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Victoria House
Southampton Row
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6 January 2015

Dear Will,

Second supplemental notice of possible remedies

Citizens Advice are pleased to respond to this consultation. Our response is not confidential and can be published on your website.

The CMA's analysis has identified a lack of competition for prepayment meter (PPM) customers. Citizens Advice and our predecessor bodies have been raising concerns about the prepay market for a number of years¹: limited progress has been made towards tackling the fundamental problems in these markets, and we welcome the attention drawn to these issues by the CMA.

In its April 2008 response to Ofgem's energy supply market investigation, our predecessor, energywatch, called on Ofgem to explore why the PPM market is devoid of innovation and investment in the technologies that will deliver savings and reduce costs to PPM consumers². Since that time, the gap between the standard variable tariff (SVT) direct debit (DD) price and PPM prices has narrowed considerably, but PPM prices remain much higher than the equivalent acquisition DD prices with consumers able to save up to £300 per annum³.

¹ For example [here](#) and [here](#)

²

http://webarchive.nationalarchives.gov.uk/20080922203044/http://www.energywatch.org.uk/uploads/Ofgem_energy_supply_markets_investigation_30_April.pdf

³ https://www.ofgem.gov.uk/sites/default/files/docs/final_consultation_ppm.pdf

As many of the existing problems in this market are linked to the traditional metering technology, Citizens Advice remains hopeful that the rollout of smart meters will ensure these consumers will gain access to better value tariffs and improved service. However, prepay consumers should not have to wait until they receive a smart meter, when there are issues that can be tackled now or interventions made to compensate these consumers. The rollout is not due to be completed before 2020 at the earliest and the number of consumers using traditional prepayment meters is continuing to rise.⁴

Furthermore, we are concerned that early adopters could lose out as there are no plans for an enduring solution for meters installed during the foundation stage. These meters are referred to as SMETS1 (smart meter equipment technical specification 1) and will not be enrolled when the DCC goes live (it will only support SMETS2 meters). Our main concern is that if a consumer with a SMETS1 meter tries to switch they will lose all smart functionality until their meter is exchanged for a SMETS2 meter. Suppliers are all at different stages with their smart prepay development, and Citizens Advice is particularly keen to ensure that there is an enduring smart solution for these consumers. As discussed above, consumers who have smart prepay now may be lose out in the future due to the type of meter they have.

Lack of gas tariff slots

We are aware that several suppliers have complained to Ofgem about their inability to obtain new slots from Siemens to enable them to launch new gas tariffs on traditional PPMs. Given the profile of PPM customers, who tend to be more vulnerable on average, and the current lack of acquisition tariffs in the market, we remain concerned that the gas tariff slot issue is not being tackled with greater urgency.

We understand that there is not an equivalent issue in the electricity market. However, the majority of new and existing suppliers seek to launch dual fuel offers, as this is the most popular tariff choice for consumers. While some suppliers have eventually been able to obtain tariff slots, this has delayed or constrained their plans to compete in the prepay market.

We are aware of at least one new entrant that would like to offer a prepay tariff but has been unable to obtain a tariff slot, as of this time. We are also aware of other non profit suppliers, who intend to enter the prepay market, and it is a significant concern if their plans are being constrained by surmountable technical barriers associated with the metering instructure. This is unacceptable in a market which predominantly serves more vulnerable households in Great Britain and already suffers from weak competition.

Ofgem is conducting a review of the situation and expects to be in a position to consider possible solutions later in 2016. Citizens Advice are disappointed at the lack

⁴ https://www.ofgem.gov.uk/sites/default/files/docs/2015/09/annual_report_2014_final_0.pdf

of urgency. We would like to have seen greater efforts made to identify any interim solutions. For example, suppliers holding on to tariff slots could be told to either use them or lose them until such time as Siemens could upgrade its system and their slots could be returned to them. This could have meant more competitive PPM tariffs becoming available in Autumn/Winter 2015-16, which would have helped households.

Issuing revised guidance to landlords

Citizens Advice has previously provided information to the CMA⁵ about the changes we'd like to see made to the Guidance on [unfair terms in tenancy agreements](#), which would make it easier for tenants to switch supplier and benefit from cheaper prices.

One of the changes we'd like the CMA to implement is to clarify the guidance and make it clear that landlords cannot require tenants to pay by prepayment meter.

As per the [current guidance](#), the landlord should not unreasonably restrict a tenant's ability to switch payment method, for example from a prepayment meter to a credit meter, but the tenant might be required to switch the supply back to a prepayment meter at the end of the tenancy. However given the practical difficulties involved in arranging meter exchanges, any tenancy agreement containing a clause of this nature would be likely to deter a tenant from switching to (cheaper) credit terms.

Use of credit referencing information

The proposals document is currently silent on the use of credit referencing information by suppliers. This is surprising, as amongst suppliers offering prepay terms, this is a common means of assessing customer risk used by suppliers in deciding whether to offer existing and new customers credit terms. As Ofgem's [consultation document](#) makes clear, the number of suppliers currently using security deposits to manage their risk is very low.

Our predecessor organisation, Consumer Focus, has previously carried out research in the use of credit referencing information by energy suppliers.⁶

Citizens Advice is currently carrying out a research project to update and expand its understanding of energy suppliers' debt management policies and processes, with a specific focus on:

- o If and how suppliers identify and provide support to consumers pre-arrears
- o The current use or future plans of suppliers to use data such as from credit reference agencies and smart meters to inform this

We are due to receive the draft report by 26 February and the final report by 18 March. We would be happy to provide the draft report to the CMA.

⁵ Email shared with CMA on 3 September 2015 following meeting with the project team on 2 September.

