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The Current Energy Market Reforms in Great Britain

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Summary

This briefing paper covers the current energy market reforms in Great Britain. Increasing energy costs and the position of the 'big six' suppliers has meant that competition in the energy market has been high on the political agenda in recent years. A major review of the marketplace concluded in 2016 with a report from the Competition and Markets Authority. Recommendations from this report are now being implemented whilst the Government has indicated further reforms are being considered.

The energy market in Northern Ireland is separate and is not included here. The focus of the paper is on major reforms and events; it does not provide full coverage of the Competition and Markets Authority ('CMA')'s Energy Market Investigation. Members and their staff can get in touch with the Library if they require further briefing on this.

The British domestic energy market has seen a number of reforms in the past two decades, from the opening-up of the markets in 1980's-1990's to the latest interventions following the Competition and Markets Authority's Energy Market Investigation.

Successive probes and reviews of the British energy market have led select committees, Ofgem (the gas and electricity market regulator) and stakeholders to conclude that competition in this market was not "working effectively" for consumers. No evidence of "active collusion" was ever found but Ofgem ended their Retail Market Review in 2013 with a series of measures aimed at providing more clarity to consumers regarding tariffs.

In 2013, Ed Miliband announced that Labour would cap energy prices for 20 months if it won the general election. In 2014, with increased political and public interest in the energy market, Ofgem worked with the Office of Fair Trading and the CMA on a State of the Market Assessment.

Shortly after the report was published, Ofgem made an investigation reference to the CMA. It became the CMA energy market investigation. The CMA published its first set of provisional decisions on remedies on 7 July 2015 and planned to publish its final report in December 2015. Due to the volume of evidence and comments on its original findings and provisional remedies, the CMA extended the inquiry to the statutory deadline of 26 June 2016. It published its final report on 24 June 2016.

The CMA's key findings for **Domestic Consumers** were:

- Around 70% of the domestic customers of the six largest energy firms are still on an expensive 'default' standard variable tariff (SVT)
- These customers could potentially save over £300 by switching to a cheaper deal
- Customers could have been paying about £1.4 billion a year more than they would in a fully competitive market.

The principal remedies proposed by the CMA to address these challenges are:

- Ordering suppliers to give Ofgem details of all customers who have been on their default tariff for more than 3 years, which will be put on a secure database under Ofgem control to allow rival suppliers to contact customers.

- Introducing a temporary safeguard price control to protect customers on prepayment meters, whose options are more limited, which would reduce their bills by a total of £300 million a year.
- Enabling price comparison websites (PCWs) to play a more active role in helping customers find the best offers for them and give access to meter data which will enable customers to search instantly for deals.

Unusually for an investigation by the CMA, there was one dissenting member of the investigating panel for one part of the proposed domestic market remedies.

Reactions to the CMA's findings were mixed but the Government is committed to take forward the recommendations. The Department for Business, Energy and Industrial Strategy (BEIS) announced on 14 December 2016 that Ofgem was also publishing "an energy supplier league table to increase transparency on the numbers of people on expensive standard variable tariffs."

Ofgem also recently launched a Supplier Cost Index. Drawing on publically-available information, it estimates ongoing trends in the main elements of cost that a supplier incurs in supplying a typical domestic customer with gas and electricity. The aim of this index is to increase transparency in the energy market and help consumers understand what is behind trends in prices.

The number of energy suppliers has grown in the last six years, from 14 to 48 as of March 2017, as the so-called 'big six' - Centrica plc (British Gas), EDF Energy, E.ON, SSE, Scottish Power and Npower – have seen their share of the market decline.

However, it is still viewed that the market could be more competitive, and support consumers in accessing lower prices. For example, the CMA has found that between 2004 and 2014 average annual domestic gas prices rose by around **125%** in real terms over the period, and domestic electricity prices by around **75%**.

Moreover, and despite Ofgem's warning about increasing prices, five of the 'big six' have announced since December 2016 that they were increasing their energy prices. This led the Members of Parliament John Penrose, Caroline Flint, Patricia Gibson, Caroline Lucas and Mr Roger Godsiff to apply to the Backbench Business Committee for a parliamentary debate on energy prices. The debate will take place on 16 March 2017.

1. Background: How the GB domestic energy market works

1.1 When did competition start

Prior to privatisation from the 1980's, electricity was supplied to households though 14 regional electricity companies (previously area Boards). Gas was supplied by British Gas.

British Gas was privatised in 1986 through the *Gas Act 1986* which privatised the British Gas Corporation and established the industry regulator, the Office of Gas regulation (Ofgas).

The supply and generation of British electricity was privatised from 1989 through the *Electricity Act 1989*. It provided the framework for the restructuring and privatisation of the electricity supply industry in England and Wales and Scotland together with the establishment of the industry regulator, the Office of Electricity Regulation (OFFER).[1]

1.2 Who are the energy suppliers

In the years since privatisation of the energy industry, there has been considerable restructuring and consolidation resulting in the existence of the 'big six' energy companies – Centrica plc (British Gas), EDF Energy, E.ON, SSE, Scottish Power and Npower – which have merged power generation, distribution networks and the supply businesses of the original companies. As a result, they became vertically-integrated and all now supply gas as well as electricity.

GB energy supply

Since energy markets were privatised in the 1980s-1990s, the number of energy suppliers has varied from the original 15; there are 48 suppliers as of 2 March 2017.

As of September 2016, there were forty-eight active licensed energy suppliers, forty of which supply both gas and electricity to the domestic retail market.[2] Six of these suppliers - British Gas, EDF, E.ON, Npower, Scottish Power and SSE - are traditionally referred to as 'the Big Six', because of their vertically-integrated structure[3] and their majority position in the retail market (see below). While there are a large number of suppliers, a small number supply the majority of consumers.

Between 2004 and 2011, the number of active suppliers had remained stable. It substantially increased from 2011 onwards, jumping from 14 to 20 suppliers in a year. [4]

1 For more details on the privatisation of British industries, see the House of Commons Library briefing paper on *Privatisation.*
2 Ofgem, *Infographic: Bills, prices and profits*, 2 March 2017
3 Vertical integration is the merging together of two businesses that are at different stages of production or distribution in the same industry. In the context of energy supply, the 'Big Six' are vertically-integrated because they both generate and distribute the energy they sell.
4 Ofgem, *Data portal – Retails highlights at February 2017,* 'Our interactive retail market indicators, Market structure – Chart: Number of active domestic suppliers by fuel type (GB)'

1.3 Who dominates the domestic market

At 2 March 2017, the 'big six' were supplying about 85% of all British domestic electricity and 84% of all domestic gas.[5] This has declined since 2012 – the last time they had the largest share of the market – when the Big Six supplied over 95% of the domestic energy market.[6]

Smaller suppliers have grown significantly since 2012 and reached a 16% market share as of 2 March 2017.[7] Six of these (Utility Warehouse, OVO, First Utility, Utilita, Extra Energy and Cooperative Energy) have increased their individual market shares above 1%, with First Utility reaching over 3%.[8]

The 'big six'

British Gas, EDF, E.ON, RWE Npower, Scottish Power and SSE supply 84.5% of all domestic gas and electricity as of 2 March 2017.

1.4 Who regulates the market

In recognition of the changing energy market, the two original regulatory bodies (OFFER and Ofgas) were merged to form the Office of Gas and Electricity Markets (Ofgem) in November 2000. Ofgem is now the only electricity and gas market regulator.[9]

1.5 Price controls

Price controls for domestic energy consumers were introduced at privatisation of the electricity and gas companies from the mid-1980s and early-1990s. Supply price controls were removed in the market in Great Britain several years after the introduction of competition for domestic consumers in the late 1990's.

Energy prices are therefore no longer capped and suppliers operate in a competitive market where they set their own prices and consumers can make a choice of supplier based on price and also service.

Consumers are faced with a mix of tariffs. A 'standard rate' refers to a consumer who has not changed supplier, is supplied by the previous 'incumbent for their region', or has ended a 'fixed term' tariffs. Firms have the ability to create other tariffs to attract or retain customers – there is no requirement that all customers of a company have to be on the same tariff (see section 3 below for more detail)

1.6 The evolution of energy prices

Energy prices can be accounted for in different ways. The Retail Prices Index (RPI) gives monthly values for selected fuels but does not give actual energy costs to customers. The most meaningful indicator in this respect is the average bill for a 'typical' customer. BEIS and its predecessor departments have published this series back to 1990.

