Energy and Climate Change Committee

Oral evidence: Competition and Markets Authority’s Proposals, HC 315

Tuesday 5 July 2016

Ordered by the House of Commons to be published on 5 July 2016

Watch the meeting:

Members present: Angus Brendan MacNeil (Chair), Tom Blenkinsop, Mr Alistair Carmichael, Glyn Davies, James Heappey, Dr Daniel Poulter, Antoinette Sandbach, Julian Sturdy

Questions 1 - 96

Witnesses: **Luke Watson**, Chief Executive Officer, GB Energy, **Gillian Cooper**, Head of Retail Energy Markets, Citizens Advice, **Audrey Gallagher**, Director of Retail Energy Supply, Energy UK, **Pete Moorey**, Head of Campaigns, Which?, and **Professor Catherine Waddams**, Centre for Competition Policy, University of East Anglia, gave evidence.

Q1 Chair: Thank you for coming in this morning and giving evidence on the CMA’s Energy Market Investigation and its conclusions, which was the other major event of Friday, 24 June. You probably have forgotten what the other event was. Can I ask witnesses to state their names and organisations for the record, please, starting on my left?

Luke Watson: Luke Watson, GB Energy.

Gillian Cooper: Gillian Cooper from Citizens Advice.

Professor Waddams: Catherine Waddams from the Centre for Competition Policy at the University of East Anglia.

Pete Moorey: Pete Moorey from Which?.

Audrey Gallagher: I am Audrey Gallagher from Energy UK.

Q2 Chair: Thank you very much, and thank you for coming in to discuss the CMA’s Energy Market Investigation. The final report is over 1,400 pages long, and, coming from a Hebridean island with 1,200 people, I can tell you that 1,400 pages strikes fear into my heart. We cannot hope to discuss everything, of course, but we aim to bring some clarity and scrutiny to the impact of the proposed remedies on consumers.

May I begin by asking each panellist to state whether they broadly support or oppose the proposals? Again I will start with Luke.

__Luke Watson__: We broadly support the proposals. However, there is one particular area that we are looking at, which is the price comparison websites, and that remedy to remove the best value tariffs and the cheapest tariffs, which we are opposed to. It is deeply concerning. The report was brought out under the noise of Brexit and so on, so slightly under the radar. We feel that the Government have encouraged new companies like ours over the past couple of years to challenge the bigger players, and we have so done, and we brought competition into the marketplace. The CMA remedy goes against the grain, so to speak. We have driven prices down. Those prices are identifiable on the price comparison sites. However, they will no longer be shown if the remedy goes through. To be really honest, I am quite staggered at that particular course of action.

In the past couple of years, the Energy Select Committee themselves have looked at this particular area and have made recommendations. However, the CMA report has not only just ignored those recommendations; it has gone the other way and said, "Let's remove these cheaper tariffs, let's remove these best value tariffs." That is what we are looking to oppose at this stage.

Q3 Chair: Thank you. I might be concerned and I should declare an interest. I switched to GB Energy after finding you on a price comparison website.

__Luke Watson__: Thank you very much.

Chair: The CMA would never allow me in.

__Gillian Cooper__: Citizens Advice broadly supports the CMA remedies. Many of them reflect our longstanding policy positions and reflect our key concerns. The new safeguard tariff is an endorsement of our position that prepayment meter users are receiving second-class service, choices and price in the current market. Things like improvements to energy bills, better transparency in the microbusiness market and changes to industry governance are all welcome, but energy is an essential service and it is not acceptable that older households, disabled people, those on low incomes, stuck in rental accommodation or without internet access are the most likely groups to be on higher cost tariffs, and many of these households will not benefit from the new prepayment meter safeguard tariff because they are on credit meters. We are concerned that the CMA's package of remedies will not do enough for these households, who often lack confidence in their ability to get a better deal. This is a significant risk that will require close monitoring in the months and years ahead, but the CMA inquiry is now over and everyone's focus must be on implementation.

Both DECC and Ofgem have a challenging job ahead designing and implementing the new requirements, and suppliers must get on and make the changes. Citizens Advice will play a crucial role in informing, educating and inspiring these households, but markets this sticky do not get transformed overnight. It is essential that competition in the energy market works for all groups of consumers. We do not know how consumers are going to respond to the CMA's remedies, so progress must be monitored throughout and the Government must be ready to act if the intended benefits do not materialise.

Q4 Chair: Good points there. Thank you very much. Catherine Waddams from the University of East Anglia, what is your view?

Professor Waddams: We are pleased to see that some barriers to consumer engagement have been identified and will be addressed. We encourage those, but we do have three major reservations. One is in terms of the principles that the money left on the table by not taking the cheapest deal is not equivalent to consumer detriment because it does not take account of the consumer effort in engaging in the market, so we have some alternative suggestions around that.

We note that the report is asking Ofgem to improve consumer response, which they have been trying to do since 2008 without a lot of success. We share the concerns of the minority report that the remedies suggested are untested, but we welcome the fact that they are to be subject to more testing in the market. That was a very good outcome, we thought.

Overall, we would like to emphasise that the market process in any market is not an outcome; it is a process and it delivers benefits on average. If what you want to do—as, for example, Gillian has suggested—is protect particular customers, then the market is not a good way to do that. It might or it might not, and in that case the regulatory route is going to be more appropriate.

Pete Moorey: We think the CMA report confirms what many of us on this panel have said for many years, and that is that the energy market is not working for consumers. Very much like Gillian, now that we have the final report, there is clearly a lot of work for Ofgem to do to test and trial and introduce the recommendations, but given that consumers have been waiting two years for this report to come out and this has been after years of poor energy supplier customer service and rising prices, they will expect action, and that is what we want to see now.

What we want to see coming out of the report is the energy regulator getting on with implementing the review's recommendations, and we particularly want to see the energy suppliers working with them to do that and not dragging their feet now. Of course it is going to take time to do that. There is an awful lot of work to do to make sure that the CMA's recommendations do improve the market for consumers, but after all of the time and effort that we have gone through over the last few years, energy customers simply are not going to tolerate a situation where this has not made a difference. That is why we need Ofgem but also we need the CMA to keep a close eye on whether these recommendations are making a difference, whether they are going to transform the market, and to set out what it is that they will do if these recommendations do not go far enough.

Audrey Gallagher: Energy UK is broadly supportive of the recommendations, certainly the principle behind them, which is the need to engage consumers more, to ensure that the market is as competitive as it can be. We probably have some reservations over how some of this might work in practice, and fellow panel members have already mentioned the importance of having robust trialling and tests and the outcomes monitored so that we are getting the benefits we want. Picking up on Pete's point, we recognise as an industry that there is a lot to do, so hopefully the wider findings from the CMA investigation on some of the potential concerns that drove the original referral on vertical integration and the structure of the sector will lead the way to try to address this really enduring issue, which has been about lack of consumer trust and confidence in the market. We are hopeful that this will allow us to draw a line under it and move forward but, more importantly, it will be tested and measured on how we approach this.

As you said, Pete, it is really important that the industry is on the front foot with this, that we are moving forward on a voluntary basis. Energy UK has already assessed the 30-odd recommendations to try to determine where industry can move forward on a voluntary basis and do it quickly so that we can start delivering on these benefits and not wait until regulations are put in place. That is what we are looking at just now.

Q5 Chair: Thank you very much, Audrey. We have quite a large panel and you are quite crammed at the table, and we only have an hour, so I will not look for everybody to answer every question. The investigation has taken about two years. The cost to the CMA is £5 million and it may have cost the industry as much as £80 million. From a couple of you, was it worth it? Maybe particularly Luke, how much has it cost your company to engage in the investigation? Do you think the cost of the investigation fell disproportionately on smaller suppliers?

Luke Watson: To be honest, the investigation took longer than we have been trading for. As a growing company, our resources are more tied up with growing the company. We have responded to the consultation. I think there is a lot of merit in the CMA findings and a lot of good things come out of the CMA, but there are some remedies that do need discussing. We are going to address a couple of those today anyway. I think it is actually worth the money, to be fair.

Q6 Chair: Does anybody else have a counterview? Which?

Pete Moorey: One of the issues with the CMA inquiry—and it is interesting looking at it also in lieu of the banking inquiry that has been taking place as well—is how the time has been spent. If we have one criticism it is that an awful lot of time was spent on analysing the issues in the market and then a period of time spent on coming up with the recommendations to address those issues, but as a result very little time was given to testing and trialling those recommendations. What we have come out with is a report at the end of two years that now needs to be tested and trialled. People out there who are expecting changes immediately out of this inquiry are not going to see them because the energy regulator now needs to spend probably a year or more doing further testing and trialling. This does need to be looked at.

BIS at the moment is consulting on changes to how the CMA does its competition regime and potentially changes to the CMA inquiry process, and I think that is one of the key things. We need to be thinking about the recommendations to change the market much earlier, ensuring that the CMA can test and trial them much earlier, so that we would come out with a more tangible outcome at the end of the inquiry.

Q7 Chair: Thank you. The report was published on the day of the EU referendum results. Is there anybody with a mild bit of cynicism who might feel that this is an attempt to evade scrutiny by the CMA, or do you think it was just purely coincidental, that it was just an accidental detail?

Pete Moorey: I am not cynical about it.

Chair: You are not cynical about it?

Pete Moorey: No. Also, given that the final report was inevitably going to be very similar to the provisional remedies and we did not see a huge change—others might disagree with me—I think the general view of consumer groups and others who have been involved in the energy process was that it was not really a cynical act.

Audrey Gallagher: I think it was just the timing around purdah. They had already identified what the end date for publication was going to be, so I do not think it was a huge shock to anybody. It was probably more a case of unfortunate timing.

Chair: Thank you for killing cynicism. I appreciate that.

Professor Waddams: I think it is worth remembering where we were when the reference was made, which was that the energy sector was subject to a lot of political interest and was not helped by that at the time. We need to recognise that the CMA did throw light on an area where there was more heat, if you will pardon that.

Q8 Chair: No, for sure, but it is quite a difficult question in many ways because we really do not know the outcome of any of this, of what projected route the UK is going to take. Does the vote to leave the EU in any way affect any of the CMA's recommendations? Can anybody see any effect of leaving the EU on the CMA recommendations?