⁶ [2012 report](#) and [2011 report](#)

Offering support to the most vulnerable households

The CMA's proposed remedies have the potential to deliver improvements for households which are looking to switch away from prepay terms and who are capable of passing a credit check. It is unclear whether the proposed remedies will help tackle the current weak state of competition in this market. We remain unconvinced about the potential impact of Remedy 19 and provide more detail in our response to the questions.

This means there is a risk that the most vulnerable households using prepayment meters receive limited benefits from the other remedies. Remedy 22 therefore offers the potential to provide these consumers with some financial protection to compensate them for the failure of the market to deliver effective competition.

As we stated in our [previous response](#), for the most vulnerable households, our preference remains that these consumers are simply opted in to a better deal -- either a more competitive price or automatic access to the Warm Home Discount or similar price support.

The CMA's revised safeguard tariff is closer to our vision and we have provided more detailed comments in our response to Remedy 22.

Remedy 19 – facilitating sharing of data relating to prepayment meter customers

(a) Would this remedy be effective and proportionate in increasing competition for non-smart prepayment meter customers?

The CMA's analysis has identified that suppliers are currently not interested in competing for customers with dumb prepayment meters. Whilst the proposed database could make it easier for suppliers to identify and target prepayment meter users, we are worried that it may not make any difference to suppliers' limited motivation to compete for these customers.

There is also a very real risk that it could erode, rather than improve, consumer trust in the energy sector by facilitating unsolicited⁷ marketing. In particular, we caution very strongly against including telephone numbers in the shared information as this is a considerably more invasive contact method than mail. Experience from other sectors where unsolicited, often automated and repetitive, cold calling is prevalent - such as PPI claims⁸ - suggests it is hugely unwelcome with many consumers. Many

⁷ This problem may be partially mitigated if the database operated on an opt-in basis rather than an opt-out one - because the process of opting-in would provide a means to ensure that you have the customer's informed consent for their data to be shared in this way.. We consider it is likely to be unsound to make a similar assumption of informed consent where the database operates on an opt-out basis as a customer's presence may reflect disengagement or a lack of awareness of their rights rather than any conscious desire to receive such marketing.

⁸ For example, see <http://www.channel4.com/news/ppi-citizens-advice-unwanted-telephone-calls-messages>

consumers use mobile phones as their principal telephone number and it is not unusual for pay-as-you-go mobile users to have to pay to retrieve voicemails in the UK, or to receive calls or messages while overseas. These customers may be left in the infuriating position of paying to receive unwanted sales calls - this is hardly conducive to a positive consumer experience of the energy sector. We urge you to remove telephone numbers from any shared data to avoid the risk of a major consumer protection and public relations own goal.

There will be a range of costs associated with establishing the new Ofgem operated 'Cloud' database as well as the associated change management process. Costs will differ depending on how often suppliers are required to update the central database, and to update their own records with any changes made to that database. Similarly, the costs associated with targeting these customers by mailshots and telephone will have to be carefully considered by suppliers.

It would seem possible that suppliers may need, or wish, to create their own duplicates of, or extracts from, the database in order to populate mailouts or to schedule sales calls. If this is the case, there will be a need for protocols in place that govern how quickly suppliers need to update their own records to reflect any changes in the central database. This is to avoid the risk that a customer opts out of the central database at some point after its implementation via their own supplier, but continues to receive sales calls or materials from a different supplier (or suppliers) who loaded their details in to its marketing systems at a point after the implementation of the central database but before the customer opted out.

If this remedy is implemented, we suggest that over time it may be appropriate for the Ofgem operated database to become part of the Data Communication Company's (DCC) role as it will be required to hold meter data.

Another issue that will need to be considered by the CMA is how to supply consumption data after a change of tenancy. Prospective suppliers will want to know whether the annual consumption data is actual or estimated as this may affect the attractiveness of taking on the property.

Citizens Advice has spoken to a range of different organisations, many of which are non profit or social enterprises, that are planning to enter the prepayment market. Their intention is to offer better service and prices to an under-served market of energy consumers. The common theme with each of these organisations is that they are looking to into establishing local partnerships with housing associations, local authorities or community groups in order to reach prepayment meter users. Prior to proceeding with this remedy, we would suggest that the CMA attempt to speak to organisations actively looking to enter this market to see whether they would find this remedy useful.

We also consider that better information alone is unlikely to be sufficient to remedy problems in the prepayment market. This is because there are wider disincentives to

engagement that cannot be tackled through better information. For example, your consultation provides evidence that the achievable savings from switching for prepay customers are poor compared to those using other payment methods. If informational nudges simply highlight a lack of meaningful choice, it is likely that consumers may continue to be disengaged. So, in the event that you decide to go forward with this remedy, we think it would have to be accompanied by additional remedies to remove non-informational barriers to switching - Remedy 19 is not a standalone solution.

(b) Are there additional legal considerations that are relevant to this remedy (eg under the Data Protection Act 1998 or the Privacy and Electronic Communications (EC Directive) Regulations 2003)?

(d) What limitations would need to be imposed to ensure that the data was disclosed and used appropriately?

In [our response](#) to the CMA's earlier consultation on supplemental remedies, we raised concerns about opting consumers into such a scheme. We note also our previous concerns that if this remedy was adopted there would be a need to strengthen the vetting regime to account for the difference in the number of holders of domestic supply licences holders and active suppliers.

Another concern we raised was the risk that suppliers would only target certain groups of consumers. Whilst prepayment meter consumers are more vulnerable on average, they are not a homogenous group. This remedy might mean those consumers most in need of a cheaper tariff such as those on low incomes or vulnerable, would be less likely to be targeted as they may be seen as less attractive customers.

