those who are taking a prepay service through a smart meter that can operate in either prepay or credit modes.

The costs to serve of these two cohorts may be very different. The CMA should seek to establish how different, as this will be necessary to establish whether a single prepay cap is appropriate, or whether there should be two caps, reflecting whether the customer is on dumb or smart metering.

It is possible there may also be a reasonable argument for one cohort benefitting from price protection for a different period to the other. Specifically, the CMA linked the need for the PPM price cap to the lack of meaningful choice and barriers to engagement that (dumb) PPM customers faced, which it thought would be solved by the replacement of those old meters with smart meters that could be switched between payment modes. It is far from clear to us that smart metering will necessarily solve the problem of widespread disengagement, but assuming that the CMA remains of the view that it will, it should consider whether the case for, and duration of, price protection for those on dumb prepayment meters is different from that for those on prepay tariffs on smart meters.

Understanding the distributional impacts

The most recent changes to the two price caps saw those on PPMs exposed to smaller price hikes than those paying by other methods. This may imply that moving PPM customers on to the default tariffs cap methodology will result in those consumers facing higher prices. The review will need to clearly articulate, and justify, the potential implications of a change in methodology on the prices that prepayment customers may face.

It will also need to bring forward clear evidence of the distributional implications of moving PPM customers on to the wider default tariffs methodology as part of its considerations. While the CMA frames the arguments for a methodological change in

competition terms, Ofgem has a broader statutory remit that includes more explicit consideration of the impacts of policies on consumers in vulnerable situations. This is particularly relevant given our understanding that the CMA itself could not extend the Order beyond 2020, it could only recommend to Ofgem that it should seek to introduce protections for relevant customers. Ofgem will need to be able to justify whether or not any extension to the cap is consistent with its responsibilities to protect consumers in vulnerable circumstances.

While it appears possible that PPM consumers may face higher prices were the two methodologies to be harmonised, it also appears possible that they might benefit from price protection for a longer period, noting that the current PPM Order cannot be extended beyond 2020 but that the default tariffs cap may be extended as far as 2023. The consideration of the case for harmonising the caps should take into account this trade-off between price and duration.

Ruling out reopening the default tariffs cap methodology

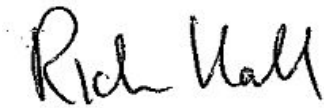
Both the PPM cap and the wider default tariffs cap are controversial in the sector. Ofgem put very considerable effort into developing the latter, the methodology of which is currently subject to judicial review in relation to the first price cap period. Developing any new methodology could also be very time consuming, and equally prone to legal challenge given its materiality. So while we think it is reasonable for you to consider whether the PPM methodology should be harmonised with the default tariffs cap methodology, we strongly urge you to rule out any possibility of seeking to develop an entirely new methodology. This review should not be allowed to form an opportunity to relitigate the form of the default tariffs cap. Parties who are unhappy with that cap have already had ample opportunity to provide input into its development and to seek legal remedy for any perceived procedural injustices. There is no reasonable case for its re-opening.

In relation to this point, we note that in your further request for evidence published on 19 February 2019 that you set out that you will be seeking evidence (among other things) on *'the impact of the introduction of GEMA's charge restriction on final consumers and on competition between retail providers of energy given the CMA's existing charge restriction for prepayment meter customers.'* This statement concerns us as it implies that the CMA may effectively broaden its review from a consideration of whether the prepayment cap is necessary and effective to a consideration of whether the wider default tariffs cap is necessary and effective. Ofgem is already explicitly tasked with conducting such review under Section 7 of the Domestic Gas and Electricity Tariff Cap Act 2018. The CMA conducting an ad hoc

review on similar territory, in the very early days of the default tariff cap when emerging evidence may still be sketchy or incomplete, could hamper Ofgem's subsequent consideration. The wider default tariff cap is outside the scope of the Prepayment Charges Restriction Order and it is not within the CMA's remit or powers to modify, extend or revoke it. It is therefore not clear what practical purpose such review could achieve.

I trust that this response is clear, but would be happy to discuss any matter raised within it in more depth if that would be helpful.

Yours sincerely

A handwritten signature in black ink that reads "Rich Hall". The signature is written in a cursive, slightly slanted style.

Richard Hall
Chief Energy Economist