Audrey Gallagher: The only one that we had identified that might have been a problem was the opt-out nature of the database. With new data protection rules coming in from Europe, it might have outlawed the ability to have opt-out databases, but I do not know if that legislation is likely to come through from Europe before there is any exit or before we leave, so it might be a moot point. That was the only thing that we had thought.

Chair: That is the six-million-dollar question, the point of exit, but thanks for that, Audrey.

Q9 Glyn Davies: Can I ask you to comment about the CMA's judgment on vertical integration? When Ofgem made the original reference, I think there was a bit of anticipation that there would be some criticism of vertical integration and we were expecting a lot of negativity around that, but it seems as if the report is finding vertical integration not to be a problem. First of all, do you agree with the CMA's assessment of the impact of vertical integration?

Audrey Gallagher: As we have already discussed earlier, it has been a two-year investigation that has been intensive in terms of the information it has gathered and the analysis it has carried out, and it has shown that there is only a modest benefit to vertical integration. The important thing was that it was actually examined, because it was going to be one of those perennial issues that was never going to go away. I think it is a really good thing that it has been exposed. Thankfully, consumers have not suffered detriment as a result of it, and the minimal efficiency savings that it has achieved have hopefully been passed on.

Q10 Glyn Davies: Do you think the CMA judgment is probably the right one? It has been looked at and they have studied the issue, which was obviously causing a lot of concern when the CMA investigation was set up but, generally speaking, you are pretty content with the recommendation?

Professor Waddams: I would agree with Audrey that it was a big question whether that was important or not, and I have no reason to believe the CMA did not do a good job in deciding that it was not a big issue. They have looked at it more, I think, than anybody else has been able to.

Pete Moorey: I think it leaves some outstanding questions of transparency for consumers on energy pricing. We know there is a view out there from people about how prices are being passed through, when we see changes in the wholesale market, and how that is being passed through the retail market, so undoubtedly that needs to be addressed going forward. Ofgem needs to make sure that there is much more transparency about the relationship between wholesale and retail prices so that consumers do have confidence in the price that they are paying.

Q11 Glyn Davies: Does anybody disagree with that? No disagreement. Is there a contradiction here, a tension in the CMA report, when they are arguing on the one hand that vertical integration is not the problem and there is no need to interfere, and on the other hand there is a recommendation that there be substantial interference in the retail market? Is there a contradiction between those two approaches? Is there a tension between them?

Pete Moorey: I do not see it as a particular tension. As others have said, they looked at the relationship between the wholesale and the retail market and they made the conclusions that they did. There are understandable concerns about competition in the retail market and whether all consumers were able to access deals, and they particularly identified prepayment meter customers, and we think that was probably the right call for them to take. That then leaves a whole range of other questions about those customers who sit outside of the safeguard tariff, and that is going to be a clear element of focus going forward.

Q12 Glyn Davies: A positive tick for the CMA report, then?

Pete Moorey: Broadly, yes.

Gillian Cooper: One of the things we would like to see is Ofgem's return to publishing its supply market indicators. I think that has been a loss to the market, having the focus on the profits made by suppliers. I know industry in the past has criticised them, and we were hopeful that the CMA process would put those issues to bed. There is much needed transparency in the market, so we would like to see Ofgem reintroduce them now that the inquiry is over.

Q13 Tom Blenkinsop: Good morning. Do you think that the CMA's proposal of introducing a safeguard tariff for customers on prepayment meters is a positive or negative step?

Gillian Cooper: We think it is a positive thing. It is a temporary tariff. It is only until 2020 or thereabouts. Basically, the market does not work very well for prepayment meter consumers at the moment. There are limited choices, they pay higher prices, and the service is not very good. They are one of the particular groups that are going to receive better service as a result of the smart meter rollout, when they get smart meters that have much better functionality. I think it is quite right that the CMA has tied the removal of the safeguard tariff to the introduction of the SMETS 2 meters, which are the second-generation smart meters. Again, it is a temporary measure. It is the right measure because it will deliver some much needed price protection for these consumers.

Q14 Tom Blenkinsop: Do you all agree with that?

Audrey Gallagher: We need to be careful that you do not find that prices coalesce around that cap. Right now you can still save £200 by changing supplier from one prepayment to another, accepting Gillian's point that it is more difficult, that the limitations around the current technology and the meters can often throw up some barriers. We need to be careful that we do not have those awful unintended consequences that we are always talking about—that prices do not coalesce around that cap, that there is still competition and that it does not close the market and set up barriers to new entry for people to come in and compete for those customers. What we need is more competition. We need to keep an eye on it; it cannot be in place for too long. Given the circumstances of that customer group and the limitations of the technology currently, it is probably the right thing to do but with some caveats to watch it.

Pete Moorey: There are challenges with it. As Gillian pointed to earlier, it is a good proxy for vulnerable people but there are clearly lots of other vulnerable people, I am sure, in your constituency, who are not on prepayment meters and are struggling with their energy bill. How it works with the other remedies particularly for vulnerable people is going to be critical, and then there are the issues that Catherine raised about that as well.

It is also worth saying that there is limited detail on how this tariff will be judged a success. The CMA have linked it very firmly to the smart meter rollout, but beyond that there are few details. It is then putting an awful lot of importance on the rollout of smart meters, and this Committee and others on previous occasions have raised concerns about the rollout of smart meters, whether we are going to hit the 2020 deadline and other issues. There is a lot more work for Ofgem to do on how the safeguard will be judged a success or not.

Luke Watson: I agree it is protecting customers. I completely agree that consumers should be capped. Yes, I completely agree.

Professor Waddams: I have some reservations. Picking up both Audrey's and Pete's points, one is that there will be unintended consequences. I do not think we can avoid those. We are not sure what they are. That is the nature of it. If you do regulate it, it interferes with the competitive process. It may do it in a way that is beneficial, but it may not, so I think it is very difficult to get effective competition while you are also regulating, but there might be a balance that a particular group needs protection at a particular time.

To emphasise Pete's point, the vulnerable customers, whose definition itself is difficult, are not coterminous with the prepayment market. You are going to get errors of both inclusion and exclusion. You will be protecting customers who are not vulnerable, and not protecting those who are.

In terms of smart meters, what worries me is whether consumers will be smart. All this report is about the difficulties consumers have. Of course, some of the smart metering is going to be automatic, but it is not clear how consumers are going to respond to that. I think we have to be careful about that.

Q15 Tom Blenkinsop: What do you think about Martin Cave's idea of a more widespread cap?

Professor Waddams: It depends what you want. If you want to be protecting consumers, particularly certain consumers, then regulation is a good way to do that. I disagree with Martin that you can easily get competition and regulation at the same time. I think it is very difficult to have them together working well. If the regulation is good, it is difficult to have effective competition. It is a choice of whether you want the process, which can deliver lots of benefits of competition on average but will not deliver those benefits to particular groups. It is silent on distribution.

Q16 Tom Blenkinsop: Do you all agree with that?

Pete Moorey: I agree with that. The problem with the wide tariff was that it would have had an effect of going against the other remedies that the CMA was proposing and would not have sought to engage people in the market. You would have had a situation where 70% of the market saw themselves essentially as safeguarded and would not have seen that incentive to switch. We think the prepayment option is broadly the right way to go instead.

Gillian Cooper: We would have liked it drawn a little bit wider, bringing in some more vulnerable credit meter customers, but overall we were not supportive of the tariff covering 70% of the market just because of the risks pointed out by Catherine and others.

Audrey Gallagher: Some of the concerns around the prepay cap just amplified that, effectively, we are not going to have an open and competitive market anymore if 70% of people are on a capped price. Given that the problems the CMA have identified are about lack of engagement, largely, telling people that it is fine that you are on a regulated price, I do not think would promote engagement in any way. Then there is this issue about what it means for new entrants coming into the market, and what it would mean for competition more generally. You either decide we are going down a competition route or we are going down a regulated route. Clearly, we are going down a competition route, acknowledging that there is a group of customers for the time being who need some additional protections. I think the CMA has landed in the right place on it.

Pete Moorey: If it is seen that all of these measures fail, and if we return to look at the market again—I think the CMA has said in 2019 or 2020 it would expect to have seen this to have an impact—and competition still is not working in the market, then clearly wider price controls should be on the table, if each of these attempts are seen to have failed. We think, now that we have this package of measures, it is right to trial a test to implement quickly, to monitor and see whether they work, and then move to that stage.

Q17 Tom Blenkinsop: The CMA have also revised down what they think customers are collectively overpaying from £1.7 billion down to £1.4 billion. Do you think that is accurate? Do you agree with that?

Professor Waddams: I have a problem in principle with it because I think it measures the money left on the table but does not take account of—we would say costs, as economists—the efforts that people need to exert in order to engage in the market. It is a financial measure but it is not a measure of the detriment because there are costs of engagement. We have that principle. Then I have some other issues, but my colleagues may want to—

Pete Moorey: I do not think we should get too hung up per se on that figure because it was £1.2 billion, then it was £1.7 billion, and now it is £1.4 billion. What it shows is the market is not working for consumers, and that is why we need to take action. If there were people from the energy industry sitting on this panel in denial and saying that the CMA had not found that, that figure in and of itself demonstrates that there are failings in this market for consumers and the need for us to take swift action.

Professor Waddams: Would zero detriment then be that you had all the prices the same because you could not save by switching, and what sort of market is that where you have only one price? I do not think that is a dynamic market that is doing process. I think there are some conceptual issues around this. What does a well functioning market really look like?

Audrey Gallagher: As Pete said, it is highlighting the fact that the real issue we have uncovered is lack of consumer engagement. As an industry, we need to redouble our efforts to engage consumers. Last month, in conjunction with Citizens Advice and DECC and Ofgem, we launched the switch guarantee, and that was to try to do some myth-busting and give some protections for consumers, to try to encourage them to engage in the market. There are a lot of things, in particular as we move into this testing and trialling phase, such as prompts and whole-of-market comparisons. Hopefully we can start eroding whatever the figure might be because we have consumers who are confident enough to engage in the market, and we have effective monitoring in place to ensure that they are doing it and they are getting the right deals.

Gillian Cooper: The other focus we need to have is who is in that group—who is on the higher costs and variable tariffs. It is all the people you would not want to be in that group: people on lower incomes, older households. One of the key success criteria for the CMA's remedies will be whether or not it results in a noticeable shift in those groups of consumers who are currently paying higher prices switching on to cheaper tariffs, particularly the ones who will not be affected by the safeguard tariff.