This revised proposal addresses some of our concerns. However, we believe that many customers may not realise the implications of the letter from their supplier. The subsequent impact on these households would depend on the marketing approaches utilised by suppliers. Some methods are more intrusive than others, namely telesales or doorstep sales.

(c) Is Ofgem the right party to have oversight of this process?

If this remedy is implemented, we agree that Ofgem is the most appropriate party.

(e) When should the continued need for this remedy be reviewed?

If this remedy is implemented, we suggest that 2018 might be an appropriate time to review its effectiveness since it is halfway through the main smart meter rollout programme.

(f) What might be a suitable frequency with which to share customer data?

If this remedy is implemented, we suggest that a trial is carried out to understand the optimal frequency for sharing customer data.

(g) Should this remedy apply to prepayment meter customers with smart meters?

We are hopeful that the smart meter rollout will deliver greater benefits to existing prepayment meter users as many of the technical limitations and additional costs associated with the dumb metering technology will no longer apply. If this remedy is adopted we suggest that it applies to customers with dumb meters only.

Remedy 20a – removing the barriers that prepayment meter customers without a debt face when attempting to switch to a credit meter

(a) Would this remedy be effective and proportionate in removing the barrier to switching that security deposits can pose?

(b) Are these the right criteria to apply in determining circumstances in which suppliers can charge a security deposit?

(c) What are the potential unintended consequences of being explicit about when customers can be charged a security deposit?

(d) Is there a preferable alternative way of mitigating detriment arising from the impediments to switching posed by the potential need to pay a security deposit?

Citizens Advice agree with the views stated by Ofgem in its December [consultation](#):

“Suppliers use security deposits as one of a number of credit management tools to control bad debt, which potentially lowers bills for all customers...The consumer outcomes that we think are important in this area are:

i. Consumers are only asked to pay a security deposit when it is fair and reasonable to do so

ii. Consumers who are able to manage their bills in arrears, and have demonstrated intent to pay, are not prevented from accessing the best deals, and

iii. Consumers do not face higher bills due to poor debt management practices by suppliers.”

According to Ofgem’s consultation, only five suppliers currently use security deposits for customers applying to switch from prepay to credit terms. The vast majority of suppliers use credit referencing to carry out a risk based analysis of the financial viability of the household - some will only request a security deposit if the consumer has a poor credit history.. But while use of security deposits is limited, their inconsistent application across the sector may create a degree of customer confusion and discourage some switching - for example, a customer may erroneously assume that they need to pay such a deposit with their supplier if they are aware that friends or relatives with other suppliers had to. Removing the scope for that confusion by applying the same standard across the industry could have a marginal impact in improving the number of customers switching away from prepayment.

Under the CMA's proposal, the supplier would not be able to levy a security deposit if (a) the customer is not in debt; and (b) the customer has not incurred any fines, charges or interest for late payment in the last six months. The CMA further notes that failure to pay back emergency credit promptly may be an example of a scenario whereby the PPM customers would have incurred a fine, charges or interest.

At first glance, the CMA's criteria appear reasonable, although we would like to understand what paying back emergency credit promptly would mean in practice. It's also worth highlighting that for some consumers, the option to pay a security deposit and switch to credit terms, may be a better option than having their application to move to credit terms refused due to failing a credit check.

Citizens Advice agrees with Ofgem that suppliers should additionally continue waiving security deposits on a case by case basis where the customer can demonstrate that they are able to manage their bills in arrears. This is particularly important given the lack of acquisition tariffs in the prepay segment of the market.

We suspect this remedy would be most likely to assist more affluent households which currently use a PPM. This group is more likely to include households which inherited a PPM when they moved into the property. They are more likely to be able to pass a credit check, if this is introduced as an alternative to security deposits.

We further note that given the current low usage of security deposits amongst suppliers may mean that this proposed remedy may have limited impact on the group of prepayment meter customers who wish to move to credit terms.

(e) Should the CMA implement this remedy itself, or should the CMA make a recommendation to Ofgem to do so?

This remedy is relatively well defined - if the CMA decides to implement it, it should be possible for it to finalise its scope and draft relevant licence condition text before its investigation closes. Because of this, we would not favour referring it back to Ofgem as this would be likely to result in unnecessary delay.

Remedy 20b – Suppliers are prohibited from charging customers upfront for the cost of a new meter when switching away from prepayment

(a) What length of time is reasonable and appropriate to allow the recovery of the cost of the meter and installation?

(b) Is this a proportionate remedy given the number of cases in which suppliers charge for removal of a prepayment meter?

(c) Is there an equally or more effective alternative way to reduce the costs of prepayment meter removal and replacement?

If a consumer meets the criteria to be able to switch away from a prepayment meter, we agree that suppliers should not be allowed to charge consumers installation or removal fees. Any associated costs should be smeared across the supplier's wider customer base.

Based on Ofgem's [consultation](#) the vast majority of suppliers are not imposing fees for non-warrant related installation or removal charges. As of December 2015, only around 4% of consumers would now face removal charges, and only around 1% would face installation charges. But as with security deposits, the inconsistency of application of charges across the sector may result in customer confusion and in some cases a deterrent to switching meter based on a false assumption that this would result in the consumer incurring costs when, in most cases, they would not. Removing the scope for that confusion by applying the same standard across the industry could have a marginal impact in improving the number of customers switching away from prepayment.

(d) Should the CMA implement this remedy itself, or should the CMA make a recommendation to Ofgem to do so?

If this remedy is adopted then referring it back to Ofgem for implementation could add delay to the process.