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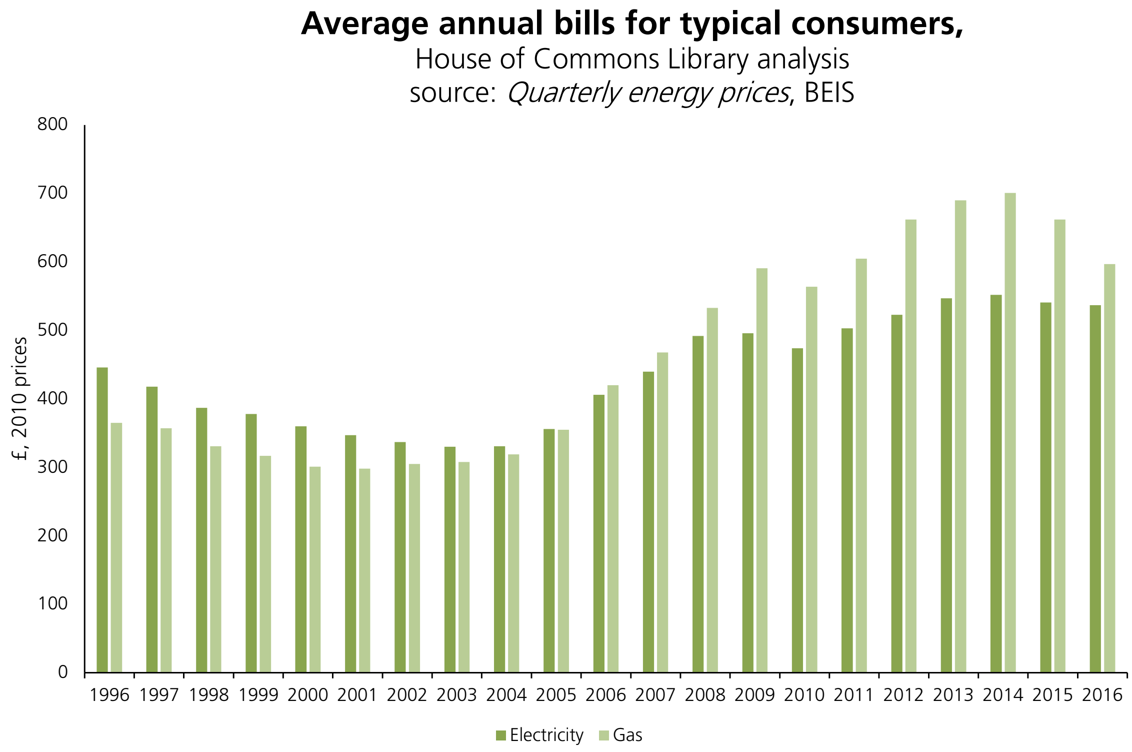
5 Ofgem, *Infographic: Bills, prices and profits*, 2 March 2017
6 Ofgem, *State of the Market Assessment 2014*, Figure 3 and 4
7 Ofgem, *Infographic: Bills, prices and profits*, 2 March 2017
8 Ofgem, *Retail energy markets in 2016*, 'Figure 2.1: Share of GB domestic meter points served by different types of supplier - 2006 to 2016, and snapshot for March 2016'
9 Ofgem's role is distinct from that of National Grid. National Grid are the owner of the electricity and transmission system in England and Wales.



The cost of gas and electricity can vary according to supplier and type of payment. According to the former Department of Energy and Climate Change (DECC)[10] the average gas bill for 2015 in cash terms across all payment methods was £715.

The average standard credit gas bill fell by a total of £102 (in 2015 prices) between 1991 and 2001 (22%), but had subsequently increased by £336 by the year 2016.

The average electricity bill in cash terms for 2015 was £559-£624, depending on payment method. Average bills have followed a similar trend to the RPI data with consistent real falls in average standard credit bills totalling £174 in 2015 prices (31%) between 1992 and 2003, and a £238 increase between 2004 and 2014.

In 2016 average electricity bills remained virtually unchanged compared to 2015.[11]The Competition and Markets Authority (CMA) stated that energy prices were a key driver for its investigation launched in 2014. It said that between 2004 and 2014 average annual domestic gas prices rose by around 125% in real terms over the period, and domestic electricity prices by around 75%. It noted that though there was no consensus on exact reasons there was "a concern that current price levels may be generating excessive profitability for energy generators and suppliers".[12]

Ofgem had recently issued a warning to the 'big six' against increasing their standard tariffs, saying there was "no obvious" reason for them to

Customer bills in 2016

In 2016, the average standard credit gas bill rose by £336.

The average standard credit electricity bill remained essentially the same over 2016.

10 Now Department for Business, Energy and Industrial Strategy (BEIS)
11 House of Commons Library analysis
12 CMA, *Modernising the Energy Market*, 24 June 2016, p 1.

do so.[13] Dermot Nolan, Ofgem chief executive, said the big companies' standard variable tariffs "should be largely insulated from wholesale cost increases because they tended to buy energy at least 18 months in advance" and should therefore not offset rises in wholesale costs and levies on customers' bills.[14]

Despite Ofgem's warning several energy suppliers have announced price rises:

- E.ON announced on 7 March 2017 it was raising its standard tariff by an average 8.8% from April 26, adding £97 to a typical annual dual-fuel bill.[15]
- Scottish Power said in February 2017 it would raise its prices by 9.8%[16]
- Npower announced the same month it would increase prices by 9.8%[17]
- EDF Energy announced a 1.2% increase in December 2016[18]
- On 13 March 2017, SSE became the latest 'big six' to announce a price increase: 14.9% for electricity (a £73 annual bill rise) while gas prices will remain unchanged.[19]

Ofgem subsequently qualified its warning to the 'big six', stating that the warning had been issued at a time where the data available did not seem to justify price increases across the market. Since then, Ofgem's Chief Executive Dermot Nolan told the BEIS Committee that there could be reasons for some firms to raise their prices if they were less efficient than others at absorbing rises in wholesale costs.[20]

1.7 The energy trilemma

The energy sector faces three conflicting pressures (sometimes referred to as the 'energy trilemma'):

- Firstly, consumers grew accustomed to cheap energy in the years after the liberalisation of the domestic gas and electricity markets around the turn of the century. But in more recent years, particularly since the recession, many households have been struggling with price increases.
- Secondly, the UK faces a challenge in delivering its future energy requirements. In the long term DECC has estimated that electricity capacity will need to grow as demand is likely to increase by between 30 and 100 per cent by 2050.

The 'energy trilemma'

- Keeping energy bills down
- Meeting energy demand
- Reducing greenhouse gas emissions

13 The Times, 'Ofgem warns Big Six firms against raising energy prices', 20 January 2017
14 Ibid.
15 The Times, 'MPs turn up heat as energy firms rai prices', 8 March 2017
16 Ibid.
17 Ibid.
18 The Times, 'MPs turn up heat as energy firms rai prices', 8 March 2017
19 BBC News, 'SSE to raise electricity prices next month', 13 March 2017
20 BEIS Committee, *Oral evidence: CMA's investigation of the UK energy market*, HC 982, 22 February 2017,

- Thirdly, the UK is committed to reducing its greenhouse gas emissions by at least 80% in 2050 under the Climate Change Act 2008.

In other words, energy must become low carbon, while remaining affordable to consumers and attractive to investment.

2. Reviews of the energy market and a CMA investigation

2.1 Probes and reviews of the energy market

In 2008, the 'big six' raised their energy prices between 8% and 17% following sharp rises in wholesale costs. The Business and Enterprise Committee launched an inquiry into Energy prices, fuel poverty and Ofgem due to concerns that energy markets were not operating competitively and in the best interests of domestic and industrial consumers. The inquiry was also focused on the impact of price increases on the fuel poor (those who spend more than 10% of their incomes on heating and electricity) and the likelihood of the Government fulfilling its pledge to eradicate fuel poverty by 2010.[21]

Is competition working?

Several probes into the British energy market found no evidence of active collusion in the wholesale or retail markets; but they all found that competition wasn't working well for consumers.