Q18 Antoinette Sandbach: The CMA's solution to that appears to be this register of sticky customers. It is fair to say that some of the responses have been quite negative. Professor Waddams and Mr Moorey, you have been quite vocal about the fact that there may be a number of offers coming to people and it may lead to more confusion rather than less. Can you talk us through some of the concerns about that sticky customer database? Is three years on the standard variable tariff too long to leave someone on that tariff before you contact them?

Pete Moorey: There are an awful lot of people who have been on standard variable tariffs for much longer than three years. Some estimates from Ofgem and the CMA suggest that there are energy customers out there who have never ever switched, who have always remained with their incumbent supplier. We have to be realistic, as I think Catherine has pointed to in some of the work that she has done, about how hard it is going to be to engage those people.

We have done some research on this. It is important to remember that of course this is market research, so this is what people say they would do rather than what they would actually do, and that is critical. It is going to be critical that Ofgem tests this very quickly. We did find that about four in 10 people said that they would opt out of the database. We found about a third of the group said that they would simply put the letter in the bin or they would just scan them, and about 10% of people said that they would not do anything with the information.

That does leave a big chunk of people also who say that they would do something with that information and, as I said at the beginning, our view is now this is the remedy that we have on the table, and it is important that we move on and now start working with it. We are keen to see Ofgem start testing it and start testing the messages that they are using around the opt-out, start testing the way that you present different deals. We are keen to see the energy industry engaging with that, them working with Ofgem to indicate who their sticky customers are, and any evidence that they have through their direct mail and so on about how you wake customers up.

Q19 Antoinette Sandbach: Mr Watson, you are in this market. How do you think that will affect your business, and is it a solution?

Luke Watson: To answer your previous question, I think six months is too long for someone to be paying a higher tariff. I think a solution to that would be to put on a renewal letter in big, bold letters, "You are paying too much and you are about to go on to our standard variable tariff, and this is the cheapest deal in the marketplace", as opposed to dropping to the standard variable tariff and paying through the nose. It could lead to some very simple solutions to taking—

Q20 Chair: Do you think the standard variable tariff itself is beguiling, in that it may be a standard rip-off tariff?

Professor Waddams: Yes.

Luke Watson: I completely agree.

Q21 Antoinette Sandbach: What about companies like, for example, EDF, which only bills its direct debit customers once a year, and some companies withdraw their cheaper offers just before that billing round? Do you think this sticky customer database will deal with those issues? If not, what else needs to be done?

Professor Waddams: I am sure there will be ways around it. I have a number of worries about this remedy. I am really pleased it is going to be tested; that is obviously an excellent idea. There are dangers that the offer you get is not the best deal, so we may get more switching but not necessarily good switching, although you could argue if you are saving anything that is good, but there is an issue there. If you engage the marginal customer, it is going to change the nature of the market, and it will change the way suppliers make offers. You need to be aware of that in trying to engage. You might leave out even more of those 40% who are going to opt out, so you need to think a little bit about how that will change the dynamics of the market.

In terms of observing what consumers do, we do have an example through the Big Switch where we looked at all the data, and an extraordinarily small number of people who had gone to a huge amount of effort to enter that opt-in auction actually switched, when all they had to do was press a button and say, "Yes, I will accept this offer." When people say they will switch, very often, when it comes to it, they will not, so we have to be careful about those issues.

Q22 Antoinette Sandbach: If this does not work, what do you think might be the best way, apart from maybe printing on bills?

Professor Waddams: I think you have to decide what "good enough" is going to be. I hope you are never going to get a single price in this market. What are we prepared to put up with? We probably are not prepared to put up with people who are particularly vulnerable paying the higher prices.

We wondered about an opt-out collective auction, in which a group of people, perhaps in a housing association, who are easy to identify—and there will be lots of people who are not easy to identify but this will be a start at least—would be put into the auction unless they opted out. They would be put on the cheaper tariff unless they opted out. I think that is worth looking at much more closely as a solution.

Q23 Julian Sturdy: I want to touch on something that has been in the press recently and adds to the confusion that consumers face. We are seeing that a number of the Big Four are losing customers. I think I can name them. British Gas has just come out with this deal that says you could get free electricity on the weekend, either a Saturday or a Sunday, but when you look at the deal, you are still a lot better off if you switch and go somewhere else. It is about trying to keep these customers on these higher tariffs. Is this not just adding to the whole confusion that customers are facing at the moment?

Pete Moorey: That is one of the first time-of-use tariffs linked to smart meters that we are seeing on the market. We are supportive of smart meters and we want to see innovative tariffs such as free weekend or free evening energy. But you are right, it does raise the really important issue of: can consumers see whether it is the best deal for them? That has been a critical issue in the energy market for a long time. We went through the big process of Ofgem's retail market review, a reduction in the number of tariffs, a whole range of remedies that they put in place to try to help people to judge whether they could find the best deal. The CMA's analysis is that that failed to work. Now we are left with this range of remedies.

Given that we are in a situation where the four-tariff rule is going to be removed, what we are likely to see is an increase in the number of tariffs again. Ofgem must make sure that there is a way for consumers to be able to judge what the best deal is. That will be critically important whether it relates to the database proposal, to the proposals around price comparison websites or to the other proposals that they have on trialling and testing messages to consumers, which could include things like Luke mentioned of what you put on the bills and so on. The critical issue of how you judge what the best deal is for you on the market still remains a big issue in the energy market, and we are keen to see that addressed in this next phase.

Q24 Mr Alistair Carmichael: You are all talking about switching as if it is an exercise in economics, and as long as you regard it as that you are going to fail, are you not? What needs to change here is the psychology. Basically, the problem that you all have is that consumers do not engage because they do not have an awful lot of trust. When you find a trusted mechanism like Martin Lewis's site or whatever, people will switch. Is that not where we should be focusing our attention—the psychology rather than the economics?

Gillian Cooper: That is a clear focus for Citizens Advice going forward with this. We have a non-transactional price comparison website and the CMA has said that will become the backstop website in the future once whole-of-market is removed. We are looking at ways where we can enhance the functionality of our site and make it better and more useable. Other things we are looking at include publishing a new supplier customer performance metric, which will be integrated with our price comparison website, which will hopefully help give people more confidence in switching to a supplier they have never heard of because they have the Citizens Advice rating. We run a lot of outreach programmes where we try to encourage people to switch. This is an area where we are very focused on trying to encourage people into the market.

The concern we have is that we have competition working well for a small minority of the market who are getting great deals. It is how we expand that so more consumers are able to take advantage. It is a big focus for us, but we are a bit concerned about how some of the RMR changes will work in practice because there are a lot of people who do not have any trust, who do find the current, simplified tariffs confusing. There is a key challenge for Ofgem going forward in getting the right regulation in place there.

Q25 Mr Alistair Carmichael: Where do your new customers come from, Luke?

Luke Watson: A lot of social media, a lot of friends introducing friends. I completely agree with Gillian. We are engaging with Citizens Advice and we are being published for the first time this quarter in their complaints league.

Q26 Mr Alistair Carmichael: With something like Compare the Market or whoever else does all these comparisons, do you know that somebody has come to you from one of these sites?

Luke Watson: We cannot really measure that because obviously we do not get the click-throughs as such. However, anecdotally, we believe it is about a third of our customer base.

Chair: I might be able to help there because I moved to GB Energy after looking at uSwitch to—

Dr Poulter: After I recommended it to you.

Chair: I saw it there, but I had fallen into it separately from uSwitch. I got information from uSwitch, but then I went to Dr Dan Poulter for further information.

Q27 Dr Poulter: Picking up on the issue of some of the tariffs and more vulnerable consumers, because this is an issue you have all expressed concerns about, is there an argument to some extent that the behaviour among the energy suppliers, some of the Big Six in particular, would be to put forward loss-leading tariffs, and that will attract people or will help to reduce competition in the market, effectively? The Big Six are relying on the fact that they have a lot of customers, more vulnerable customers in many cases, or customers who do not switch deals, so they put forward loss-leading tariffs to try to reduce competition in the market. Is that something you feel has been looked into in this report? Is that a hypothesis that you agree with? What are your thoughts on that?

Professor Waddams: When you say loss-leading tariffs, you are saying that they will offer a really low tariff that sounds like good competition?

Dr Poulter: Yes. If you look at the market base of a lot of the Big Six energy companies, a lot of that market base are people who do not switch, and they are on higher tariffs very often. They are tapping into the part of the market where there is competition at the moment: the people who do switch. In order to reduce competition, some of the Big Six companies are putting in loss-leading tariffs because they know that their profits are maintained and protected by the consumers who are not switching on to deals and the sticky ones. What are your thoughts on that? Certainly I have seen there is a lot of evidence to support that hypothesis. Do you think any of these issues have been addressed in this report?

Professor Waddams: You might offer a low tariff to somebody hoping they move to you, and then you might put them on to a more expensive tariff later. I think some of that happens, but I do not see why, if you are not doing that—Luke could answer himself—you would want to supply anybody at a loss. However, you might want to recover some of your fixed costs more from one group who are not going to change than another. There are lots of issues wrapped up in your question.

Q28 Dr Poulter: There are indeed. Say the Big Six wanted to monopolise the market, what they may do is put forward loss-leading tariffs, knowing they can absorb that loss because of the huge numbers of consumers they have who are on other tariffs that are not the best deal on the market, and often some of those are quite vulnerable, energy-poor households and the people who most need to have the best tariffs. With those loss-leading tariffs what they are trying to do is potentially reduce competition for new entrants to the market.

Professor Waddams: Exclude competitors.

Dr Poulter: Effectively to drive out new entrants to the market. Do you think that is an issue that needs to be looked into or examined in greater detail? Is it something you think there is evidence to support? I certainly think I have seen it.

Chair: An aspect of predatory pricing, I think.

Dr Poulter: Predatory pricing, yes.

Professor Waddams: Predatory pricing is illegal and should be challenged under competition law, European or otherwise. I do not know that there is hard evidence of that. I am interested that you think you do have evidence and suspicions of that. The trouble is that if you come into a market and start saying, “That price you are offering is too low”, it becomes rather difficult to distinguish that from genuine competitive pressure and a market working well in the reduction of consumer detriment. It is analysing the symptom and knowing exactly what the underlying disease is. If it is to keep out new entrants, it has not been very successful is all we could say.

