

Mr Will Fletcher
Project Manager
Energy Market Investigation
Competition and Markets Authority
Victoria House
Southampton Row
London
WC1A 4AD

by e-mail to:- energymarket@cma.gsi.gov.uk

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Dear Mr Fletcher

Spark Energy

Submission in response to the provisional findings of the CMA's Energy Market Investigation

We welcome the CMA's findings and support the response from Energy UK on behalf of its members (of which we are one). However, we have noted that the CMA has identified particular concerns with levels of customer engagement within rented properties and, as the only energy supplier in Great Britain to focus on the private rented sector, we welcome the opportunity to provide a more detailed submission to the CMA from the perspective of our business and in relation to the impact of some of its proposals upon our customers.

With a 10% market share, independent suppliers are making some progress despite the current prescriptive regulatory regime. We support a continued focus on engaging customers in the energy market and actions to make it easy for them to make informed choices - whilst recognising that for individual customers, deciding not to engage is still also a choice. Our view is that the facilitation and promotion of open competition is the most effective way of delivering satisfactory outcomes for energy customers as a whole and for niche customer groups in particular. We are therefore supportive of an approach which reduces as many regulatory limitations (such as those on innovation, proposition and differentiation) as possible and replaces them with support and encouragement of a wide ecosystem of innovative and differentiated suppliers competing for customer loyalty.

For example, we consider that the current tariff cap, whilst aimed at simplifying energy options for consumers, has in fact resulted in restricted innovation, competition and customer engagement, meaning that energy suppliers are generally offering very similar tariffs to energy customers as a whole. There is little or no scope for creating truly differentiated offerings which serve to engage the market - either as a whole or in relation to particular niches. The CMA has identified that there are particular customer groups for whom this homogenised approach does not deliver benefit. We therefore strongly support removal of the tariff cap.

We are concerned that the CMA's proposals in relation to the safeguard regulated tariff are likely to be similarly counterproductive and serve only to recreate the negative unintended consequences created by the tariff cap. Albeit transitional, creating a prescriptive regulatory solution for certain subsets of customers is, in our view, likely to result in reinforced disengagement on the part of those customers and therefore perpetuate the perception that there is limited value in changing supplier. We are also concerned that such a tariff may have a disproportionate impact on smaller suppliers in terms of complexity and cost, thereby reducing their ability to

Ettrick Riverside, Dunsdale Road, Selkirk TD7 5EB

 0845 034 7474  www.sparkenergy.co.uk

attempt to engage those groups of customers in innovative ways. It is our view that the pressures and rewards of competition, rather than prescribed product design, will create the best outcomes for customers, particularly in niche markets.

We support the CMA's proposal that Ofgem's statutory objectives and duties should be revised in order to increase its ability to promote effective competition. Ofgem are already considering a move towards principle-based regulation and we consider that, if this is founded upon transparency, fairness and consumer protection, then an appropriate balance can be struck between competition and regulation in a marketplace which already has 29 participants.

Price comparison websites (PCWs) will have a continued important role to play in that regard and so we think that, in that area, steps should be taken to ensure that customers are provided a genuine full market comparison regardless of the commercial or tactical benefits to the PCW of promoting certain suppliers, offers or tariff types. We believe that individual customers are the best judge of which products, prices, brands and promises suit them best and that we must all simply ensure that a variety exists and that they are made simple and easily accessible.

Overall, it is our view that, by reducing prescriptive regulation and focusing on measures which benefit all customers, there should be no need to make specific provision for certain customer sectors. We therefore generally welcome and support the CMA's provisional findings but strongly oppose the idea of additional regulation around the setting of tariffs on the basis that a shift to principle-based regulation together with a clear mandate upon Ofgem to support and facilitate competition would achieve the same goal of protecting consumers' interests whilst preserving the fundamental principles of a competitive market.

Finally, we believe that all stakeholders in our industry carry a responsibility for increasing consumer trust, not only by treating customers fairly but by presenting a unified, positive and upbeat message to consumers about the options available to them, the value in engaging and the exciting technology, service and environmental strides that are being made by our industry.

We have set out more detail in the Appendix to this letter and would be happy to discuss any point of this further with the CMA's investigative team.

Yours faithfully

Chris Gauld
CEO

Appendix

Detailed submissions in response to the provisional findings of the CMA's Energy Market Investigation

1. Implementation of a transitional safeguard regulated tariff

It is our view that suppliers already need to work hard to engage customers and are required to do so in most forms of contact and communication. This extends to being required to inform our customers that they can switch to another supplier (which is not a general feature of other competitive markets).

Energy consumers are not, as the CMA has itself concluded, a homogeneous group. We consider that customer choices must always include recognition that not making an active choice is indeed a choice in itself. Such a tariff would require detailed design (in the form of prescriptive regulation) and, as the CMA has concluded in other areas of its findings, detailed regulation does not necessarily result in improved engagement.

We are concerned that such a tariff would represent a move towards a form of price control regulation - which may be incompatible with both the underlying variable costs of supply and the framework of an otherwise competitive market. We have a number of other questions in relation to the structure of such a tariff. How would it respond to wholesale fluctuations? Would it be a "one size fits all" tariff? We are concerned that the overall result would be that suppliers subsidise disengaged customers (potentially at the expense of other customers) and that it would promote disengagement on the part of customers. There is also the danger that such a pricing strategy may impact upon the ability of smaller suppliers to compete in the wider marketplace and we have set out our views on this in the paragraph below.