In their final report, the committee criticised the functioning of energy markets:

> There has been a widening gap between companies' direct debit tariffs, and those for standard credit and prepayment meters (PPM). Nine years after liberalisation, this suggests a serious failing in the competitiveness of the market.[22]

The committee received no evidence of active collusion in the wholesale or retail markets but it found that competition was distorted:

> It is clear, though, that in a retail market dominated by six major players, it is easy for those players to make informed judgements about the behaviour of their competitors. This alone can distort competition. The regulator therefore needs to remain very watchful.[23]

Shortly after the committee announced its inquiry, Ofgem launched an Energy Supply Probe – an investigation into competition in the energy markets. The committee was "surprised"[24] by the timing of the announcement but urged Ofgem to pursue its probe and pass the matter quickly to the Competition Commission if no satisfactory resolution was found.

The Probe found that although there was no evidence of active collusion, "the market was not working in the best interests of consumers."[25] Ofgem responded with a series of measures aimed at improving consumer engagement and addressing price differentials.

However, two years later in 2010, Ofgem acknowledged that "many of the barriers to effective consumer engagement remained" and launched another investigation - the Retail Market Review[26] which led to another series of measures:

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[21] Business and Enterprise Committee, *Energy prices, fuel poverty and Ofgem*, Eleventh report of session 2007-08, Vol. I, 16 July 2008

[22] Ibid., p.37

[23] Ibid., p.3

[24] Ibid., p.6

[25] Ofgem, *Energy supply probe* [accessed 13 March 2017]

[26] Ofgem, *Retail Market Review* [accessed 13 March 2017]

- Limiting the number of tariff choices a consumer would face.
- Standardising tariff structures.
- Creating rules designed to simplify bundles, discounts and reward points.
- Proposals to facilitate collective switching.
- Providing consumers with transparency on white label suppliers.[27]

Ofgem also introduced legally binding Standards of Conduct for all energy suppliers to treat customers more fairly and new rules for communications on alternative tariffs available to consumers.[28]

2.2 Political pressure and developments in the run up to the 2015 General Election

The possibility of the re-introduction of some form of price control was suggested by the Labour party on 24 September 2013. Ed Miliband announced plans to freeze energy bills for 20 months if Labour won the next general election. Labour said the move would save average households £120 and businesses £1,800 – but would cost energy companies £4.5 billion.[29]

A cap on energy prices

In 2013, Ed Miliband announced that Labour would cap energy prices for 20 months if it won the general election.

The proposal would have been part of wider plans to change market regulation and ensure 'fairer' prices for customers.[30] The proposals chimed with calls from consumer organisations but were criticised by some energy companies. Scottish Power, for example, warned that price freezes would deter the investment required to meet future energy needs.[31]

In 2014, with increased political and public interest in the energy market, Ofgem worked with the Office of Fair Trading and the CMA on a State of the Market Assessment. They found that:

> 1.20. In summary, we have found **weak competition** between incumbent suppliers. This arises from **market segmentation** and possible **tacit coordination**. While we might expect competitive pressure from consumers or new suppliers, we have also found **barriers to entry and expansion** (including vertical integration) and **weak customer pressure**.
>
> 1.21. These features combine and reinforce each other to deliver poor outcomes for domestic consumers. Small businesses are also affected by these features – the smaller the size of business customer, the more similar their outcomes are to domestic consumers. Many of these features were identified in the Probe in 2008 and have persisted since then. Some have become worse

27 Ofgem, *The Retail Market review – Implementation of Simpler Tariff Choices and Clearer Information*, 27 August 2013, pp.7-8
28 Ibid.
29 BBC News website, 'Ed Miliband: Labour would freeze energy prices', 24 Sept 2013
30 BBC News website, 'Ed Miliband's letter to energy firms', 25 Sept 2013
31 Guardian, 'Scottish Power warns Labour's energy price freeze would hit investment in UK', 1 October 2013

> since the Retail Market Review was carried out in 2011. We set them out in more detail below. [32]

Shortly after the report was published, Ofgem made an investigation reference to the CMA. It became the CMA Energy Market Investigation.[33]

The CMA Energy Market Investigation

In June 2014, Ofgem made an investigation reference to the CMA. This launched what would become the CMA Energy Market Investigation.

At the 2015 General Election, the Labour Party kept its commitment to freeze energy prices until 2017 and reform the energy market by

- creating an Energy Security Board
- forcing the 'big six' to separate their generation and supply businesses
- making the power exchange more transparent
- creating a new energy watchdog
- ending automatic rollover contracts for expensive tariffs[34]

The Conservative party ran its campaign on encouraging more competition in the energy market by

- implementing the CMA's recommendations, ensuring every home has a smart meter by 2020
- enabling customers to switch supplier within one day
- supporting energy efficiency measures[35]

2.3 Investigation by the Competition and Markets Authority (CMA)

The various interventions to reform energy markets have culminated in the reference by Ofgem to the Competition and Markets Authority (CMA) to conduct an Energy Market Investigation in June 2014. In referring the matter to the CMA it was intended to be a once and for all investigation as to whether or not there are further barriers to effective competition because the CMA has more extensive powers that can address any long-term structural barriers to competition.

The CMA published its first set of provisional decisions on remedies on 7 July 2015 and planned to publish its final report in December 2015.

Due to the volume of evidence and comments on its original findings and provisional remedies, the CMA extended the inquiry to the statutory deadline of 26 June 2016.

It published its final report on 24 June 2016.

32 Ofgem, State of the Market Assessment, 27 March 2014
33 CMA, Energy market referred to CMA, 26 June 2014
34 Labour Party, *The Labour Party Manifesto 2015, Britain can be better*
35 Conservative Party, *The Conservative Party Manifesto 2015, Securing you home and neighbourhood*, p.56-57

2.4 Key findings

The CMA's key findings for **Domestic Consumers** were:

- Around 70% of the domestic customers of the six largest energy firms are still on an expensive 'default' standard variable tariff (SVT)
- These customers could potentially save over £300 by switching to a cheaper deal
- Customers could have been paying about £1.4 billion a year more than they would in a fully competitive market.

The principal remedies proposed by the CMA to address these challenges are:

- Ordering suppliers to give Ofgem details of all customers who have been on their default tariff for more than 3 years, which will be put on a secure database under Ofgem control to allow rival suppliers to contact customers.
- Introducing a temporary safeguard price control to protect customers on prepayment meters, whose options are more limited, which would reduce their bills by a total of £300 million a year.
- Enabling price comparison websites (PCWs) to play a more active role in helping customers find the best offers for them and give access to meter data which will enable customers to search instantly for deals.

Key CMA remedies

- A customer database
- A price cap for prepayment meters
- Strengthening PCWs' role

Unusually for an investigation by the CMA, there was one dissenting member of the investigating panel for one part of the proposed domestic market remedies. The member in question, Martin Cave, felt that "the retail remedy package was unlikely to succeed in reducing" the issues identified with the market without the implementation of a "short-term price cap, covering a substantially larger number of customers".[36]

On the **Regulatory Framework** the CMA's proposals include:

- Giving Ofgem much greater influence over the detailed codes that govern the working of the market – and which currently give undue influence to established industry participants over decisions that affect competition and consumers
- Giving more powers to enable Ofgem to scrutinise the performance of the market and suppliers as well as the impact of policy

2.5 Reactions and Government response

The Government has not formally responded to the CMA's final report yet but has said on multiple occasions that it was "carefully considering

36 CMA, *Energy market investigation – Summary of final report*, para.339

the recommendations of the [CMA] and [would] be responding soon."[37] In March 2016 the Government had also repeated its commitment to take forward the CMA's recommendations.[38]

The Government had responded to the July 2015 provisional decisions on remedies in a letter from the then Secretary of State Amber Rudd to the investigation panel chair Roger Witcomb. In this letter, the Government was broadly supportive of the CMA's provisional findings and announced some of the measures it would be taking with Ofgem to deliver next day switching by 2018, develop a switching guarantee, lay out the foundations for a customer database and provide face-to-face advice to vulnerable customers.[39]

Reactions to the final report from stakeholders were mixed. Cornwall Energy, a consultancy firm, said that the CMA deserved a 'The Thick of It media management prize' for releasing the final report on the day after the referendum.[40] *The Times* reported industry claims that the total cost of the CMA investigation—including its impact on industry—could be in excess of £80 million.[41] The Times quoted Utilita Energy's (a medium supplier) Managing Director as saying that the company had spent more than £1 million dealing with the CMA, including legal advice, economic advisors and the cost of consultants to complete submissions. It also reported that the 'big six' companies had spent several times that each on lawyers and advisors.

In evidence given to the Energy and Climate Change Committee, Which? and Energy UK said that they thought that the timing of the report's publication was not cynical and was probably more a case of bad timing. In response, the CMA told the Committee that their investigation ran up against the statutory 24 month deadline, which explained the timing of the report's release and said that it reflected the amount of work required in terms of analysis, the breadth of issues to cover and the need to get right order-making processes. The CMA thought that this explained the costs and resources used during the investigation, which it argued had been used very efficiently.[42]

On 5 July 2016, the former Energy and Climate Change Committee (ECCC) invited witnesses to consider the CMA's proposed remedies and the issues they sought to address. Citizens Advice expressed their support for the CMA remedies, "many of them reflect[ing] [their] longstanding policy positions" but said they remained concerned that they would not do enough for those households that "lack confidence in their ability to get a better deal."[43]

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37 *PWQ 62988*, 8 Feb 2017
38 *PWQ 31024*, 18 March 2016
39 DECC, Policy paper, DECC's response to the CMA Provisional findings in the energy market investigation, 31 July 2015
40 Cornwall Energy, Have domestic energy supply costs bottomed out?, accessed 30 June 2016
41 *The Times*, 'Investigation into energy market 'may top £80m'', 23 June 2016
42 Energy and Climate Change Committee, *Oral evidence: Competition and Markets Authority's Proposals*, (HC 315; 5 July 2016), pp 24-25.
43 Ibid., p.2

Professor Waddams from the University of East Anglia's Centre for Competition Policy expressed "major reservations" and scepticism regarding the capacity of "untested" remedies to change the market process and thus deliver benefits to consumers.[44]

Energy UK, an energy membership body, said they were "broadly supportive of the recommendations" but had some reservations over "how some of this might work in practice".[45]

[44] Ibid., p.3
[45] Ibid., p.3

3. Price competition and tariffs

3.1 Price increases and standard variable tariffs – the issue

Gas and electricity are examples of homogenous products in that the energy that customers consume is entirely unaffected by the choice of retailer. The homogeneity of the product results in customers being less interested in engaging – by shopping for better prices – in the markets for electricity and gas supply than in other markets, where there is a clear quality differentiation of products.[46] Price is thus the most important product characteristic to a customer in choosing a supplier and/or a particular tariff in the absence of any quality differential of the actual product.[47]

The homogenous nature of energy products creates several barriers to consumers engaging with price competition. The issue was recently summarised by Anna Turley during an evidence session of the BEIS committee:

> […] I know, pretty much, when I go to the supermarket, what the cost of a pint of milk is. I do not want to go tomorrow and find out there is an extra 40p and then the following day it is back again. I cannot trust a supermarket that does that. I know what I am going to buy.
>
> Whereas with the energy market, you feel totally blind, as a consumer, as to what is happening, what the pressures are or what your bill is going to be from one month to the next. I find the phrase "engaging with the energy market" strange. I do not engage with my supermarket. I go and have a transaction. It is really important that the industry looks at it from the consumer perspective.
>
> There are those of us who just want to get home, turn the lights on and put the heating on. That is the way most people function. We are not going to have a functioning market if you are relying on people to be looking at their bills every week, looking around the market and spending time online choosing the best deal. It is just not going to happen.[48]

The issue:

- 2004-2014: 125% real term increase in average annual domestic gas prices; 75% for electricity
- 70% of Big Six's domestic customers are on expensive SVTs
- 56% of people surveyed have never switched supplier, did not know it was possible or did not know if they ever did.

Between 2004 and 2014, average annual domestic gas prices rose by around **125%** in real terms over the period, and domestic electricity prices by around **75%**.[49]

Yet, according to the CMA the majority of British energy consumers are on expensive default tariffs: at present around around **70%** of the domestic customers of the 'big six' are still on an expensive 'default'

46 This is supported by evidence from a survey of 7,000 customers by the CMA as part of its energy market investigation - see para. 93 of *Summary of final report*, 24 June 2016,

47 CMA *Summary of final report*, 24 June 2016,para 93

48 BEIS Committee, *Oral evidence: CMA's investigation of the UK energy market*, HC 982, 22 February 2017, Q134

49 CMA, *Modernising the Energy Market*, 24 June 2016

standard variable tariff (SVT). [50] This means that rather than shopping around for better deal, most energy consumers do not engage with the array of tariffs available to them.

The CMA also found via a survey that of 7,000 domestic customers, 34% of respondents said they had never considered switching supplier and 56% said they had never switched supplier, did not know if it was possible or did not know if they had done so.[51]

Research by Ofgem shows that between January 2016 and December 2016, 3.3 million of gas customers and 4.4 million of electricity customers switched suppliers.[52]

The same research shows that consumers who have never switched could save around £200 per year on their energy bills if they did.[53]

To tackle the issues with price competition, the CMA, Ofgem and the Government are implementing a series of CMA remedies, some of which are laid out in the rest of this section against the price competition issue they aim to address.

3.2 CMA remedy: Number of tariffs available

Issue: Research by Ofgem shows that at January 2017, the average standard variable tariff (hereafter 'SVT') with one of the 'big six' for a dual-fuel direct debit paper account cost around £1,066 per year, as opposed to £834 per year with the cheapest available tariff for a dual-fuel paperless direct debit account.[54]

In the past, it was thought that one of the barriers to customers switching to cheaper tariffs was the large number of tariffs on offer and the difficulty of making meaningful comparisons and deciding on the best deal. There was, therefore, a long standing push by Ofgem towards clearer bills and fewer tariffs.[55]

CMA remedy: reversing the restrictions on the number of tariffs available to enable greater innovation in the tariff offers to customers.

CMA remedy

Remove the cap on the number of tariffs to support innovation and price competition

The CMA believes that allowing energy suppliers to innovate with a range of tariffs aimed at meeting the varying needs of customers is preferable to Ofgem's policy of restricting the number to only four tariffs for each fuel which it felt softened competition between suppliers and price comparison sites.

Ofgem action: Ofgem have modified gas and electricity suppliers' standard licence conditions and removed those Licence Conditions concerned with the four tariff rule on 28 November 2016.[56]

50 Press release *CMA publishes final energy market reforms*, 24 June 2016
51 CMA, *Modernising the Energy Market*, 24 June 2016
52 Ofgem, *Infographic: Bills, prices and profits*, 2 March 2017
53 Ibid.
54 Ibid. Most energy suppliers offer discounts to consumers who switch from paper billing to paperless account management.
55 See section 1 for a history of market reforms
56 Ofgem *CMA Remedies Implementation Plan*, 9 November 2016, p.5

3.3 CMA remedy: Better information on tariffs

Issue: Consumer groups have criticised the difficulties for consumers of finding what is the 'cheapest tariff" available, as noted above, and this has led to varying political commitments to help consumers find the cheapest tariffs and move away from the more expensive SVTs. [57]

Findings from a consumer panel led by Ofgem showed that a lack of standardisation in how tariffs and tariff information are presented was a cause of confusion and led to a feeling of disempowerment amongst consumers who were bewildered by the amount of choice**.** [58]

The *Retail Market Reforms* included a "clearer information requirement – to help customers understand the information they receive from suppliers."[59] This requirement also included the requirement that consumers' bills include what is 'the cheapest tariff' of their supplier.[60]

CMA remedy: the CMA has recommended that the 'clearer information' requirement be changed so that "customers are provided with information on cheaper tariffs in the market (as opposed to restricting it to the supplier's own cheap tariffs); such a measure would avoid the perverse incentives that the current Cheapest Tariff Messaging provisions create (namely the perverse incentive not to discount so as to avoid alerting the supplier's existing customer base to better deals)."[61]

CMA remedy:

Clearer information on tariffs

Ofgem action: Ofgem plan to introduce new rules on better information provision by spring 2017. [62]

The Department for Business, Energy and Industrial Strategy (BEIS) announced on 14 December 2016 that Ofgem was also publishing "an energy supplier league table to increase transparency on the numbers of people on expensive standard variable tariffs."[63]

Ofgem also recently launched a Supplier Cost Index. Drawing on publically-available information, it estimates ongoing trends in the main elements of cost that a supplier incurs in supplying a typical domestic customer with gas and electricity. The aim of this index is to increase transparency in the energy market and help consumers understand what is behind trends in prices.

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57 DECC press release 11/076 *More teeth for Ofgem, more rights for energy consumers* 20 September 2011
58 Ofgem *State of the Market Assessment* 27 March 2014 para 3.12
59 CMA *Energy market investigation: Final report,* para 8.74
60 Ibid para 8.76
61 Ibid para 12.395
62 Ofgem *CMA Remedies Implementation Plan,* 9 November 2016, page 5
63 BEIS *An energy supplier league table is to be published to increase transparency on the numbers of people on expensive standard variable tariffs* 14 December 2016

Supplier (1)	Number of customer accounts on standard variable tariffs (2)	Proportion of customer base on standard variable tariffs (%) (3)	Average annual cost of a standard variable tariff (£) (4)	Difference between a supplier's standard variable tariff and its cheapest tariff (£) (5)	Difference between a standard variable tariff and the average of the cheapest tariffs from the 10 cheapest suppliers (£) (5) (6) (7) (8)
British Gas	6,639,056	74%	1,044	129	166
Co-operative Energy	96,158	42%	1,121	245	244
EDF Energy	1,943,277	56%	1,069	136	192
E.ON	3,170,499	73%	1,057	41	179
Extra Energy	36,641	14%	1,130	154	252
First Utility	175,208	19%	1,071	157	193
Npower	1,737,642	59%	1,077	180	199
Ovo	225,952	35%	1,064	67	186
ScottishPower	1,541,307	50%	1,081	129	203
SSE	3,864,044	91%	1,068	98	190
Utility Warehouse	503,955	94%	1,012	150	134

Source: Ofgem, *Standard variable rate tariff information*, accessed 14 March 2017

Notes: Pricing information sourced from Energylinx as at 28 November 2016. All prices include VAT. Customer accounts information based on Ofgem data, received from suppliers for March 2016. All information is based on the most recent complete data Ofgem holds and it will be updated periodically.

4. Helping customers to switch energy suppliers

4.1 Reluctance to switch

Switching is one of the key ingredients keeping the energy market competitive. In theory, consumers voting with their feet over which energy company they use should help keep energy firms on their toes – competing on pricing to attract new customers and retain their existing ones. But many consumers are reluctant to switch.[64]

The customer survey commissioned by the CMA identified reasons why consumers did not consider switching suppliers as follows:

> Satisfaction with current tariff and general apathy tended to be the two most frequently given reasons by those consumers who did not even consider switching supplier.
>
> Around two in five of those who thought it was possible to switch supplier but had never considered doing so said they had not switched supplier for cost/tariff reasons (46%) and in particular as their current tariff was satisfactory (41%); whilst more than a quarter (27%) were put off switching supplier because the process of searching and switching to an alternative was seen as arduous. [65]

In a similar vein, the survey found a number of barriers to switching among consumers linked to

> {…] the perception that the process of searching for alternatives takes too long (37%) and requires too much effort (23%).
>
> Many consumers do not feel the likely gain justified the time/effort involved in shopping around, nearly three quarters (73%) of customers who had considered switching but had not shopped around agreed that switching is a "hassle I do not have time for" (56% agreed on average).[66]

Another survey undertaken for Consumer Futures found:

> […] a high proportion of those who had switched would not switch again. [67]

To tackle the issues with price competition, the CMA, Ofgem and the Government are implementing a series of CMA remedies, some of which are laid out in the rest of this section against the price competition issue they aim to address.

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64 Consumer Futures *Switched on? Consumer experiences of energy switching* , January 2013

65 *Energy Market Investigation* A report for the Competition and Markets Authority by GfK NOP. February 2015

66 *Ibid*

67 Consumer Futures *Switched on? Consumer experiences of energy switching* , January 2013

4.2 CMA remedy: creating an Ofgem-run customer database

Issue: Up to 55% of the customers of the Big Six have been on an SVT with the same supplier for more than three years; this amounts to about 10 million customers.[68] As mentioned in the previous section, these customers pay the most expensive price for their energy.

CMA remedy: To encourage these reluctant customers to participate in the market by switching suppliers, the CMA's principal reform is for Ofgem to create a 'database' of customers who have been on the standard variable tariff (or any other default tariff) for three or more years of each of the main suppliers – the 'Disengaged Domestic Customers.'

CMA remedy

Creating a database of disengaged customers

Ofgem would then disclose this data to rival suppliers. Customers would be able to opt out of the disclosure process at any time.[69]

The CMA recognise concerns that creation of such a database might lead to the possibility of 'mis-selling' to customers and they said:

> Customers will have the right to opt out beforehand to avoid receiving communications by post, and will only be contacted electronically if they explicitly opt in to such communications.[70]

CMA and Ofgem action: The CMA has published the Order implementing the database, together with an explanatory note. The Order came into force on 15 December 2016. It adds additional Licence Conditions for electricity and gas suppliers that have been implemented by Ofgem.

Reaction to the recommendation was tested at a hearing with the then Energy and Climate Change Committee on 5 July 2016, where the CMA emphasised that the Database would not be used for doorstep selling.[71]

4.3 CMA remedy: helping customers with 'restricted' meters to switch suppliers

Issue: A variety of types of electricity meters are in use in the UK. The majority of domestic customers use a 'single rate' meter, which results in all units of electricity being billed at one 'rate' or price. The next most frequent meter is a 'two rate' meter, which often measures units used for a seven hour period at night on one rate and then the remainder of units used on a 'day rate'. These are commonly known as Economy 7 meters.

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68 CMA *Energy market investigation: Summary of final report*, 24 June 2016 para 232

69 *CMA Energy market investigation: Summary of final report, 24 June 2016* para 233

70 CMA *Energy market investigation: Summary of final report*, 24 June 2016 para 234

71 Energy and Climate Change Committee, Oral evidence *Competition and Markets Authority* 5 July 2016 Q75

Other types of two-rate or more meters exist, often dating back to tariffs and schemes introduced in specific regions by the energy supplier prior to privatisation. [72]

Competition for supplies beyond single rate and standard seven hour 'two rate' has been problematic.

Customers with these types of so called 'restricted' meters, principally those with Economy 7, Economy 10 and dynamic teleswitching (DTS) meters, have faced particular difficulties in switching and accessing information on different tariffs available. Some of the barriers are:

- the requirement imposed by suppliers on some customers on restricted meters to replace their existing meter with a single-rate or Economy 7 meter, which may be at a cost to the customer, to be able to switch to a wider range of tariffs;
- the fact that changing meter might also involve some rewiring in the home; and
- the fact that a restricted meter replacement (particularly to a single rate meter) may entail a loss of functionality to the customer, and possibly higher tariffs in the future, with no option of reverting back to their old meter.[73]

The number of customers affected is significant. Ofgem estimated that there are some 500,000 customers on dynamic teleswitching (DTS) meters. [74]

CMA remedy:

- require all suppliers (through an Order and a new Licence condition) to make all their electricity single-rate tariffs available to all domestic customers on restricted meters, and to ensure that switching to these tariffs cannot be made conditional on a restricted meter being replaced; and
- ensure that domestic customers on restricted meters have access to information on the options available to them. [75]

CMA remedy

Remove barriers to switching for customers on restricted meters

Ofgem action: The final Order and explanatory note implementing these changes came into force on 15 December 2016, with some provisions coming into force on 1 September 2017.

4.4 CMA remedy: changes to the coverage of Price Comparison websites

Issue: Energy price comparison websites ('PCWs') play an important role in helping consumers to make informed decisions about switching

[72] These were mainly dynamic teleswitching (DTS) meters that enabled electricity companies to remotely switch customer's electric heaters on or off and "where the wiring of the house makes it almost impossible to shop around." (*Oral evidence* to ECC Committee by Ofgem 14 May 2014 Q40. There are also Economy 10 meters.

[73] CMA *Energy market investigation – Final report*, 24 June 2016, section 13.4, pp.797-798

[74] *Ibid*

[75] CMA *Energy market investigation – Final report*, 24 June 2016, para 13.402, p.909

energy supplier. In order to fulfil this role the websites must be trusted by consumers and be fully transparent about the service they provide.[76]

There has been growing criticism about the way in which some of these comparison websites operate, for example, in February 2015 the former Energy and Climate Change Committee (ECCC) was highly critical and said;

> We have been alarmed by suggestions that some comparison websites have been hiding the best deals from consumers by concealing tariffs from suppliers that do not pay the website a commission. We conclude that all deals should be made available by default to the consumer
>
> We strongly object to any attempt to lure consumers into choosing particular deals by the use of misleading language. We recommend that, as an immediate and essential first step towards rebuilding confidence, compensation should be provided to those consumers who were encouraged to switch to a tariff that was not the cheapest or most appropriate for their needs.[77]

Ofgem set up in April 2015 a Confidence Code – a code of practice for online domestic price comparison services which requires that for a comparison site to be accredited by Ofgem. Ofgem provide a list of suppliers who agree to comply with the code. However, the code was criticised by ECCC because it was voluntary and little known by consumers.[78]

More recently in April 2016, The Telegraph said:

> Up to 60pc of the top energy deals may not be available through comparison websites, Data buried in the recent energy market investigation report by the Competition and Markets Authority (CMA) shows that customers using uSwitch.com - one of the best-known services - were only able to switch to four of the top ten cheapest tariffs in December 2015.[79]

CMA remedy: the CMA has recommended the removal of the requirement to show all tariffs on PCWs – the so-called *Whole of the Market Requirement* in Ofgem's Confidence Code. Price comparison websites are commercial companies and the CMA believed the rules to show all tariffs as a default under Ofgem's Confidence Code did not support these websites operating effectively in a commercial environment. Under this reform, they would no longer be obliged to display all the tariffs.

CMA remedy

Removal of PCW requirement to show all tariffs

It also recommended that Ofgem introduces a requirement for PCWs accredited under the Confidence Code to be transparent over the market coverage they provide to energy customers. [80]

[76] Energy and Climate Change Committee *Protecting consumers: Making energy price comparison websites transparent,* Seventh Report of Session 2014–15, HC899, 28 February 2015
[77] ECC, *Protecting consumers: Making energy price comparison websites transparent,* Seventh Report of Session 2014–15, HC899, 28 February 2015
[78] Ibid.
[79] The Telegraph *Up to 60pc of top energy deals not available on switching sites* , 20 April 2016
[80] CMA *Energy market investigation: Summary of final report, 24 June 2016* para 239

Reactions: The ECC Committee Chairman wrote to the Secretary of State Department for Business, Energy and Industrial Strategy (BEIS) on 19 July 2016 and urged the Government **not** to implement this recommendation.[81] This letter followed the Energy and Climate Change Committee challenge to its proposed remedy at its hearing with the CMA on 5 July 2016:

> **Dr Poulter** [ECC]: There is a concern, particularly with the larger price comparison sites that dominate the market, that those sites will only advertise deals for which they are earning a commission. I think that is a legitimate concern.
>
> **Roger Witcomb** [CMA]: To put this into context, Citizens Advice runs a whole-of-market price comparison website. You really only need one of those, and that is Citizens Advice.
>
> The role of PCWs as an addition to that is to go out to persuade people to switch, to make life easier for them, to provide innovation in the market. It is not just PCWs, incidentally. There are other third-party intermediaries that can do a possibly even better job and there are people out there now who will essentially work for you to find you the cheapest deal and charge you a fee for doing so, which we think is a great innovation.
>
> The answer is that we see price comparison websites are a good thing because they compete with each other, they compete to get customers.[82]

Ofgem action: Ofgem have responded to the CMA and proposed that it introduce an interim reform before consulting on a complete removal of the *Whole of the Market Requirement* (WoM).[83] The consultation - *Confidence Review 2016* - opened on 3 August 2016 and was due a response on 28 September 2016. The decision is still pending. Citizens Advice's response to the consultation in September 2016 said:

> We strongly support the need for transparency and clarity for consumers when the default WoM view is removed. We also strongly suggest that all the changes that have been proposed within this consultation are closely monitored, and appropriate consideration is given if it becomes evident that the consumer experience has deteriorated[84]

81 Letter Chairman Energy and Climate Change Committee to Greg Clarke, Secretary of State Department for Business, Energy and Industrial Strategy 19 July 2016
82 Energy and Climate Change Committee Oral evidence *Competition and Markets Authority* 5 July 2016 Q82
83 Ofgem *Confidence Code Review 2016* 3 August 2016
84 Citizens Advice *Response to Ofgem's consultation 'Confidence Code Review 2016' 30 September* 2016

4.5 CMA remedy: PCWs and TPIs access to customer databases

As part of improving customers' participation, the CMA is also giving price comparison websites (and other third party intermediaries offering similar services) access to:

- the Electricity Central Online Enquiry Service (ECOES) database that includes certain data to assist electricity suppliers in the transfer of customers and the Single Centralised On-Line Gas Enquiry Service (SCOGES) database that comprises similar data for gas;
- the 'Midata' programme to allow TPIs to make more effective use of customer data.[85]

CMA remedy

Give PCWs and TPIs access to customer data

The CMA's remedies seek to enhance the ability and incentives of third party intermediaries (TPIs) to promote customer engagement in the retail energy market by providing them with access to existing customer information databases.

CMA action: The CMA bought its Order into force on 15 December 2016 that implements access to the electricity and gas databases for TPIs. The explanatory note provides further details.

Access to the Midata programme is a matter for BEIS; the reform would allow TPIs to access 'Midata' information about a consumer's energy supply, if the consumer has consented. [86]

The remedy would also expand the information covered in Midata, and makes participation mandatory for all suppliers.[87]

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[85] CMA *Energy market investigation: Summary of final report,* 24 June 2016 paras 236-240

[86] 'midata' is a programme of work that the Government is undertaking with leading businesses and consumer groups in order to give consumers access to their personal data in a portable and electronic format. See *Better Choices: Better Deals* December 2012

[87] Ofgem *CMA Remedies Implementation Plan* 9 November 2016, page 13

5. Pre-payment customers

5.1 The issue

Customers who use prepayment meters account for about 16% of the total customer base.[88]

The CMA found that customers on pre-payment meters ('PPM')

- experience poor outcomes in terms of high costs, switching difficulties for indebted pre-payment customers and fewer tariff choices.[89]
- are quite often vulnerable (for example, low income, not having English as their first language or fuel poor).[90]
- pay more for their energy than those customers who pay via credit meters and are far less likely to switch energy suppliers.[91]

Citizens Advice and its predecessor bodies have been raising concerns about the prepay market for a number of years. [92] Limited progress has been made towards tackling the fundamental problems in these markets. For example in 2008 Energywatch asked why the PPM market is devoid of innovation and investment in the technologies that will deliver savings and reduce costs to PPM consumers.[93]

The Government has acknowledged that customers on prepayment meters should be assisted; for example in answer to a Parliamentary question in July 2016, the then Minister at DECC, Andrea Leadsom MP said:

> I completely agree that prepayment meter customers get a rough deal, with a far smaller choice of tariffs and suppliers than customers who pay by other methods. That is why we are supporting recommendations by the Competition and Markets Authority to make it easier for prepayment meter customers to switch supplier, and to introduce a safeguard tariff cap for those customers until competition in that segment of the market significantly improves.[94]

5.2 CMA remedy: a price cap on PPMs

CMA remedy: The CMA concluded that a price cap should apply for a transitional period from 1 April 2017 to 31 December 2020.[95] They also recommended that work is done to:

88 *Ibid*
89 Ofgem *CMA Remedies Implementation Plan* 9 November 2016, page 27
90 Ofgem *CMA Remedies Implementation Plan* 9 November 2016, page 27
91 CMA *Energy market investigation: Summary of final report* 24 June 2016 para 251
92 energywatch submission *Reply to Ofgem open letter on Prepayment Meter Switching of 30 May 2008* 11 July 2008
93 Citizens Advice *Second supplemental notice of possible remedies* [submitted to CMA] 6 January 2015
94 HC Deb 14 Jul 2016, vol.613 col.423
95 *Ibid* paras 245

- protect customers on pre-payment meters and put competitive pressure on suppliers to give these customers a better deal.
- increase engagement and ensure that customers who are inactive or unable to switch their meter type are not worse off.
- focus on removing barriers to effective engagement and ensuring customers experience positive outcomes, such as smoother switching for indebted prepayment customers, protection from high costs and more tariff choices. [96]

CMA remedy

Putting a cap on PPM prices

The CMA said there would be a mid-term review of the cap in January 2019. The end date might be reviewed by the CMA if there are significant delays to the roll out of smart meters as these meters are seen as the best means to give pre-payment customers greater choice of energy supplier.[97]

The CMA's proposed design of the tariff cap would "materially reduce the current 'detriment' for pre-payment customers. Had it applied in Q2 2015, it would have saved prepayment customer detriment about £300 million per year, equivalent to a reduction in the average bills paid by pre-payment customers of about £75."[98]

CMA and Ofgem action: The details of the calculation and application of the price cap are set out in the final Order and explanatory note that came into force on 8 December 2016.

Ofgem announced on 7 February 2017, the details of the price cap that will apply from 1 April 2017.[99]

5.3 Reactions

Gillian Guy, chief executive of Citizens Advice, said:

- "This cap should stop some of the poorest households paying over the odds to heat and light their homes.
- "For years prepayment meter customers have been paying more for the same gas and electricity as other customers, whilst also receiving a second-class service from their supplier.
- "The cap set by Ofgem will help millions save money but action shouldn't stop there. The government has rightly expressed concern that loyal customers on standard tariffs are paying over the odds for their gas and electricity. It could help more struggling households, including low-income pensioners and families, by extending this cap to people eligible to receive the Warm Homes Discount." [100]

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96 *Ibid* page 27
97 CMA *Draft Explanatory Note – Consultation The Energy Market Investigation (Prepayment Charge Restriction) Order 2016,* 11 October 2016
98 CMA *Energy market investigation: Summary of final report* 24 June 2016 para 247
99 Ofgem press release *Ofgem sets prepayment price cap to protect over four million households least able to benefit from competition* 7 February 2017
100 Citizens Advice *Prepayment meter cap should stop poorest households paying over the odds* 7 February 2017

5.4 Beyond the price cap-the impact of smart meters

The CMA said that in designing its remedies, they were mindful of the positive impact that the roll out of smart meters were likely to have. The CMA said

> [ ] the introduction of fully functional smart meters should address, at least in part, suppliers' reduced incentives to compete to acquire prepayment customers, and also the specific barriers to engagement experienced by customers on restricted meters.[101]

The CMA said that the prepayment cap will not apply to the latest versions of smart meter because:

> [ ] when these are rolled out to prepayment customers – as we believe that customers with such meters will have access to a wide range of tariffs. This should increase the incentives of suppliers to roll out such meters to the benefit of prepayment customers.[102]

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[101] CMA *Energy market investigation: Summary of final report 24 June 2016* paras 208-210

[102] CMA *Energy market investigation: Summary of final report* 24 June 2016 para 248

6. Future changes and legislation

6.1 HM Treasury's 'better deal'

In July 2015 when the CMA published its first set of provisional decisions on remedies, the Government published its productivity strategy.[103] It contained a section on 'active consumers' in which the Government committed to 'introduce and act on principles for consumer switching.'[104]

It led to a call for evidence in October-December 2015 in which the Government published the following principles for switching providers:

- It should be free
- It should be quick, easy and at an agreed date
- Comparison tools should be transparent
- You should only have to deal with the new company
- You should be able to access your data
- You should be able to let 3rd party Price Comparison Websites access your data to help find the best deal
- Effective process for when things go wrong[105]

In addition, in December 2015 HM Treasury published its 'better deal' – a document outlining the competition measures of its productivity plan. In the energy field, the Government committed to:

- Reduce the projected cost of green policies on the average annual household energy bill by £30 from 2017
- Make switching supplier easier and quicker. The average household could currently save £160 from switching supplier.[106]

More precisely, these proposals meant that the Government committed to legislate for "easier and quicker switching" through the launch of a switching guarantee

6.2 The Queen's Speech 2016

The Government confirmed in the Queen's Speech 2016 that it would introduce legislation to "improve Britain's competitiveness" and implement the CMA's proposed energy market remedies in the *Better Markets Bill*—saying that it would "open up markets, boost competition, give consumers more powers and choice and make economic regulators work better."[107]

The main elements of the Bill are:

Consumer Power

103 HM Treasury, *Fixing the foundations: Creating a more prosperous nation*, July 2015
104 Ibid., para 13.5
105 BIS, *Switching suppliers – making it easy for consumers*, *Call for evidence: switching principles*, 22 October 2015
106 HM Treasury, *A better deal: boosting competition to bring down bills for families and firms*, December 2015, p.7
107 *Queen's Speech 2016: background briefing notes*, 18 May 2016, p.24

- To encourage consumers to switch providers and get a better deal, supporting the manifesto commitment to help keep bills as low as possible.

Environment for competition

- To speed up the decision making process for competition investigations and make the whole process easier for businesses and better for consumers.
- To give the competition authorities more powers to take on anti-competitive behaviour.
- To improve the landscape for economic regulation.

Open Markets

- To take steps to ensure open and competitive markets which keep costs low and deliver for bill payers, including delivering the manifesto commitment to act quickly on the Competition and Market Authority's final recommendations to promote competition in the energy market. 18 May 2016 25
- To help businesses by simplifying regulatory processes and removing unnecessary requirements.[108]

6.3 BEIS's call for evidence

Shortly after the Queen's Speech, the then Department for Business, Innovation and Skills published its action plan for quicker switching.[109]

The Department also published a series of four consultations on key aspects of the Better Markets Bill: consumer power, environment competition and open markets. The consultations focused mainly on:

- Proposals for a 7 day period within which people can switch providers across a range of key services, and exploring what more can be done to give consumers the power to compare products and switch quickly
- Considering whether or not the landscape in regulated sectors can be improved to help consumers when things go wrong, and looking at measures to enhance the current system
- Promoting competition and opening up markets to make the UK's competition regime even faster and more decisive[110]

The call for evidence on Improving the consumer landscape and quicker switching was aimed at consumer power and faster switching. The Government is currently analysing feedback and has not yet published its response. The Government's main proposals were aimed at 'empower[ing] consumers to make wise decisions when purchasing goods and services' by bringing advice and representation to vulnerable

108 Ibid.
109 *Switching Principles: Next steps – action plan*
110 BIS, Consumer protection, News story, *Better Markets Bill to arm consumers with more power and choice*, 25 May 2016

consumers and those shopping around for the best deal.[111] To this end, the Government sought views on a range of consumer issues:

- Can consumer advocacy bodies be improved?
- Are dispute resolution bodies working well for consumers?
- Should consumer complaints data be more widely published to help consumers choose the best providers?
- Should quicker (7 days) switching be implemented?
- Should all barriers to switching (e.g. auto renewal of contracts) be removed?

There have been no announcements made by the Government indicating which of these proposals may become part of the Better Markets Bill.

6.4 The Autumn Statement 2016

At the Autumn Statement, the Chancellor announced that the Government would publish a green paper in spring 2017 that would "closely examine markets which are not working fairly for consumers."[112]

6.5 Reactions in Parliament

Members have expressed interest in the Government's timetable for the Better Markets Bill but no firm schedule has been announced:

> **Lord Stevenson of Balmacara:** To ask Her Majesty's Government when they expect to introduce the Better Markets Bill.
>
> **Baroness Neville-Rolfe:** This Government is committed to delivering serious reform to make the UK a country that works for everyone. This year we consulted on a number of measures to be taken forward in the Better Markets Bill. We are carefully considering the responses and will respond, setting out the next steps, in due course.[113]

During the House of Commons debate on the Economy and Work, the SNP member for Dundee East, Stewart Hosie criticised the Bill for failing to address fuel poverty (emphasis added):

> The final Bill that comes under the broad heading of "the economy" is the better markets Bill, whose main purported benefits are to give consumers more power and choice through faster switching and more protection when things go wrong. That is welcome. The Bill would simplify the way in which economic regulators operate to make life more straightforward for business and cut red tape, and would also speed up the decisions of the Competition and Markets Authority for the benefit of businesses and consumers alike. That too is welcome.
>
> The intention is to deliver a manifesto commitment to increase competition and consumer choice, particularly in the energy

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[111] BIS, *Call for evidence on improving the consumer landscape and quicker switching*, May 2016, p.4
[112] HM Treasury, *Autumn Statement 2016*, 3.40
[113] PWQ *HL3101*, 8 Nov 2016

> market. However, while we welcome Government moves to challenge rising energy prices by encouraging market choice, the Bill does not go far enough to combat the problem of fuel poverty at a structural level. According to the UK means of calculating fuel poverty, in 2014 some 2.5 million households were in fuel poverty. According to the methods used in Scotland, Wales and Northern Ireland, over the last three or four years the figures have sat between 30% and 40%. The structural issue here is not a shortage of gas or electricity, it is not necessarily a shortage of competition, and it is not necessarily the ability to change suppliers quickly; it is a shortage of money to pay for the gas and electricity coming into the house.
>
> I am sure that there are good intentions behind many of the economic measures in the Gracious Speech, but they are simply too little, too late.[114]

The SNP Member for East Lothian, George Kerevan, also criticised the Government's strategy to tackle competition issues:

> This afternoon, the Chancellor promised us a better markets Bill to improve competition. We on the SNP Benches are in favour of that and will give it what help we can, depending on what is in the Bill. It is a matter of record that, in the UK, we have the most monopolised banking system in the western world. Four big banks dominate, with 80% of the market share. If we want genuine competition and better markets in finance, we need to have six, eight or 10 banks of a similar size. Until we have that, there will be no better markets or better competition.
>
> Here is a tale: the two main regulatory bodies set up by this Government and this Chancellor to ensure more competition and better markets in finance—the Competition and Markets Authority and the Financial Conduct Authority—have failed to deliver.[115]

Lord Nash – a Government spokesman, praised the Bill:

> We plan to introduce a better markets Bill. Strong competition is the key to a healthy economy, boosting our nation's productivity. The UK's regime is already world-class and highly respected internationally. We want the regime to remain an exemplar, keeping pace with dynamic and innovative markets. We also want to empower consumers further to ensure that they fully reap the rewards of vibrant competition. The better markets Bill will help to improve competitiveness in the UK.[116]

Lord Mendelsohn spoke of Labour's support for any measure that would boost competition but blamed the Government for not stepping up fully to the challenge (emphasis added):

> We strongly support the plan to deal with [weaknesses in the third sector] by promoting competition across the economy, and **in this context we welcome the Better Markets Bill**, which represents a huge opportunity to address some of these issues, and which can be applied more widely.[…]
>
> **More generally, the department for Business, Innovation and Skills needs to step up to the challenge**.[…] It is

114 Emphasis added. HC Deb, 26 May 2016, Vol. 611, Col. 748
115 Ibid., Col. 793
116 Lord Nash, HL Deb, 19 May 2016, Vol. 773, Col. 32

> important that the department grasp the nettle of having an active industrial policy; much more energy is needed.[…]
>
> **We are strongly supportive of some of the measures and look forward to engaging very constructively with the Government on them.** The better markets Bill is a very important step towards establishing stronger responsiveness to consumer demands.[…] We should ensure that the entrenched advantages and anti-competitive processes that many of our industries have developed are opened up. We should increase transparency […]. That could certainly be covered in this Bill. We look forward to seeing the detail of the Bill and establishing how we can take it forward to address the challenges and transform the prospects for the different sectors in our economy.[117]

6.6 Comments from external stakeholders

Press coverage of the Bill has been limited, due to the lack of details regarding the content of the Bill. Price Comparison Websites expressed cautious support for the Bill:

> Kevin Pratt, consumer finance expert at www.MoneySupermarket.com, says this is overdue good news for millions who have been ill-treated for far too long […].
>
> Simon McCulloch, director at www.CompareTheMarket.com, says the reforms could bring large savings by making it easier to escape poor service and high charges, but barriers must be removed first: "Our research shows that while switching current accounts is now easier, people are not able to take their account number with them. If they could, far more would switch."[118]

Other stakeholders like Alex Neill of consumer group Which? said:

> Quicker switching will give people more power to force banks, energy suppliers and telecoms providers to up their game or lose their custom.[119]

However, some experts made clear that they thought the Bill did not go far enough and may have fail at encouraging switching:

> Experts warn that seven-day switching may prove impossible to deliver in practice.[…]
>
> Mark Todd, co-founder of energy comparison site www.EnergyHelpline.com, warns that one-week switching does not solve the underlying problem that most consumers either cannot be bothered or have misplaced loyalty to their suppliers. Britons are a "nation of monogamists" who are more likely to leave their partner than their bank, he says: "The majority of consumers tend to stick with energy, broadband and mobile for between two and five years."[120]

[117] Ibid., Col. 34-35
[118] Sunday Express, 'Loyalty to everyday services is costing you MORE - make time for money saving switch', Harvey Jones, 29 May 2016
[119] The Guardian, 'Government considers seven-day switching service for mortgages', Heather Stewart and Anushka Asthana, 25 May 2016
[120] Ibid.

7. Further information and recent reports

7.1 Recent Parliamentary Coverage

Select Committees

Business, Energy and Industrial Strategy Committee

- Oral evidence 22 February 2017: *CMA's investigation of the UK Energy Market,* HC 982

The Committee took evidence from Ofgem and industry body Energy UK

In evidence Ofgem said

> The vision we have of a well-functioning market is one where people who choose not to switch are still protected by market pressures. We will not be satisfied until we get there.(Q133)

During the session, there was considerable discussion around the fact that consumers on Standard Variable Tariff are paying a great deal more than those who have switched to fixed term tariffs.

The Committee questioned Ofgem on the extent of its powers to regulate the market and make it work for consumers. They asked Ofgem why it did not use its powers to cap standard variable tariffs (SVTs) or prepayment meter (PPM) tariffs in order to protect consumers. The Committee also asked if Ofgem felt it did not have enough powers.

Ofgem replied that although it did have the powers to do so, it regretted not putting a cap on PPM prices sooner but that it had made the deliberate decision not to cap SVTs because it believed it would have been appealed to the CMA. Ofgem also said that the question of whether it had enough powers was one for the Government and Parliament to adjudicate.[121]

- Oral evidence 31 January 2017: *CMA's investigation of the UK Energy Market,* HC 982

Took evidence from the CMA, two of the six major energy companies and three of the newer independents on their response to the CMA report.

Reviewed progress on the implementation of the CMA's energy market investigation some six months after the final report. 30 remedies from the CMA had been implemented and trials of various elements of the package of recommendations was underway.

But at the time of the hearing the CMA said

> We are waiting for a formal response from BEIS on the commendations that we have made to Government. (Q5)

Government will need to legislate on certain recommendations.

[121] BEIS Committee, *Oral evidence: CMA's investigation of the UK energy market,* HC 982, 22 February 2017, Q151-156

Energy and Climate Change Committee

- Oral evidence: *Competition and Markets Authority's Proposals,* HC 315, 5 July 2016

Took evidence from CMA immediately after publication of the CMA report on 24 June 2016

- *Protecting consumers: Making energy price comparison websites transparent,* Seventh Report of Session 2014–15, HC899, 28 February 2015

Critical report of the performance of Price Comparison Websites

- Oral evidence: Energy prices, HC 773, 26 November 2013
- Oral evidence: *Energy prices,* HC 773, 29 October 2013

Took evidence in light of Labour Party call for freezing of energy prices

- *Energy Prices, Profits and Poverty*, Fifth Report of Session 2013–14, HC 108., 29 July 2013
- *Consumer Engagement with Energy Markets.* Fifth Report of Session 2012–13, 20 December 2012

Debates

Energy Prices Opposition day debate.| 14 Jan 2015 | House of Commons | 590 c891

Energy Prices 18 Jun 2014 | Opposition days | House of Commons | 582 cc1185-1229

Debate held just after the original reference by Ofgem of the energy market to the CMA

Parliamentary Questions

Energy: Prices

Asked by: Cunningham, Mr Jim

To ask the Secretary of State for Business, Energy and Industrial Strategy, what representations he has received about energy price rises in the last 12 months; and if he will make a statement.

Answering member: Jesse Norman | Department for Business, Energy and Industrial Strategy

BEIS Ministers and officials received a number of representations on a range of issues in the last 12 months.

We are disappointed by the announcements of some companies of price rises when customers on standard variable tariffs are already paying more than they need to. We expect energy supply companies to treat all their customers fairly and have made it clear that, wherever markets are not working for consumers, there can be a role for Government in ensuring that they do.

20 Feb 2017 | Written questions | House of Commons | 63696

7.2 Recent Press Coverage

The Observer
Energy companies 'ripping off' millions, ministers say: Cross-party group will call for action to protect consumers after a series of price increases by gas and electricity companies
12 March 2017

The Times [subscription required]
A welcome disruption to your energy supply: newcomers are challenging the Big Six companies
4 March 2017

The Times [subscription required]
Price rise puts sector back in the political spotlight
3 February 2017

The Times [subscription required]
1.4 million households face hike in energy prices
3 February 2017

The Financial Times [subscription required]
Independent energy firms call on government to stop meddling
31 December 2016

The Times [subscription required]
Energy companies face caps on 'rip-off' tariffs
November 15 2016

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