Audrey Gallagher: Over the period of the investigation, the last analysis from Ofgem was that there were 46 suppliers in the market—more than double what there were at the start of the investigation. Clearly, new players are coming on board. Energy UK publishes the switching figures every month. From the figures in May, nearly 2 million people have switched this year, and over 30% of them have gone to small, new market entrants. Consumers are definitely moving to them. As Catherine says, I do not think that there are any current barriers of pricing strategies by larger suppliers for new market entry, given the volumes we have seen, but Luke might tell me differently.

Luke Watson: We have seen it from time to time and we obviously do weekly competitor analysis. You are quite right, for two weeks or three weeks one of the Big Six will offer a loss-leading tariff but it does not really impact on us per se in the overall scheme of things. They just dip their toe in the water. To be really honest, I am not too fazed about it.

Q29 Glyn Davies: The overall thrust of policy is to encourage customers to consider switching from the Big Six to broaden the range of suppliers. That is what we are doing. Not unreasonably, I think the Big Six might want to defend their position. Probably three or four weeks ago I think a national newspaper threw a bit of a sting and identified some pretty unethical practice, that some of the people were being trained to not be entirely truthful—I think at the time I compared them to the film "The Wolf of Wall Street"—simply by saying things and not saying things to give a completely dishonest opinion and discourage people from switching. Is that a problem you have ever identified anywhere? Is it at all widespread? There was immediate denial—this was a practice that had to be stopped and it would not be happening again—but then nobody would have found out in the first place if there had not been a fairly unethical newspaper sting.

Pete Moorey: It has been a problem in the past. When an awful lot of the media noise, political noise and consumer group noise around the energy market started in 2008, 2009 and 2010, that was undoubtedly linked to some poor supplier behaviour, particularly with doorstep sales, which now have ended. Also repeated investigations that Which?, Citizens Advice and others did found poor supplier practice when it came to sales via telephone and a whole range of other things—poor complaints handling, poor billing and so on—which undoubtedly led first to Ofgem doing the work around the retail market review and then this.

This relates to the point that Alistair was making about trust, because the critical role here is that of the regulator. How are we going to instil more trust in this market? Ofgem has to play an important role. If they are seen to be cracking down on that kind of behaviour, if all players in the industry know that they cannot get away with it, that will ensure that it does not take place, hopefully. As a result, consumers can move on from the sense that an awful lot of them have at the moment, which is that basically most of the energy suppliers are the same and they are all as bad as each other, and, "Why would I switch when, if I go from one supplier to another, I would get just as poor service as I receive now?"

Moving forward, Ofgem play a really important role, and their move to principles-based regulation, where they take action much more based on whether companies can demonstrate that they are treating their customers fairly, just as the FCA do in financial services, is very important. Them demonstrating that they can make that work is very important.

Q30 Glyn Davies: The difficulty we have is that usually on one end of the telephone conversation you have somebody who has been trained, somebody who knows the answer to every question, who responds very quickly to all the buttons that might be being pressed in a pretty efficient way, and that is designed to hang on to the customer. On the other hand, you have a customer who is a bit distrustful of companies generally anyway, who can be led because they simply do not have the information and they are dependent on a fair assessment. I was interested in that a few weeks ago and I am still interested now to what extent that is, because it will be hidden. Nobody would ever see that because it is just private phone calls.

Professor Waddams: They may be recorded; they always tell us, don't they? There are laws against unfair commercial practices, and I think we need to enforce those laws in some cases more than we are doing.

Just a little anecdote from the Big Switch: we discovered that people who were phoned up by their existing supplier after they wanted to switch to the new deal were more likely to switch, so it turned them off. I have to say from my personal experience—perhaps you had it as well—I can understand that.

Chair: The contrary British.

Professor Waddams: Then you wonder why they do it.

Chair: I suppose they are getting a percentage of people who would fall for it, perhaps. We have gone on a bit of a tangent.

Q31 Antoinette Sandbach: The CMA's recommendation is based on the French experience, but they redacted it. Do you know how successful it was in France? Do you have any evidence that it is not—

Gillian Cooper: The difficulty we have is the French database came into effect in January 2015, so it is a new initiative in France. It is worth pointing out that the French market is quite different to the British market in terms of how long it has been open to competition, the number of suppliers in the market and the market share held by new entrants. We thought it was quite difficult to draw proper comparisons.

The other thing worth pointing out is that the French database prices are updated on a monthly basis, the tariff information, and the British one will be every six months, which I think is another risk because the data could be out of date by the time you get the letter on your doorstep.

Pete Moorey: We have asked our French equivalent. There is a French version of *Which?* magazine called *UFC Que Choisir*.

Chair: It sounds great.

Pete Moorey: It does, doesn't it? They did not have a huge amount of evidence to date to suggest how it was working. I would be very happy for us to go back to them and provide a note for the Committee on that, but I think at this stage it would probably be one or two pages, to be honest.

Antoinette Sandbach: I think that would be quite useful.

Chair: We need a new website, comparethecountry.com.

Q32 Dr Poulter: I want to talk to you a bit more about some of the differences between Ofgem's recommendations and the CMA's tariff reforms and generally discussion about price comparison websites. The CMA effectively reversed Ofgem's retail market reforms, such as the four-tariff rule. You touched upon this in your answers before, but can you flesh out some answers on that, perhaps more broadly across the panel?

Pete Moorey: We never thought that the four-tariff rule was the right remedy in the retail market review. We felt that simply restricting the number of tariffs was not the way that you were going to bring comparability to the market. At the time, we were much more interested in price comparability and the way that you use things like petrol pricing and the real transparency on that. I think there is still space for Ofgem to be testing how you present pricing that a bit more. I think that is the critical issue. Rather than just restricting the number of tariffs in the market, how do you ensure that it is very simple and easy for consumers to spot what the cheapest one or best one for them is, given that some people out there do not want the cheapest, they want it with a supplier they think they trust, or perhaps they want it on another basis?

Professor Waddams: The downside of the 43 suppliers, or whatever it is, is when you multiply that by four, you have a lot of tariffs already.

Audrey Gallagher: Energy UK welcomed it, but to come back to Gillian's earlier point about the confusion and complexity, obviously Ofgem brought in the four-tariff rule for a reason. They did not wake up one morning and decide to introduce it. Why it is critical that we have it is that the market is moving, so we are going to have smart meters, demand response and time-of-use tariffs. We know we need to re-engage customers through smart meters and through new market actors coming in, intermediaries, connected homes, automation, all of this stuff. That is where the future is. The four-tariff rule would have just constrained that. We do need to be careful that the underpinning regulation or the principle around comparability—we just need to be careful that we do not undo any of the good work that we can get out of the CMA in terms of resetting the market and trying to re-engage consumers and drive up trust. What we do not want to happen is for them to be bombarded with a lot of letters off a database that acts against that. Likewise, we do not want a whole lot of products that consumers do not understand.

Gillian Cooper: We are fine with the removal of the four-tariff rule. Its time has had to come to an end. One of the things we are a bit disappointed by—supplier behaviour since Ofgem announced that it was going to deprioritise enforcement—is we have now seen suppliers starting to put tariffs into the market that are not available to existing customers. That is some of the poor practice that led to consumer distrust in suppliers and it is really disappointing that we have already seen a return to that. It is still a minority of the market, but it is out there, and we would not want to see that grow because you are going to go back to the bad old days of consumer distrust in energy company behaviour.

Q33 Antoinette Sandbach: It was clear to our predecessor Committee that a multitude of tariffs disincentivised people from switching. Given the number of new entrants, is there a risk that if you issue multiple tariffs with only very marginal differences, you will flood the market and there is a risk that the Big Six would flood the market with a confusing number of deals?

Luke Watson: I completely agree with the panel that four is too few, and we have to encourage innovation, but at the same time I do think unlimited tariffs are going to negate switching or deter switching because of that very point. From our perspective, we believe there needs to be a cap and regulation to that cap. Ten or 12 tariffs might be a reasonable number, I don't know, but that is a suggestion. Gillian has alluded to the fact that some suppliers—not us, I would hasten to add—are taking advantage already.

Pete Moorey: I would like to think that more price transparency would lead to a natural limiting in the market, that it would become fairly pointless to be flooding the market with lots and lots of different tariffs. If it was very apparent to people that, "That is the cheapest deal, so why on earth would I go for these three, four, five, six, 10 others?", they would naturally then be removed out of the market.

The role that Ofgem plays is really important here though as well, in terms of its principles-based regulation. They must be taking a very close eye, as Gillian said, on the new tariffs coming into the market and ensuring that there is not behaviour by the suppliers there that is seeking to mislead people in any kind of way. That is one of the critical roles for them as the four-tariff rule is removed.

Q34 Dr Poulter: On the broader issue on the back of the CMA's reforms, let us look at one of the price comparison websites for a moment, because that is a tool that a lot of consumers will use to choose and to evaluate which is the best energy deal. I believe Which?—I may be incorrect in saying this—always put up on your websites all deals that are available.

Pete Moorey: Yes.

Dr Poulter: I do not think it is universally the case. There is an issue of commission in how most price comparison websites work. How do we feel that the CMA's reforms are going to impact on what a consumer can get out of a price comparison website, notwithstanding what Which? has to offer?

Luke Watson: I do not believe the general public has realised the value of those commissions—the £60, £70, £80 per dual fuel customer. As recently as March, we did a comparison across those suppliers that were paying commissions to the comparison sites against those suppliers that were not, and generally, including ourselves, it was £80 or £90 cheaper. That cost obviously goes straight through to the consumer, and those consumers end up paying more than that, whereas the savings the other suppliers make who do not pay those commissions impact on the consumer as well because the consumer has that in their pocket. Hence we are obviously against that.

I would add that if you restrict or remove the tariffs that are the best value tariffs, the cheapest deals, you end up effectively with the comparison sites as marketing companies. Can they really then be called comparison sites?

Q35 Dr Poulter: What you are saying is that under the CMA reforms price comparison sites are not necessarily going to be offering the best deals?