2. The composition of our standard variable tariff

When considering the prices (and underlying composition) of standard variable tariffs (SVTs) across the market, whilst there is a focus on those of the major six suppliers, we have a number of comments from our perspective as an independent supplier. Our basic tariff design is that we take the costs we incur on a per tariff / payment type basis and seek to create the lowest possible tariff while maintaining a reasonable margin for ourselves - which is significantly below that of the major six suppliers. It is in fact the case that our most expensive tariff is our least profitable.

When considering SVTs together with the principles on which a safeguard regulated tariff would be set and operated, we would urge the CMA to consider (a) the full range of costs incurred by small, mid-tier and large suppliers in each of their offers and (b) additional factors such customer behaviour, wholesale costs, efficiencies of scale, cost of capital etc.

3. Removal of the existing tariff cap

As mentioned in our covering letter, we strongly support the removal of the current tariff cap on the basis that it is consistent with the underlying objective of the CMA's findings, i.e. to promote competition within the market. Our view is that simply increasing the number of tariffs within that cap would not achieve the same effect. Our rationale for this is set out below.

It has always been our policy to keep things simple by offering a small number of straightforward tariffs, even prior to the introduction of the RMR reforms. Therefore, in itself, the restriction on the number of tariffs did not have a major impact upon us other than removing one of our key points of differentiation as a new, independent entrant to the market.

However, in practice, we have found that being capped at four tariffs has reduced our flexibility and ability to innovate in relation to the tariffs we offer. Our customers often have specific demographics based on their housing tenure, age and level of interaction with their energy supplier. The CMA has identified similar themes. As a result, the tradition of inheriting a "Big 6" supplier on an evergreen tariff at the point of a change of tenancy does not necessarily work for tenants deserving of better prices and ease of service from their move-in date. Within the RMR structure, we have found ourselves constrained in our options for tailoring products to suit these customers.

For example, one of the few ways in which the current cap can be expanded is by applying for a derogation. Spark has recently been granted a derogation which allows us to offer a prepayment tariff for social housing tenants. Our application took 5 months to be considered, reviewed and approved, meaning that the intended energy consumers were not able to benefit from this tariff until this process was complete. To illustrate the potential consequences of the restrictions on our ability to offer bespoke tariffs, our projections are that approximately 30,000 customers will benefit from this tariff in the next few years.

It is therefore our view that the existence of a tariff cap in itself, together with the investment required to apply for any derogations (without certainty of success), acts as a strong disincentive to suppliers in terms of creating more innovative and differentiated solutions. Without such a cap, suppliers will have the ability to provide bespoke tariffs for particular groups of consumers and will work hard to engage their target markets in making that choice. As a result competition, choice and engagement should improve to the ultimate benefit of consumers

4. Prioritisation of the roll out of smart PPMs

We are broadly supportive of the prioritisation of the roll out of smart meters. However, our view is that this should not be prescribed on the basis that availability, quality and service propositions in relation to smart meters are another means of suppliers differentiating themselves in the market. There is already competitive market activity in this area - PPM customers who want to move to smart meters are already being targeted by some of the independent suppliers, other suppliers offer low PPM tariffs and some of the major six suppliers have committed to parity of pricing. Smart meters are available now to those who want them first.

We also see a need to prioritise tenants, on PPM or otherwise, in the roll out of smart meters due to their short-term tenures where opening and closing meter reads are required much more often and typically involve a landlord and previous tenant. Smart meters would provide the tenant with a better customer experience and ensure accurate bills. We also believe that tenants would be able to take more control of their energy use with a smart meter as they cannot make the same type of home energy improvements as homeowners can.

5. PCWs – access to industry databases

We support this on the basis that it would facilitate more accurate validation earlier in the switching processes and therefore reduce the costs to suppliers. However, strong protection would be required around PCWs using any industry information for marketing purposes such as targeting customers of one supplier on behalf of another using shared industry data.

6. Switching

In relation to switching customers within a mandated timeframe, it is our experience that switching periods may be affected by various factors, many of which are not within the control of the incoming supplier. We would suggest continued focus remains on reducing switching timescales and that attention is given to ensuring the early provision of crucial billing and service data such that initial customer experience is also improved as a result.

7. Ofgem's role

We responded to Ofgem's call for evidence in relation to the impact of the RMR reforms earlier this year and hope that the outcomes of that are considered in the wider context of the CMA's provisional findings. Our experience is that Ofgem has adopted a prescriptive approach which is focused on delivering a lot of detail to customers within a "one size fits all approach". This has restricted our ability to innovate and so we would welcome revision of Ofgem's statutory objectives and duties in order to promote positive change – e.g. helping new entrants and encouraging differentiation. We also consider that essential that the objectives of Ofgem and DECC do not overlap.

8. Bill and information transparency

Since the introduction of RMR we have not witnessed a significant increase in switching between tariffs or payment methods and so so we have a general question regarding the effectiveness of providing all of the mandatory information in the bill, which takes up around 1/3 of the bill space.

We believe this space could be better used to help tenants lower their bills (targeted energy saving advice) and switch to a cheaper tariff (more space for personalised savings information). We would welcome more consumer led research into bills and statements and the opportunity to be involved in that process.