Remedy 20c – Require suppliers to provide annual notifications to prepayment meter customers setting out their right to switch and highlighting any potential restrictions or charges that may be payable

Citizens Advice and our predecessor bodies have had longstanding concerns about suppliers' efforts to communicate with their prepayment meter customers. There is a significant body of research available which shows that prepayment meter users are less likely to read and act on communications from their energy suppliers⁹. This is a known problem. However, there has been limited effort from suppliers to trial new methods of communication to address the existing lack of engagement.

Back in March 2011, Consumer Focus developed the [5 PPM principles](#) with the six largest energy suppliers in response to the findings of our July 2010 [Cutting back, cutting down, cutting off](#) report on self disconnection. One of the five principles asked suppliers to commit to improving communication with PPM consumers. The July 2010 report found that PPM users had very limited interactions with their supplier and that there was a lack of information about how the meter works, how debt repayments are collected and confusion about top up options could often lead to 'self-disconnection', mainly among vulnerable households.

We believe there is a direct link between poorer engagement levels and the frequency in which suppliers typically communicate with their prepayment meter customers. Compared to users of other payment methods, prepayment meter users are least likely to receive key communications (bills) from their supplier (see Table 1). Users of other payment methods are much more likely to receive monthly or quarterly bills

⁹ The consumer groups least likely to take any form of action tend to be low income or economically inactive social tenants from Consumer Focus's [Missing the Mark report](#) or [Informing Choices](#). See also Consumer Focus's report [Making Progress](#).

that can help them understand their ongoing energy spend or prompt them to switch tariff or supplier, via the cheapest tariff messaging. Prepay users generally have no choice but to check their meter for this information, whether or not they have other preferred methods of communication.

Whilst PPM users are less likely to respond to the cheapest tariff prompt than users of other payment methods this does not necessarily signify that they are unreachable through prompts. In many cases they are simply behaving rationally as most suppliers do not offer a cheaper prepayment tariff for them to switch to. It is therefore crucial that better deals are offered to prepay customers in order for prompts to work.

Table 1: Suppliers' billing frequency¹⁰					
	Annually	6 Monthly	Quarterly	Monthly	Weekly
Better Energy			DD/CC/PPM	DD/CC	
British Gas	PPM	DD	DD/CC	DD/CC	
Co-operative Energy	PPM		DD/CC	DD	
Daligas	DD				
E (Gas and Electricity) Ltd	PPM/CC				
E.ON	PPM	PPM	DD/CC	CC	
EBICo	PPM	DD	DD/CC		
Economy Energy	PPM			DD/CC	
Ecotricity		PPM	DD/CC		
EDF Energy	PPM	DD			
Extra Energy		DD/CC	CC		
First Utility	PPM		DD	DD/CC	
Flow Energy				DD/CC	
GB Energy				DD	
Glide					

¹⁰

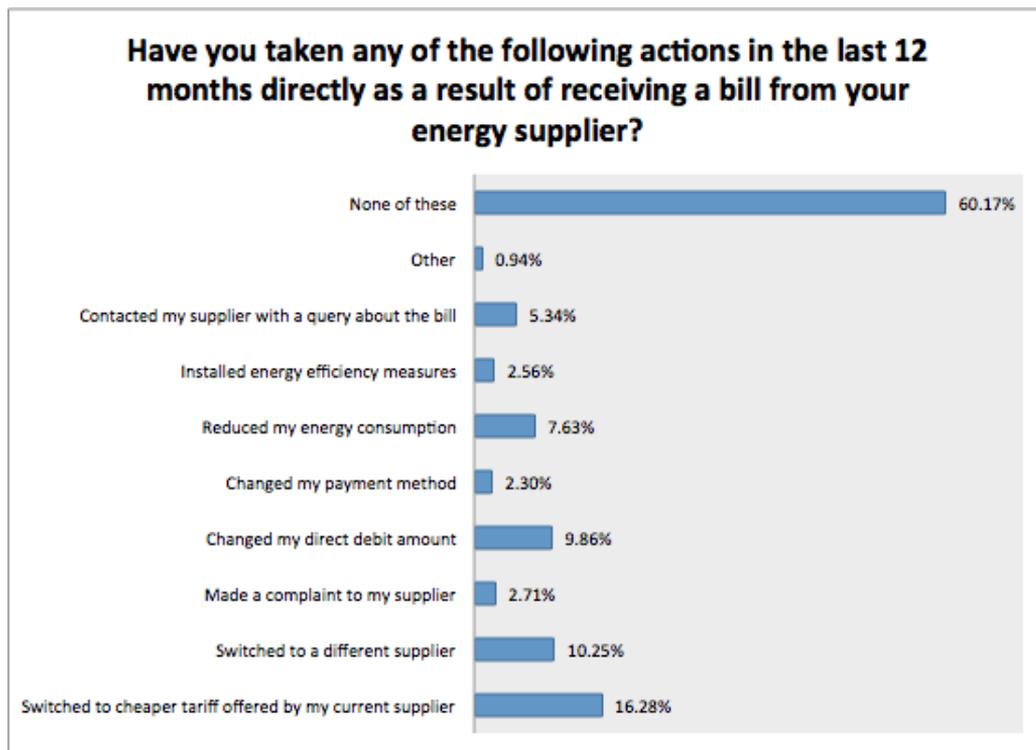
<https://www.citizensadvice.org.uk/about-us/how-citizens-advice-works/citizens-advice-consumer-work/supplier-performance/energy-supplier-performance/what-sort-of-service-can-you-expect-from-your-energy-supplier/>