Luke Watson: They will not be. The CMA report contradicted itself. Within that report there were tables issued as of December last year showing the top 10 deals on three of the bigger comparison sites, and out of those top 10 deals, six or seven were non-commissioning tariffs.

Q36 Dr Poulter: I will bring in the other panel members, who I know will have comments to make on this. What we are effectively saying is that something that has become in itself a trusted tool for many people to evaluate best deals on the market and a tool that should enable competition in fact is just an extension of the commercial operations of the Big Six energy suppliers or those people who wish to pay a commission to the price comparison websites. Of course, the Big Six suppliers are in a better place to pay those commissions because for smaller entrants into the market it is much more challenging to be able to do so.

Luke Watson: I completely agree.

Professor Waddams: I think it is really important that there is transparency about those commissions that you mention, not because I think every consumer will now engage in price comparison website comparisons but so that somebody—perhaps some of my colleagues here—can keep an eye on it and it is clear what those commissions are likely to be. I agree that unless it covers the whole market, it is not going to be a price comparison website. It is going to be turned into something else.

Dr Poulter: The commercial arm of the Big Six, for example.

Professor Waddams: Not to go that far.

Gillian Cooper: I do not think it is necessarily that, but I think it is worth pointing out that energy price comparison websites have always been different from price comparison websites in other markets because there has always been a whole-of-market equivalent. Even if you did not default to it automatically, you had to have all the tariffs in the market on it. That is not the case for some of the other markets. That was an important principle. It is an essential for live service. It is important that consumers get transparent, comprehensive information.

Audrey Gallagher: I think there is probably a danger that removal of the whole-of-market requirement would make consumers distrust price comparison sites and it might affect engagement levels. If the work that Citizens Advice has been doing on its price comparison could be developed into a full transactional tool, all suppliers could display their prices and ideally all consumers could switch to whomever they like. I do not know if you have any plans for that.

Pete Moorey: You can do it on Which?. I am a dissenting voice on this in that Which? thinks that there is some merit in looking at removing the whole-of-market offer and that it could lead to more competition between price comparison websites. Clearly that is going to have to be monitored very closely. As a number of people have pointed to here, I don't understand how it would be in the price comparison websites' interest to remove the cheapest deals in the market. Which? would be keeping a very close eye on this. I can imagine us doing an investigation into price comparison websites and if we found that price comparison websites were not offering the cheapest deals on the market we would obviously be very vocal in the media and other places in saying, "Don't use price comparison websites, come to Which? Switch, go to other places. Go directly to the small suppliers if you want to find the cheapest deals." I do not think we would be alone, given the amount of focus there has been on price comparison websites in recent years. I can imagine the other national newspapers doing the same and that would be very damaging for them.

I think the likelihood is that even if you remove this, price comparison websites will still want to have the cheapest deals on the market otherwise they will come in for criticism. What you have to hope is that it will also lead to some more bespoke offers in the market that could drive competition. Given that we know that in many other markets consumers are using more than one price comparison website to look for the best deals and indeed going to, for example, insurance companies who are not on any price comparison website, there is the potential for that to happen in a section of the energy market where the most engaged are.

Q37 Chair: Luke, can we have a quick view on what you have just heard from Pete there on price comparison websites?

Luke Watson: Pete basically said he dissented and then effectively concurred.

Professor Waddams: In violent agreement.

Pete Moorey: I did. I think we should go ahead and remove the whole-of-market rule but clearly—

Chair: Dissented agreement—a first for a House of Commons Committee.

Q38 Dr Poulter: That is interesting, but I am not quite sure about the market share data of some of these big websites. If you go to Compare the Market or whatever the other websites may or may not be, I would imagine they have, not a monopoly, but a large amount of the market. I think the concern I have heard from other members of the panel as well is that when we are trying to move away from having six big energy suppliers, if the majority of people are looking at a price comparison website at this stage then it will deter new entrants or have an impact on smaller suppliers who may not be able to pay commission. Is that something we should be concerned about even if I accept longer term, which I do not necessarily, the argument that you have put?

Pete Moorey: Yes, that would be worrying because price comparison websites play such a critical role in making this market work. The CMA has effectively said that an awful lot of these remedies rely on price comparison websites playing a central role and smart meters playing a central role. If you go back to my point about comparability and being able to find the best deals, price comparison websites being integrated with my data and the ability for people to plug in their personal data and much more easily find the right deal for them is vital going forward. They have to be things that we can trust and I think Which? would be one of the first organisations shouting about it if we found that they couldn't be, coming out of this environment.

Gillian Cooper: The level of consolidation in the price comparison market is a concern. I think the CMA said that two companies have 70% of the market, so that is a risk for new entrants and their ability to negotiate deals with price comparison websites because they do not have a lot of market power compared to the Big Two. We do see this as a concern. We do have information-gathering powers, so if suppliers in the future are negotiating bespoke deals with a single price comparison website we will be able to get that data and put it on our site. As I said before, we are looking at enhancing the functionality and we would be happy to update the Committee in the future once we have our plan agreed there.

But, again, this is a risk. We don't know how the market will react to this. We do see some concerns with small suppliers. I think one of the difficulties of the CMA remedy is a lot of new entrants have not had the capacity to be able to engage with the CMA in any detail. I am sure that has been the case for Luke and GB Energy. We don't know if the CMA has had a full view about how new entrants' relationships with price comparison websites have worked in the past few years, so it is something that there will need to be close monitoring of in the future to see what the trends in the markets are.

Chair: Thank you. On that note, close monitoring in the future is a very good place to leave it. Panel, can I thank you for your time this morning? You look very comfortable and cosy on that table. Your time, effort and patience with us was very much appreciated. Thank you very much.

Examination of Witness

Witness: **Professor Martin Cave**, Panel Member, Energy Market Investigation, CMA, gave evidence.

Q39 Chair: As is normal, can I ask you to introduce yourself and your organisation for the record, please?

Professor Cave: Yes, my name is Martin Cave and I am an inquiry chair and member of the CMA panel, and also a group member for the energy inquiry.

Q40 Chair: Thank you very much, and thanks for coming in. It is much appreciated. You are billed as a dissenting view. I think we have you for about 15 minutes. Can you explain what your disagreement was with the panel and why it came about, please?

Professor Cave: Yes. First of all, I should emphasise that my dissent is very limited. It does not relate to the analysis in the report, nor does it relate to most of the remedies, but it relates to a significant aspect of the remedies, which is how to deal with problems arising in the domestic energy market. As you may know, the statute makes a provision for dissent to be recorded and the reason for the dissent to be recorded, and I decided it was appropriate in this case for me to use that arrangement.

In essence, my dissent is based upon three considerations. The first one is the very large scale of the detriment that we discovered in the household energy market. I don't want to engage in hyperbole, but £2 billion in 2015 is a very considerable sum of money to pay for an essential service by just about every household in the country. The only other market investigation that I was involved in at the CMA was into the cement industry and the detriment that was found was £40 million on an annual basis. You can see there is quite a big difference between those. I think the scale of it, in my view, makes it important to consider not only how well the remedies will work but also how quickly they will work.

I generally support the remedies applicable to the market I am concerned with in the report. They are well crafted and quite original, but in the nature of things it is difficult to forecast how well and how soon they will work. Many of them are novel. In many cases they are directed to encouraging engagement in the market and we know that encouraging household engagement in this market is quite difficult. It is an intractable problem. Over the past three years or so quite a lot of effort has been thrown at it. There have been changes to the bills to encourage people to look around, lots of instructions in newspapers on how to switch and emphasis upon how much money you will make from switching, and even a television advertising campaign by DECC encouraging people to switch, but nonetheless those measures have generated only a trickle of reduction in the proportion of customers of the six large energy firms who are on a standard grade tariff. Clearly new measures can be devised and that is what has happened in this and I think they are interesting and challenging, but it is quite hard to make a projection of how far and how soon they will work. Indeed, I don't think you will find in the report any projection of how they will work. That is a matter of concern for me.

That led me to consider whether it might be appropriate as an interim measure to introduce a more direct regulatory way of dealing with the excessive prices, particularly for a standard variable tariff. The guidelines for market investigation for CMA do indicate that it may be appropriate in some instances to adopt long-term measures that will get to the root of the problem but to combine them in the interim with short-term measures that take immediate effect, even if they are only dealing with the symptoms; in this case very high prices. For that reason I have favoured a remedy, which was floated in association with the publication of the provisional findings in July of last year, that we should have a wider cap that would basically capture all of the customers who are on the standard variable tariff.

Q41 Chair: What form would that wider cap take?

Professor Cave: It would basically be a limit that would be set and reset at regular intervals indicating the maximum price that could be charged for customers in the energy market.

Sorry, can I conclude the final aspect of my dissent, because I think that is quite important as well? One of the issues that has already been discussed in this room this morning is the extent to which imposing such a cap would discourage the development of competition. That is obviously an important issue. If your two types of remedies are in opposition to one another then you risk losing the opportunity to increase engagement and to put the market into a more competitive posture. So that is clearly important. In my opinion, the design, duration and height of the price cap should take that into account. However, in my observation of the process of introducing competition in retail markets in other countries and other sectors I have formed the view that it is in fact quite possible to combine an appropriately designed cap with the continuing increase in engagement on the part of households. For example, in the telecoms sector in the UK in the early part of the century something like that happened. There was a price cap imposed upon BT and underneath that price cap other people came into the market and sold competing products and then in 2006 the price cap was finally withdrawn. A similar thing may be taking place in the water industry.

In the energy markets in GB in the beginning of the last decade a similar process went on that led to the removal of the safeguard price cut in 2003, simply because enough competition had developed for Ofgem to think it was safe to do so. We have seen a similar thing taking place in other jurisdictions. For example, in three Australian states a safeguard cap has been introduced in energy markets and it has been withdrawn in those states. Despite the cap, there has been enough development of competition for the regulator to consider it safe to withdraw it because the market has become effectively competitive. It has moved from the state of potentially competitive to effectively competitive. When it is potentially competitive, in my opinion, it is quite feasible to have a cap to protect customers against the worst excesses.

Q42 Chair: You obviously feel the market is not competitive at the moment at all?

Professor Cave: Well, it consists of a competitive segment and a non-competitive segment, but unfortunately the majority of people are in the non-competitive segment and the CMA data suggests that they are overpaying, if I might put it that way, £300 a year.

Q43 Chair: In the competitive sector, you have to be active in the market as opposed to being passive in the market.

Professor Cave: That is right. As I said, persuading people to move from an inactive state to an engaged state is extremely difficult. It seems to be inevitable that it is going to take quite a long time. With the cash registers ringing at the rate at which they are, it seems to me that the continuation of that detriment for a longer period is going to be strongly detrimental to everybody. There is a particular problem that among the customers paying higher bills there is a slightly disproportionate representation of people who are poorer and older, living in social housing and things of that kind.

Q44 Chair: For clarity, your proposals would not affect those who are choosing by default in the competitive sector?

Professor Cave: It wouldn't affect them at all. Competition would still take place with that quite substantial number of people. In other jurisdictions, in my opinion, the evidence suggests that provided there is a sufficient gap between the competitive price and the regulated price, there will still be this kind of progressive peeling off. There can be, if the cap is appropriately designed, this competitive peeling off of households as they switch, as they become more trusting or as circumstances change or as the CMA remedies take effect; for example, the database remedy and smart meters. Admittedly there is a certain degree of uncertainty about how far and how fast they will take effect but that process, in my opinion, will continue. I am not saying it will continue in precisely the same way but throughout the period in which the cap is in operation, and possibly afterwards to the extent that the companies are unable to raise their prices immediately to their former exalted levels, there will be a predictable and reliable reduction in the detriment. For example, the CMA has calculated that the prepay meter price cap will produce a reduction in the detriment of the order of £300 million. In a sense you know what it is going to be because once you have set the cap you know what the price is in advance and so you can see a difference.

Q45 Chair: Given all you have said, why do you think your other colleagues in the CMA did not accept your argument?

Professor Cave: I think it is largely because they have a different interpretation of the danger to the competition remedies that would result from imposing the regulated price. I think that in essence is the nature of the difference in judgment between us. I am certainly not claiming to have any infallibility in this respect but it seems to me that there is a pretty credible case for saying that the two effects can operate simultaneously. Not in identical ways in which they would operate if they were applied independently but the power of the combination is precisely that you can achieve in the interim some kind of predictable reduction in the detriment. If, as I suggest in my brief sketch of what a price cap might look like, that cap is taken off after two years unless some other body than the CMA comes in and reimposes it, you would move into a world in which, as the CMA's remedies came into operation—and to the extent that they work when they come into operation—you would achieve a transition, assuming that to be possible, to the effectively competitive market that I think we all aspire to.

Q46 Chair: Thank you. Time is pushing us but I just want to follow up. You mention a consumer detriment of £2 billion—overcharging people £2 billion—and the CMA had £1.7 billion in their interim and £1.4 billion at the end of their report. Do you accept this revision?

Professor Cave: I was citing the figure in 2015. You may be aware that there has been a general increase in the detriment over the period from 2012 to 2015. In my opinion—and this is acknowledged in the report, I think—it is probably more important to attach greater weight to the later years when the gap between the competitive price and the standard variable tariff has increased quite markedly. I am using one year's figures, the latest year's figures, and the £1.4 billion is based upon an average of four years.

Q47 Chair: Thank you for that. It is very useful. Finally, is there anything else that you didn't agree with or have concerns about in the rest of the package of measures and remedies that the CMA proposed?

Professor Cave: No. I am quite content with the remedies. If I may say so, I think it is an excellent report and the analysis is first class, and the other remedies have been very carefully thought out and well devised.

Chair: Professor Cave, thank you very much for your time and for coming in. It is much appreciated and it is useful for our remedy session. Thank you.

Examination of Witnesses

Witnesses: **Roger Witcomb,** Chair, Energy Market Investigation, CMA, **Simeon Thornton**, Project Director, CMA, and **Susannah Meeke**, Director, Remedies, Business and Financial Analysis, CMA, gave evidence.

Q48 Chair: Thank you, panel. Can I ask the usual formalities, that you introduce yourself and your organisation or position for the record, please?

Simeon Thornton: My name is Simeon Thornton. I am one of the inquiry directors for the CMA inquiry.

Roger Witcomb: I am Roger Witcomb. I am the Chair of the Energy Market Investigation at the CMA.

Susannah Meeke: I am Susannah Meeke. I am a Director of Remedies at the CMA.

Q49 Chair: Thank you all very much and thank you for coming to give evidence today. Congratulations on completing the Energy Market Investigation. Before we examine specific remedies and impacts on consumers, we have a duty to scrutinise the process of your investigation. This inquiry began in 2014. Did you expect it to take two years and, if not, why did it take two years?

Roger Witcomb: First of all, thank you very much for inviting us to give evidence. We really appreciate this. We do believe that this is a landmark in the development of the energy market going forward and we are absolutely committed to making the energy market work well for consumers. This is a huge inquiry. It is the biggest inquiry that the CMA or its predecessor organisations has ever done. Did we think it would take two years at the beginning? Well, no. We did our level best to do it in 18 months, as is the initial statutory requirement. As time went on and more evidence came in and there was the need to do more analysis and to cover more issues, it became apparent that we would not be able to do justice to this within an 18-month period. We have an absolute statutory deadline of 24 months and we ran right up to it, but I think it is a reflection of the scale and depth with which we went into the inquiry.

Simeon Thornton: Could I add one thing to that? We have had two key objectives here: one is to persuade, to inform the public debate; the other one is to identify problems and address them with the powers we have. It is important to understand, in considering the length of the report and the length of time we took, that we have order-making powers that are very stringent and are subject to quite stringent legal processes and appeal processes. We have had to do several publications of the report, consultations, and that has inevitably added to the timescale. It is on the back of those panels that we are introducing some of the more stringent remedies such as a prepayment price cap. In understanding how long it takes and how many iterations of the report we have produced, I think we need to understand that very important aspect of the investigation.

Q50 Chair: Thank you. Some would argue that the report was maybe lengthy and some others will argue that it was costly and particularly costly for those in the industry. A figure of £80 million has been quoted by a newspaper as a total cost of the investigation. Does that seem accurate?

Roger Witcomb: I really can't say what the cost is to the other companies. Our own costs were around £5 million.

Q51 Chair: Were you aware of the investigation costs to businesses, in particular small suppliers, and did you take any steps to reduce and mitigate these costs?

Roger Witcomb: We are certainly very mindful of the costs that these investigations impose on businesses. Small businesses have not really been very much in the firing line here. We have seen them as allies encouraging us and wanting to help us. We don't believe that our costs are disproportionate and we believe that the outcome is in the interests of consumers but also in the interests of the small businesses, the challenger suppliers and, indeed, the micro businesses who are part of our investigation.

Q52 Chair: Could I gently say perhaps on the same issue, could you have been more mindful of the costs to those they are investigating as well?

Roger Witcomb: It is absolutely essential that we get this right. A lot of what we have seen in the past has been the consequence of well intentioned but possibly not fully thought through remedies to immediate problems. Our only aim has been to get it right and to do what is best for consumers going forward. That is necessarily intensive of cost and resource and thought. We believe that what we have done has been very efficient. It has been an efficiently run project and the results entirely justify the effort spent on it, both by us and by others.

Q53 Chair: Thank you for your perspective there. Do you have any reflections on the main achievements of the investigation? Was there anything you hoped to address but you were unable to address, given that you were pushed for time? I am going to use the other hand and say perhaps you didn't take long enough. Harry Truman: the American President, always had two hands; on one hand was one argument, on the other hand was the other argument. You made achievements and is there anything else you hoped to address?

Roger Witcomb: You will notice I am keeping my hands very firmly under control. I think a lot of the comment has been on the more eye-catching remedies, such as the price cap and the database remedy. Perhaps I could quickly go through some of the others, because I think there are some very important things that we have done here that will set up the market for the next century. It was mentioned earlier today, but what we have done is put to bed some notions out there, particularly about competition in the wholesale market and vertical integration and indeed about possible co-ordination between the Big Six. We have looked at those very carefully and come to the very clear conclusion that these are not a problem and should not concern anybody going forward. I think that is a huge contribution to the public debate. Through the analysis we have done of who is switching, who is not, why they are switching, why they are not switching, what sorts of demographic characteristics they have, we have added hugely to the sum of knowledge and anything that is done in this market going forward will rely very heavily on what we have done.

That is before you get to the 36 remedies that we came up with, some of which are eye-catching, some of which, although very important, are much less eye-catching. Code governance, for example, is not a topic that sets the pulses racing in most quarters but it is very important. There 10,000 pages of codes, I think.

Simeon Thornton: And counting.

Roger Witcomb: And counting, in the gas and electricity markets. The vast majority of those are technical but a significant proportion have a lot of commercial significance. The current set-up is that the governance of this is by the industry. For the reasons that you have just mentioned, which is resources, that effectively means the Big Six. A lot of desirable, in fact essential, reforms to the code process that will have a huge impact on the market in the future are in the hands of parties whose interests are not—and I put this delicately—necessarily perfectly aligned with those of consumers as a whole.

Chair: Delicately put.

Roger Witcomb: I could put it less delicately but probably not. What we are doing is putting Ofgem in charge of this process. They are the appropriate people to be in charge of this process and that is going to make a huge difference. There are some stories out there of code reforms, Project Nexus being the obvious one, which is a highly desirable reform to encourage competition in the gas market. It has been going for—how long has it been going for?

Simeon Thornton: Eight years.

Roger Witcomb: There was a firm commitment to come to an end in October. I understand that commitment is now rather less firm. This is an important thing. It has taken eight years because it has become stuck in the morass of governance relationships. There are how many different code panels?

Simeon Thornton: There are 11 codes now, six code administrators and, as Roger said, there are 10,000 pages of codes. It is very dense and very complicated, but some of the more fundamental issues that we have identified in the market arise from those complex rules, and because it tends to be the incumbent operators who govern the change process, that can have harmful effects for competition.

Chair: Not all 10,000 codes.

Roger Witcomb: No, I promise just one. Moving to smart meters, a much more responsive market requires something that is technically known as half-hourly settlement. I won't go into the details of the settlement process, because I do not think you would believe it if I told you exactly what goes on at the moment, but with smart meters the opportunity is there to sweep away at least 300 of those 10,000 pages, and probably a lot more, by putting in half-hourly settlement. There are currently no firm plans to do that. We have been to other countries who have been this way and they say, "Yes, of course you need half-hourly settlement. What's the problem?". The answer is that the governance is the problem, so we are sorting that.

Sorry, that is a long way round of explaining where there are some very important changes. I think overriding all this is the fact that we are strengthening the role of Ofgem hugely, putting it in the centre of this market and clarifying the way it interacts with the industry, and indeed with DECC and customers, and we can look at the various remedies in that context.

Q54 Chair: Can I now maybe turn to a cynical question on the timing of the report? Perhaps it is not cynical, but perhaps it is. It was published the day after the EU referendum. Perhaps the non-cynical part of me would say you didn't expect the Brexit, you thought that it was just quiet and not much news, but some people could have thought it was an attempt to evade scrutiny. Why was that date chosen?

> ***Roger Witcomb***: Can I first say that we were disappointed to have to publish on that day? We think it is a very good and important report and we fully recognised that it would not get quite the day one attention that we would normally expect. Indeed, it turned out that way.

Chair: Or day 10 attention, given the current situation.

> ***Roger Witcomb***: We are working at it, but the serious point is that this is a report for the long term so I am not really worried about the precise date or the timing. The reason is that we had a statutory deadline of 25 June. We were obliged to publish before 25 June. We took the view that it would be inappropriate and possibly even more controversial to publish the report in the pre-referendum period, and so we found ourselves in the position where it couldn't be before 24 June and it couldn't be after 24 June, which made the decision quite easy.

Q55 Chair: Does the vote to leave the EU affect any of your recommendations in the report? I know it may be difficult because you are a hostage to fortune, but is there anything obvious that you are aware of at the moment?

> ***Roger Witcomb***: The straight answer is nothing obvious. It depends on the terms of exit and what stays and what doesn't. Clearly the energy industry at the moment is very much part of the EU energy regulations and those are incorporated in the UK legislation, so it just depends what happens to UK legislation going forward.

Chair: Given that we do not know whether it will be an EEA or another third country agreement post our exit after a seven-year negotiation, I can see that there is quite a hostage to fortune in the area.

Q56 Glyn Davies: Can I ask you about vertical integration and the dismissal of the harm that vertical integration might cost? When Ofgem referred in the beginning there was a bit of an assumption that vertical integration was harmful and that you might have been expecting to have a negative response towards vertical integration. Just explain to us why exactly that position changed. I think it is fair to say it did change from the beginning point. What is your thinking behind the change and do you see whether vertical integration has any threats, any problems, foreclosure or the sort of things that we read about two years ago? Do you see any of those threats still existing?

> ***Roger Witcomb***: I should first of all say that when we went into this inquiry I shared those concerns, that there were issues around vertical integration and in particular about the liquidity of the wholesale market. The critical question in vertical integration is how well the wholesale market is working. Our conclusions, after really exhaustive analysis, were that independent generators or gas suppliers could sell into the wholesale market on exactly the same terms as people who were vertically integrated and that independent suppliers could buy in the wholesale market on exactly the same terms, that there was very

little scope for foreclosure and that, therefore, there was no problem. At least one of the companies that started the investigation vertically integrated has announced the intention to deintegrate since then, which suggests that they do not see a lot of value in vertical integration and certainly we are very clear that we do not see any damage to competition and to consumers arising from vertical integration. There are possibly some internal advantages to companies to be vertically integrated, but that does not translate into damage to consumers.

Q57 Glyn Davies: You have not made any reference to collusion or that collusion is improper.

Roger Witcomb: Collusion is illegal.

Glyn Davies: There is no reference to it. Are you absolutely confident that you can say there is no collusion in the industry?

Roger Witcomb: On the basis of the evidence we saw no evidence of any co-ordination, let alone collusion. There were concerns about the timing of announcements but as always in these things, prices moving together can be a symptom either of a lack of competition or a lot of competition. The explanations given by the companies to the way that the price announcements were made—and that is the main basis of collusion—in our view were entirely understandable.

Q58 Glyn Davies: Is there a contradiction in terms of your attitude towards vertical integration, which is essentially allowing the market to operate and at the same time making recommendations about controls in the retail market? Is there a contradiction between those two attitudes in your report?

Roger Witcomb: I don't think so. I think vertical integration is an issue about wholesale markets, whereas what happens downstream of the wholesale markets is an entirely different matter. As you will see from our report, we have discovered a very large number of issues in the retail market going forward but that does not feed back into the wholesale market.

Simeon Thornton: I think the key thing to note is that those problems would exist whether all of the Big Six were vertically integrated or none of them. They are problems relating to the relationship between the customer and the supplier, not between the wholesale and the retail arms of a particular company. As Roger says, at least one of the Big Six has substantially vertically deintegrated since the beginning of the investigation and another one has announced plans to do so, so we do not think it is a major issue.

Chair: Thank you. James Heappey, you have been uncharacteristically quiet this morning. I do worry for the panel.

Q59 James Heappey: Thank you, Chair. We are going to move on to look at vulnerable consumers in the transitional price cap. Why is it necessary to have a transitional price cap for prepayment customers and what did you hope it would accomplish?

Roger Witcomb: I think the first thing to say is that the prepayment market is very different from the credit meter market. In the standard credit meter market, we have a lot of companies—I was surprised to hear it was 46—offering very good deals across a wide range of potential customers. In the prepayment market there is not nearly so much competition. The deals available to prepayment customers are not nearly so good. There are also technical issues around competition in the prepayment market and I am going to go back into the undergrowth of the system, I am afraid, because I have to do that.

The system by which tariffs get translated into the way your meter records electricity and the way in which it records how much you have spent was a system that was designed pre-competition. It is a very clunky system and specifically it does not allow there to be more than a limited number of gas tariffs out there, so it is very difficult for suppliers who want to compete in this market to get access to it and to offer deals. Also worse—and again this is a bit anecdotal—the way in which those tariff slots, the technical way by which you can put a new tariff in the market, all belong to the Big Six and the way in which they are distributed is completely unregulated at the moment. They basically do what they like. It is an indication of how complicated things get when you go right down into the weeds.

That is something that we can do something about, and we are doing something about. That is one of our remedies, but it does explain why the competition in the prepayment sector is nothing like as intense on the supplier side. The good side is that when smart meters come in all those barriers will go away and it will be just as easy to compete in this market as it is in the credit market. Indeed, you could say that smart meters might open the way to prepayment being the natural way forward. Just as we buy almost everything else on a prepayment basis, you might well find that energy goes that way as well and that is one model of competition. I don't know.

Simeon Thornton: If I can add something on the scale of the problem, we were very convinced that the situation for the prepayment customer was very different to that of other customers. We looked at the cheapest tariffs available and only last month there is a difference of between £260 and £320 for the cheapest tariffs available to prepayment customers compared to direct debit customers. They are overpaying to the extent of about 12% of their bill, so they are paying much more than other customers, and they also face far more material barriers to engagement. If you are unlucky enough to be indebted and on a prepayment meter you have very little chance of effecting a successful switch; less than 5% of attempted switches work. We are talking about a qualitatively distinct segment of the market. It is a last resort, but that is why we thought a price cut was necessary.

Q60 James Heappey: I want to dive into the role that smart meters may or may not play in making that measure irrelevant. We have heard repeated concerns on this Committee that smart meter rollout isn't on target and that the target now is to make sure that it is being offered to every home by 2020. The Minister declined to make any sort of commitment over what would represent a good level of uptake. How concerned are you about the smart meter rollout? If it does fail to reach an appropriate level, what do you think should be done to make sure that those on prepayment continue to be supported?

Roger Witcomb: If I can make a general comment, we think smart meters are a very important new development across the whole market. Therefore, we are very keen, not surprisingly, that the programme for rolling them out is kept and that appropriate incentives, sticks or carrots, are offered to the suppliers to ensure that that is met.

In the context of prepayment meters, yes, it is very important. We have said that the price cap will stay in place until 2020 or until smart meters are fully in there and operational. We have reserved the right to—

Q61 James Heappey: Can you define "fully operational"? I am keen to understand, because the Minister refused absolutely to set any sort of level of uptake that she would consider to be success. What do you believe is a successful uptake of smart meters in the UK market?

Roger Witcomb: I am not going to answer that question directly because I don't know, but one could look at it in terms of outcomes. Simeon has already referred to the disadvantage that prepayment meter customers—

Q62 James Heappey: Sorry, Mr Witcomb, I am just going to interrupt. It seems odd that you have done your review and you have considered the impact that smart meters will have on competition within the energy market. When you were making that analysis you must have had in your mind the level of uptake required for smart meters within the market to make all of this worthwhile. Were you assuming full uptake?

Roger Witcomb: I cannot remember what—

Simeon Thornton: Our expectation is that there will be full delivery of smart meters by the end of 2020.

Q63 James Heappey: Full delivery is that every premises has a smart meter?

Simeon Thornton: As defined under the current obligation, which is that every premises has a smart meter or, in the event that someone refuses a smart meter, your obligation is considered to be discharged. It is best efforts.

Q64 Chair: At the moment I think the rollout rate at January 2020 would need to be 7,000 a day and the rollout is approximately 2,000 a day, from industry insiders.

Simeon Thornton: That is the basis on which the 2020 date is set. We have said that we have concerns about the deliverability of that target, and that is why in the design of the price cap we have built in a review in 2019 to take a view on the extent of rollout. In the event that rollout is much slower than expected then a recommendation can be made to Ofgem to extend the term of the price cap. The planning basis is the Government's targets. We do not have a basis for taking issue with that, but we have been mindful in the design of remedies that if those targets should slip we can step in and, if necessary, Ofgem can extend the term of the cap.

Q65 James Heappey: Were you concerned to hear the Minister of State refusing to set a target for uptake? She was very—shifty is probably an unfair word, but she was unwilling to—

Chair: Uneasy.

James Heappey: Uneasy, that is a much better word, Chair, thank you. She was very uneasy about saying that we would get full uptake, and I think she was even uneasy about saying full uptake less those who had positively opted out. Her view was that by 2020 the energy companies must have simply made the offer. Given the importance of this to the review that you did—and I think we as a Committee would unanimously agree with you that smart meters are a huge opportunity to unlock competition within the energy market—it must come as a concern to you that the Government's enthusiasm for it seems to be diminishing.

Roger Witcomb: The enthusiasm, as I understand it, is unabated. The Government are still committed to getting smart meters in. I think there clearly are concerns about getting them in and, like the Secretary of State or the Minister, we too are uneasy, it is fair to say. I don't think it will change anything we do.

In the context of prepayment meters, you may recall at the time of provisional findings we floated a proposition that prepayment customers should get smart meters first. We consulted on that and were persuaded that that was not practicable, given where we were. That then led to a concern that because the competition in smart meters was so poor there would be an incentive on suppliers to put prepayment meters at the back of the queue—probably unfounded, but you can see where that concern might come from. The price cap, of course, does not apply to customers who have SMETS 2 smart meters, so we think that one of the advantages of the way we have set the price cap up is that it does incentivise suppliers to put prepayment customers on to smart meters sooner rather than later.

Q66 James Heappey: Thank you. I want to move on to two last questions from me. You will be very aware of Professor Cave's arguments for a more widespread price cap. Why is it that you disagree with him?

Roger Witcomb: First of all, you will have heard that Professor Cave is indeed part of the group that has put all the other—

Chair: Indeed. In fairness Professor Cave was in high praise. He just said—

Roger Witcomb: The straight answer is that we do not believe a widespread price cap would be temporary. Professor Cave's view that you could put in place a temporary wide price cap at a level that made a significant difference to customers, low enough—

Q67 Chair: So you think it needs to be longer term?

Roger Witcomb: We do not think it needs to be longer term. We think that the choice is between going flat out to make competition work now or to say it is not going to work and we need price control. That is putting it in its starkest terms. We do not think that putting in place a meaningful, widespread price cap is compatible with the move towards increasing engagement, and what limited evidence we have confirms that. The only example that we have managed to get is, interestingly enough, in Australia again where in south-east Queensland there was a price cap. Incidentally, a lot of the price caps that go on immediately after you move from a regulated environment to a competitive environment are set very high because the intention is to encourage suppliers to come in and that they are successful. In one state, in south-east Queensland, political pressure caused that price cap to be reduced significantly. The consequences of that were threefold. One is that you take away the expensive deals and all the cheap deals go away.

Q68 Chair: The assumption is that price caps are there to bring more players into the market. The other reason for price caps could be to push the price down and to drive competition in an area where there is no competition.

Roger Witcomb: Absolutely, and that is why I was making that distinction. The examples we have of temporary price caps being taken off are in the context of trying to encourage competition from suppliers and have, therefore, been set at fairly high levels in a way that would not address the detriment here.

Q69 James Heappey: In your original findings you claim that consumers were collectively overpaying by around £1.7 billion per year, but you have adjusted that figure down to £1.4 billion in the final report. Did you get your sums wrong or has the situation changed since then?

Susannah Meeke: In terms of the detriment analysis, it was not a question of getting the sums wrong. The issue was submissions that we received from parties. The particular sums you are quoting compare the prices of the two most competitive suppliers in the market with the average prices charged by the Big Six energy firms. The submissions that we received raised questions about whether the average prices charged by OVO, or Versatility as it was, were an appropriate benchmark. We did some detailed analysis into that. We looked at various exemptions that they had over the period in terms of social and environmental costs, which would have reduced their cost base, and we made some adjustments in response to that. In effect, what we did was slightly adjust up the competitive benchmark to make allowance for those cost benefits or cost advantages that they had that it would not have been fair to compare against the Big Six, which did not have those same advantages.

Q70 Chair: We have just heard from Professor Cave that the £1.4 billion figure is over four years and the figure for the last year is £2 billion, which he feels is a growing figure. Would you accept what he said on that?

Susannah Meeke: So the figure for 2015 is £2 billion? Yes, that is correct.

Q71 Chair: So £1.4 billion is an average over the last few years and in fact this gap has grown, the customer detriment is getting worse.

Susannah Meeke: The gap has certainly increased in 2015 and there is a slight upward trend in 2012 to 2014. That is correct.

Q72 Antoinette Sandbach: On sticky customers, you found that 46% of those on prepayment meters are not switching—and that may be for the reasons that Simeon explained earlier—47% of those on standard credit do not switch, and 26% on direct debits do not switch. Citizens Advice warned that, "The proposal to share information on disengaged consumers with all other suppliers through a common database on an opt-out basis is a potentially innovative but also highly controversial way of reaching disengaged consumers. Consumer trust in the sector is low, and facilitating bulk unsolicited marketing carries real risks." Do you agree with that assessment?

Roger Witcomb: Yes, is the answer to that. That is why we have put in the safeguards that we have. The data will belong to Ofgem. It is Ofgem who will collect the data. They will oblige the Big Six mostly to supply the data. We should not underestimate the impact that will have. These are very valuable customers for the Big Six and handing over details to Ofgem is quite a bold step. It will then be up to Ofgem to work out what is the most effective way of making use of that information and allowing suppliers to access customers.

It is worth highlighting that one of the main drivers of disengagement is lack of internet access. This is a very good way of getting round that particular problem. It is not ideal, some people will throw letters in the bin of course, but there are 10 million people out there who have not switched for three years. We think this is a potentially bold and extremely effective way of reaching people that you cannot reach any other way.

Q73 Antoinette Sandbach: You looked at the French example and we heard earlier that they update their records every month, and you are calling for the records to be updated only every six months.

Roger Witcomb: I think that was based on a misunderstanding. Ours too will be updated every month. In 1,400 pages it is not surprising that the occasional glitch appears.

Q74 Antoinette Sandbach: I am glad we cleared that up. You spoke earlier in your evidence about the analysis that you have done about who is switching and who is not and said that others will rely heavily on that. How broadly based was that analysis and did you try behavioural studies or polling to look at the impact of the sticky customer database?

Roger Witcomb: I am going to pass that question directly to Simeon.

Simeon Thornton: The evidence that we do have is on a survey of 7,000 customers and it is quite striking if you look at the demographics—

Roger Witcomb: Sorry to interrupt, but 7,000 is a huge survey in the context of this—the biggest survey we have ever done.

Simeon Thornton: It may seem small but it is big. We have found quite striking results. If you looked at the people who have switched supplier in the last three years, around 35% of people who had income over £36,000 had switched supplier. If you look at people on an income of below £18,000 it was 20%. There is a stark difference in income and you see the same sort of irregularities when you look at things such as living in social rented accommodation, disability and education level. The metrics that we might broadly term "vulnerability" do tend to be correlated with not switching.

The second part of your question was how is this going to be tested. I think largely in response to the comments that we got at the provisional stage that was our publication in March, we have reflected on how this database might be used as a tool to test and trial in practice. Ofgem have what is a fantastic tool, an up to 10 million customer database, and it can see what sort of interventions from suppliers work in engaging customers, for example frequency of letters. There is a plausible argument that if you have 20 letters a day you will ignore them all. What about if you restrict the number of interventions, restrict the number of letters? Does that improve matters? It is about the form of communication from suppliers.

It is worth emphasising the fact that these are communications through written correspondence. As Roger said, a lot of people who fall within the target category for this remedy either do not have access to the internet or don't feel confident in using PCWs. In fact, over half of the people fall within that category, so letter is an appropriate form of correspondence for them.

It is also worth reflecting on the experience of doorstep selling, and I say that with some trepidation because there is a sharp intake of breath when we talk about doorstep selling. Doorstep selling, for all its other ills, did succeed in improving switching rates to quite high levels, about 20%, but of course the big problem with doorstep selling is misselling, a lack of trust. The excellent thing about this remedy is that Ofgem can check and test the communications with customers, so if a supplier is misleading a customer Ofgem can immediately withdraw access to the database for that supplier. That is a tool and instrument that was not available in the days of doorstep selling, because Ofgem could not control who was selling what to whom.

Q75 Antoinette Sandbach: Are you saying that the database could not also be used for doorstep selling?

Simeon Thornton: We have said that, so we have clarified in the report that it is our clear expectation that it should not be used for doorstep selling. It is up to Ofgem to enforce that, but we have made that very clear precisely because of this concern. Doorstep selling is not outlawed at the moment. The six large energy firms voluntarily took the decision to withdraw from doorstep selling on the back of robust enforcement action from Ofgem and that regime is not changing, but we don't expect this database to be used for face-to-face communications.

Q76 Antoinette Sandbach: You obviously looked at the French example in relation to ENGIE and what happened there. How successful was that scheme? You have redacted the information from your report. Was that a request from the French side and, if not, why have you redacted that?

Simeon Thornton: Yes, is the answer. In terms of redaction, unfortunately we are subject to quite stringent controls on the sort of information that we can divulge. It is a criminal offence to not comply with section 9 of the Act, so we do take it quite seriously, as you will imagine.

In relation to the French example, I think the comments that the earlier panel made are entirely fair, which is it is too early to draw inferences on how well that has gone. In fact, I think we would draw stronger inferences from what has happened, what has worked and what has not worked in the UK context. As Martin and others have said, there is uncertainty about this remedy, but that is why evaluation and continual improvement is built into the design. We can see if it is working and maybe in a few years' time, through demographic changes, more people will be using electronic communications. Maybe it will become less useful, but right at the moment it is targeting those people who most need the support.

Q77 Antoinette Sandbach: What about the abuses or potential abuses where a tariff might be withdrawn from the market just before a billing cycle in order that those offers are not there and are not communicated to customers?

Simeon Thornton: That is an abuse—potential gaming shall I call it—that arises from the current structure of the RMR that requires suppliers to say, “This is my cheapest tariff,” and lo and behold they might withdraw the tariff when they have communicated it to customers. What we have asked Ofgem to look at is an all-market tariff messaging approach, which would avoid those sorts of concerns. We haven’t been prescriptive as to the form but, for example, Ofgem could write to customers on the database saying, “Did you know these tariffs are available in the market?”, and maybe refer to the Citizens Advice Bureau website and say, “Have you considered switching?”. It does not create those perverse incentives for an individual supplier to say, “I had better stop discounting otherwise I will disengage customers.”

Roger Witcomb: As a general principle, we don’t think that trying to persuade firms to do what is not in their commercial interest is the ideal way to go forward. We would rather that they were, in economist jargon, incentive compatible because if you are being told to do something that you do not really want to do you work out quite carefully ways of—let me put it this way. