



## News Release

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### **ENERGY CODE MODIFICATION APPEAL UPHeld IN PART**

The Competition Commission (CC) has allowed in part an appeal against a decision by the Gas and Electricity Markets Authority (GEMA) to reform the gas offtake regime for Great Britain's high-pressure National Transmission System.

E.ON UK Limited (E.ON) appealed GEMA's decision to direct modifications to the Uniform Network Code (UNC), which sets out arrangements for the transportation of gas in Great Britain. E.ON challenged GEMA's decision to implement proposal UNC 0116V and not proposal UNC 0116A which had been proposed by E.ON. British Gas Trading Limited intervened in support of E.ON's appeal.

The CC has quashed the decision to implement UNC 0116V, citing concerns about the proposed reform of flexibility capacity and the cost benefit analysis on which GEMA's decision was based. However, the CC has not ordered the implementation of proposal UNC 0116A. The decision will now be reconsidered by GEMA.

The full text of the decision is available on the CC website at [www.competition-commission.org.uk](http://www.competition-commission.org.uk).

This is the first appeal heard by the CC under the Energy Act 2004 against decisions by GEMA on modifications to gas and electricity codes.

#### **Notes to editors**

1. The members of the CC appeal group are Dame Barbara Mills QC (Group Chairman), Robert Turgoose and Professor Catherine Waddams.
2. GEMA is supported by Ofgem, the Office of Gas and Electricity Markets. Although the decision in relation to proposals 116V and 116A was taken by GEMA, consultation on the proposals was conducted by Ofgem.
3. Industry codes are rules by which participants in the gas and electricity industry operate. Six codes have been designated as codes in respect of which an appeal lies to the CC. The appeals process under the Energy Act 2004 is concerned with the codes that have the most commercial significance.

4. The statutory right of appeal was provided for in Sections 173–177 and Schedule 22 of the Energy Act 2004, following a consultation by the DTI. The grounds upon which appeals can be allowed are set out in Section 175 of the Energy Act 2004. No appeal can be brought where GEMA consents to a majority recommendation of a particular modification by the industry’s own code panel. Certain decisions by GEMA cannot be appealed, such as where the delay caused by an appeal might have a material adverse effect on the security of supply.
5. Under the Energy Act 2004, the CC has the power to quash decisions by GEMA, to approve modification decisions, to direct that recommended modifications rejected by GEMA have effect, or to remit decisions to GEMA for reconsideration and redetermination in line with the CC’s directions. An appeal will normally take 12 weeks (exceptionally a maximum of 14 weeks) from the date of GEMA’s decision.
6. Enquiries should be directed to Rory Taylor on 020 7271 0242 ([rory.taylor@cc.gsi.gov.uk](mailto:rory.taylor@cc.gsi.gov.uk)).