GnERGY			CC	DD	
Go Effortless			DD		
Good Energy			DD/CC	DD/CC/PPM	
Green Energy UK			DD	DD/CC	
Green Star Energy			CC	DD	
iSupply Energy			CC	DD	
LoCO2 Energy				DD	
M&S Energy			DD/CC		
npower	PPM	DD	DD/CC		
Ovo Energy	PPM		DD	DD/CC	
Robin Hood Energy				DD/CC	
Sainsbury's Energy		DD	DD/CC	DD/CC	
ScottishPower	PPM		DD/CC		CC
Spark Energy	DD/PPM		DD	CC	
SSE			DD/CC/PPM		
Utilita	PPM		DD	DD/CC	
Utility Warehouse	PPM		DD/CC	DD/CC	
Zog Energy				DD	

We were recently part of the expert panel of a supplier's programme to design a simpler energy bill for its customers. Their research programme has been extensive involving multiple focus groups with customers, advice from independent experts, etc. When we received a debrief on the final bill design, we were shown copies of the proposed new bills for direct debit or quarterly cash/cheque bills. When we asked to see a copy of the bill for prepayment meter users, the supplier said that they had not designed a prepayment meter bill yet. We are unclear as to whether they had actually done any specific research with their prepayment meter customers.

Whilst this is an anecdotal example, it is also symptomatic of our organisation’s interactions with energy suppliers over the years. It has been our experience that the communication requirements and needs of prepayment meter customers are often considered an afterthought.

In August 2015, GFK carried out a survey of 8,050 consumers for Citizens Advice. Consumers were asked whether they had taken any of the following actions in the last 12 months after receiving a bill from their energy supplier.



The survey found that prepayment meter users are much less likely to take any action. Only 3.4% of prepayment meter users switched to a cheaper tariff offered by their existing supplier, compared to 20.3% of consumers paying by Direct Debit or 9.9% of consumers paying by other payment methods (eg cash/cheque). This may be linked to the lack of attractive tariffs to switch to or deeper problems with engagement or communications that don’t meet the needs of these consumers.

(a) Would this be an effective means of facilitating switches away from prepayment meters?

The CMA’s remedy proposes to annually inform customers of their right to apply for credit terms.

Suppliers are already required to send prepayment meter users an annual statement that informs them of their annual usage and highlights their right to switch supplier. Suppliers are also required to notify their prepay customers on an annual basis about a document on their website setting out the advantages and disadvantages of a

prepayment meter as well as sending them a free copy of the document upon request (SLC 28.1).

We think it is important that consumers are made aware of their rights. The easiest way of addressing this would be for this new requirement to be added to the annual statement sent to prepayment meter users. A consumer's right to switch payment method could also be more explicitly promoted via general switching messages.

If the preference is to introduce a new and separate communication requirement on suppliers, in common with our earlier comments on information remedies, we would favour greater use of trials with prepay customers to understand what are the most effective methods for reaching these households.

Our key concern about sending a separate explicit statement to all prepayment meter users is the risk that suppliers would be unwilling to transfer many households to credit terms. If these customers will simply fail a credit check, when they apply to switch to credit terms, then introducing even more explicit messaging could simply disempower or frustrate these households.

Based on the latest Social Obligations report, 34,000 gas and electricity prepay customers without any debt, applied and were refused the right to switch to credit terms in 2014.¹¹ Ofgem's prepayment review published in June 2015 indicated that the need for PPM customers to pay a security deposit, or pass a credit check before being able to switch to credit meter are likely reasons they were refused. As the vast majority of suppliers do not use security deposits, the inability to pass a credit check will be the most common reason for having their request turned down.

However within the existing prepayment meter customer base there will be more affluent households who currently use a prepayment meter, as the meter was inherited when they moved into the property. Coupled with Citizens Advice's proposed changes to the guidance for landlords¹² which would ban landlords from requiring their tenants to pay by prepayment meter, this could help a group of existing prepay users move to credit terms and access more competitive offers.

(b) What would be the most effective means of communicating this information to customers?

In addition to receiving communications from their supplier, our organisation is well placed to play a role here in encouraging consumers to switch to cheaper payment methods. We already operate outreach programmes aimed at engaging and empowering energy consumers, particularly the disengaged. Citizens Advice has also

¹¹ https://www.ofgem.gov.uk/sites/default/files/docs/2015/09/annual_report_2014_final_0.pdf

¹² Email shared with CMA on 3 September 2015 following meeting with the project team on 2 September.

committed to working with BIS to improve access to switching advice over the telephone.¹³

We also have a specific programme aimed at prepayment meter users. Local Citizens Advice are able to partner with housing associations in their area to provide targeted support and assistance to households using prepayment meters¹⁴ The project builds on the [EBDx and EBD programmes](#), which provide information to vulnerable consumers struggling to pay their bills (and frontline workers supporting consumers) about getting good deals on energy, assessing the most appropriate payment method and accessing help and advice available from energy suppliers and Government. It will also build on the 'Fair Play for Prepay' campaign to get a fairer deal for energy customers with a prepayment meter. The project will ensure that energy customers with a prepayment meter are:

- better informed about their rights
- empowered to take control of their energy, and
- better equipped to engage with their supplier.

(c) What is a suitable frequency with which to contact customers? Would this messaging be more appropriately included alongside other messages or be triggered by particular events (such as outstanding debt being paid off)?

If this remedy is introduced then a trigger point such as paying off all outstanding debt would seem sensible.

(d) Should a prompting remedy such as this be introduced directly by the CMA or should this be an area that Ofgem considers running randomised controlled trials to assess its effectiveness?

We would like to see more trials with prepayment meter users. This could help develop more effective means of communicating with prepayment meter consumers.

Remedy 21 – reform the protocol for assignment of debt on prepayment meters

Whilst we fully support the principle that indebted PPM customers should be able to access cheaper tariffs, the current DAP is highly flawed and we welcome a remedy that looks to address this.

Fundamentally, consumers who are eligible to switch under the DAP should have an equal switching experience to credit customers. They should not have to take extra steps in order for the switch to go ahead. Key to this was removing the data

¹³

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/480798/a_better_deal_for_families_and_firms_web.pdf

¹⁴

<https://www.citizensadvice.org.uk/about-us/how-we-provide-advice/our-prevention-work/financial-skills-for-life/financial-skills-for-life-what-we-do/energy-best-deal/>

protection consent requirement, which we believe was implemented during the Summer 2015.

However, it remains that the DAP is not a consumer-friendly process, as the CMA (and Ofgem) has recognised. And whilst we agree that addressing the identified points would improve the switching experience, we do not think it gets to the core of the problem. Namely, the DAP is by design cumbersome and complex for both consumers and suppliers. The current process is based on 'objecting by default', as can be seen by the 'objection letter' process. Why not a 'holding letter', which would be more consumer-friendly? These issues will be brought into even sharper relief by Ofgem's Quicker Switching programme, as the archaic procedure for switching under the debt assignment protocol will mean an even bigger gap between DAP-related and other switches than at present.

This remedy looks to address the symptoms of a flawed process but we think a more ambitious approach might be needed, at least in the longer term. This could form part of Ofgem's reforms to supplier objections more generally.

(a) Would a remedy recommending Ofgem to address the abovementioned issues be effective in ensuring that adequate changes to the DAP are implemented promptly? Or should the CMA instead use its order-making power to support Ofgem's ongoing work?

Given the slow pace of change to date, we are not confident that this remedy would deliver change promptly enough. As Ofgem noted in its 2014 open letter, industry has consistently shown a 'lack of urgency' in addressing issues with the DAP and has failed to meet commitments to review and improve the process.¹⁵ This is despite the requirement on suppliers to ensure their processes are fit for purpose, under the Standards of Conduct license condition. We believe the reasons for this are two-fold.

Firstly, the DAP process itself is cumbersome and complex, so any changes are physically difficult to implement. At least this is the impression given by industry whenever changes have been proposed. Ofgem has so far failed to make industry act within reasonable timescales as a result of this push-back.

Secondly, the DAP has been constructed around a norm of 'objecting by default', which leads to resistance whenever improvements are identified. Most of the improvements identified or made to the DAP to date have been aimed at fixing the problems this causes and the barriers this creates. The process is essentially working against its own principles. As the proposed remedy looks to improve the current DAP, rather than taking a fresh approach, this problem is not going away.

In summary, we think a remedy that looks to rely on the existing, industry-led mechanisms for improving the DAP will not deliver the required changes promptly. If

¹⁵ https://www.ofgem.gov.uk/sites/default/files/docs/2014/09/open_letter.pdf

this remedy is adopted, we think the CMA should use its order-making powers to support Ofgem's work.

(b) What is the most efficient way for Ofgem and the industry to improve the DAP process in relation to the above-mentioned areas identified by Ofgem in order to increase the switching rates of indebted PPM customers?

(c) How would this remedy interact with the other remedies to address the Domestic AEC and/or detriment?

(d) Are there other impediments to switching for indebted PPM customers – other than those identified by Ofgem – that need to be addressed? If so, what are these and how should Ofgem or the industry address them?

In order to ensure the DAP functions in the interests of householders, the consumer journey is of paramount importance. The current status quo whereby suppliers 'object by default', and consumers need to ask for their switch to be progressed on multiple occasions, is flawed and creates unnecessary confusion and stress. As we know additional hassle leads to a high dropout rate before switches can even be completed (as referenced, only about 1% of switches attempted under the DAP are successful), the current consumer-driven process is not conducive to success. The starting principle for switching under DAP should be that it is the same as all other switches. We are aware that complexities abound in the DAP process but it is our view that these should be managed by suppliers rather than consumers, particularly if the CMA's ultimate aim is to radically increase successful use of the process. Current suppliers should have systems in place to automatically log when indebted consumers are entitled to switch and handle such requests accordingly. In turn, new suppliers should provide switchers with information about what will happen to their debt to avoid misunderstandings. This way the process for switching for indebted PPM consumers will become much smoother and hassle-free.

The process described above would be commensurate with Ofgem's quicker switching programme, which will require much quicker and more efficient resolution for all objections if it is to meet its goal of next day or two day switching for most meter types by 2019. Indeed, Ofgem is currently looking at the entire objections system, which has suffered from significant misuse and abuse, with a view to reforming it in a more wholesale way. Citizens Advice believes that indebted consumers, who are often vulnerable, should have the ability wherever practical to reduce the cost of their energy and start to tackle their debt by switching to a cheaper tariff. The DAP is essential to ensuring this can be facilitated.

In tandem with these rule changes, there would need to be targeted information campaigns aimed at eligible consumers in order to urge them to act. The new arrangements would also need to be integrated into messaging from suppliers and third party intermediaries.

Financial capability can be complex for lower income households, with their inability to switch in energy often a symptom of wider financial difficulties or lack of budgeting

skills. In order to tackle these issues head on, energy suppliers should work with debt advice and financial capability charities in order to help assist consumers with their budgeting. This will not only improve consumer outcomes but also help to ensure that suppliers engender a customer base that can actually pay off their debt. Research profiling the financial pressures on indebted PPM customers and drawing out any particular difficulties they may have would be a sensible first step in moving towards this model.

Remedy 22 – A transitional ‘safeguard price cap’ for domestic prepayment customers

In our response to the July 2015 consultation on CMA proposals for a safeguard tariff to cover all SVT consumers, Citizens Advice stated that:

Our favoured approach would be for the tariff to benefit those who are a) least able to engage in the market and b) suffer the greatest detriment due to not engaging. Therefore we would favour a subset of those on default tariffs getting a bigger benefit, rather than a large group of consumers (some estimates are that up to 70% of consumers are on evergreen rates) getting a smaller benefit. In this way, the policy can start to address the fundamentally regressive nature of current arrangements whereby those least able to pay are charged the most for essential energy. It also avoids a situation whereby interests are safeguarded for consumers who have simply made a rational decision not to engage in the energy market, rather than those who have vulnerabilities which mean they genuinely struggle to do so. We believe an important distinction needs to be drawn in this instance, recognising where genuine detriment is occurring and tackling it with forensic precision. In this conception, the policy can address not only stickiness in itself but the circumstances where there is the greatest imperative to act.

As our research¹⁶ has shown, we consider that the extension of the Warm Home Discount to those consumers eligible for Cold Weather Payments would represent a better targeted approach. This approach would be consistent with the above, and also targets those groups (poorer pensioners, people with disabilities, low income families) which best reflect public opinion on who should benefit.

However, we appreciate that the proposal to focus a safeguard price cap on domestic PPM consumers has clear benefits, as it would both:

- a) Benefit directly those consumers in fuel poverty who use that payment method; and
- b) More widely, benefit those whose circumstances mean that prepayment is the most suitable payment method, but who are being penalised because of the lack of competitive pressure in the sector at present. This lack of competition is clearly demonstrated in the background material you have published.

¹⁶

<https://www.citizensadvice.org.uk/about-us/policy/policy-research-topics/energy-policy-research-and-consultation-responses/energy-policy-research/energy-tariff-options-for-consumers-in-vulnerable-situations/>

We expand on the detail of our view below.

(a) If the transitional safeguard price cap for PPM customers were set relative to other prices in the domestic retail energy markets, how should we identify an appropriate level of prices and how can we ensure the level of the cap remains appropriate for the duration of the period it is in effect?

The benchmark price needs to be competitively priced in order to provide sufficient protection for these consumers. At the same time, we also appreciate the need to avoid the elimination of competitive pressure in a sector which demonstrably lacks such pressure at present.

In line with the views we have expressed earlier, we are more attracted to the idea of any cap being set with reference to other tariffs available on the market, including non prepay, than to it being set on a cost plus basis. This approach has two advantages:

- It clearly ties any capped tariff to the wider market, so that genuine shifts in costs (such as changes in wholesale prices) are automatically reflected; and
- It avoids the challenging task of agreeing what suppliers' costs actually are – an area of long standing disagreement between suppliers and others.

It is, however, important that a sufficiently large basket of reference tariffs is included to avoid the risk of individual suppliers, or of groups of suppliers, gaming the mechanism.

(b) Could the imposition of a transitional safeguard price cap for PPM customers result in energy suppliers reducing the quality of service offered to customers on these tariffs? Is this risk reduced by prepayment customers' ability to choose alternative, unregulated tariffs or changing to a smart prepayment meter?

We recognise this concern. However, suppliers will still be subject to existing regulations and any attempts to reduce the quality of service offered to customers on the safeguard tariff could place them in breach of the standards of conduct.

(c) How should the headroom be calculated to provide the right level of customer protection while not unnecessarily reducing healthy competition?

Citizens Advice set out our view on the use of 'headroom' in our submission to the CMA on the safeguard tariff proposed in the July 2015 consultation.

Given the previously alluded to opaqueness of supplier costs, Citizens Advice is sceptical as regards the value of 'headroom'. Given the tariff would be designed to target those most disengaged from the market, it would seem logical that any such cap would create a race to the top as there would be no competitive pressure to prevent that outcome. If suppliers are not going to lose customers through the

imposition of a cap then there is no reason for them to set it with any other goal than to maximise their margin.

(d) What regulatory information would be required to set the transitional safeguard price cap?

The key information required would be prices charged for the reference tariffs, and the number of accounts, in total, associated with those reference tariffs.

This data would need to be regularly updated to reflect pricing changes. The rules for setting the safeguard cap should also clearly identify when movements in the reference tariffs would trigger a consequential movement in the safeguard tariff.

(e) How long should the transitional safeguard price cap be kept in place? Is it appropriate to include a specific sunset provision, or should there be a commitment to review the need for and level of the safeguard price cap after a certain period of time?

(f) Should the termination date of a transitional safeguard price cap remedy be linked to the roll-out of smart meters? If so then should this be done explicitly, in aggregate or on a customer-by-customer basis?

We agree that the roll out of smart meters should improve circumstances for PPM consumers. We would therefore suggest that any transitional safeguard price cap be kept in place until 2020, or however soon after that date the roll out is in practice deemed to be completed.

We would favour this approach in preference to one in which individual consumers were removed from the safeguard tariff when their smart meter is installed. There could otherwise be a risk that the consumer perception would be that smart meters are associated with more expensive tariffs, as prices could rise after smart meter installation. This could in turn result in individual PPM consumers refusing the installation of a smart meter, in circumstances where in their view the benefits of the smart meter were outweighed by the increased tariff costs.

(g) How frequently – if at all – would the level of the cap need to be reassessed?

Our preference would be six monthly or annually to give consumers some price certainty, without unduly limiting suppliers' ability to reflect changing costs.

(h) Which prepayment customers should this remedy apply to?

While it would be possible in theory to use data matching powers to identify the most vulnerable households (as above, those eligible for Cold Weather Payments), we would not favour such an approach for two reasons.

Firstly, the process would involve a degree of administrative complexity and cost to match public sector data against PPM consumers, which would delay its implementation. Data matching would also be affected by changes of address or of meter type; it is likely that many of the target group live in rented accommodation, and can therefore be expected to move house more frequently, making it difficult to keep data up to date. Further, eligible consumers who have a PPM fitted to recover debt would experience a delay in receiving support until data are updated, precisely at a time when a lower cost tariff would be of most benefit to them.

Secondly, as demonstrated by your own analysis, lack of competition affects all PPM consumers, and Ofgem's prepayment review¹⁷ states clearly that:

Although not all prepayment customers are financially vulnerable, they are disproportionately on low incomes with more than 60% of prepayment meters installed due to debt. One estimate suggests that more than a third of households with prepayment meters have one or more individuals with a long-term physical or mental health condition or disability.

We therefore consider that it would be both simpler and justifiable to apply this remedy to all prepayment meter customers.

(i) Which energy suppliers should be subject to the transitional safeguard price cap, and why? Should it be restricted to the Six Large Energy Firms, or should all retail energy suppliers be covered?

In our previous submission, we said that

We believe it [the safeguard tariff] should apply to all suppliers, including white labels. The instance of evergreen tariffs being significantly more expensive than fixed deals is most prevalent among large suppliers but is no means restricted to them. If this policy is intended to tackle disengagement and overcharging of inactive customers in a holistic way, partial market application cannot be justified.

Although the chart you provide (B1, Addendum to Provisional Findings) does not give average PPM tariffs for smaller suppliers, it clearly shows both that there is little difference between the lowest available PPM tariffs currently offered by the six larger suppliers and other suppliers. It also shows that a substantial gap remains between those currently lowest tariffs and the acquisition tariffs available to those using credit meters.

A further argument in favour of covering all suppliers is that a level playing field approach is less likely to result in competitive distortions.

17

<https://www.ofgem.gov.uk/publications-and-updates/prepayment-review-understanding-supplier-charging-practices-and-barriers-switching>

We therefore see no reason to change our earlier view. Should the safeguard tariff focus only on the PPM market, we continue to believe that it would be simplest and fairest for both consumers and the market that it should cover all suppliers.

(j) How should the transition from the current arrangements be managed? Should there be a period over which the transitional safeguard price cap is phased in? If so, how long should this period be and how should the transition work?

If this remedy is implemented, we think the transition process should be as quick as possible to ensure these consumers receive the financial benefits. In line with our responses above, this is more likely to be the case where the remedy applies to all PPM consumers and to all suppliers, rather than to a subset of either or both.

(k) Would energy suppliers have the ability to circumvent the remedy, for example, by encouraging domestic prepayment customers to switch on to less favourable, unregulated tariffs, and how could such risks be mitigated?

We considered this possibility when you raised the issue in your July 2015 consultation. At that time, we stated that:

We believe any supplier proposing to do this would be in breach of Ofgem's Standards of Conduct, specifically their duty to treat customers fairly.

As above, we see no reason to change this view. Suppliers could be obliged to regularly report the number of customers on each PPM tariff to Ofgem. If it became apparent that a supplier had a large number of customers transferring to a poorer value PPM tariff, the company could be subject to investigation.

(l) Should the CMA set the level of the transitional safeguard price caps itself, or should the CMA make a recommendation to Ofgem to do so?

Again, we considered this issue when you raised it in your July 2015 consultation:

Who is best placed to set the cap very much depends on how long it will endure for and how much nuance it requires. As a one-off exercise, the CMA is well placed, as an actor relatively removed from the energy industry, to make an objective judgement. However, if the level of the cap needs to be adjusted on an ongoing basis, we would suggest Ofgem is best placed to perform such a duty due to their proximity to issues in industry and day to day engagement with related matters. Further, Ofgem has a purview on what initiatives industry is carrying out on an ongoing basis, and how such price shifts may practically fit with other things that are going on.

Our view on this issue has not changed. If the remedy is tied to the completion of the smart meter roll out, it would likely be in place for around five years. Given the pace of change in the market, we would suggest that:

- The means of calculation of the level at which the safeguard tariff is set will need to be very clear so it remains both robust and effective over the period; and
- Ofgem is better placed than the CMA to monitor and introduce changes to the safeguard tariff over that time frame.

(m) Are there any potential unintended consequences of setting a transitional safeguard price cap, for example, in terms of their potential impact on the level of other, unregulated tariffs?

As above, we considered this issue in connection with your July 2015 consultation. At that time, we said that:

There is a danger that the cap will simply act to stop suppliers from innovating to keep costs down for themselves and consequently any consumers in receipt of the tariff. Should this situation come about, we would worry for the utility of the cap, particularly if it is set at an initial level which could be seen as favourable from suppliers' perspective.

Following from the above, the critical issue is to find the balance between a cap which provides benefits for those unable or unwilling to switch, without undermining competition in the wider market. It will therefore be critical that the cap is set with reference to a basket of tariffs, including the most competitive tariffs offered by independent suppliers.

However, it is also important that the basket of reference tariffs is sufficiently large – both in absolute numbers and in terms of consumers who have selected those tariffs – to avoid the risk of individual suppliers (or groups of suppliers) effectively gaming the system by changing prices within the reference tariff group. To avoid this, we would suggest that the number of accounts within the basket should be at least as large as the number of PPM accounts affected by the cap.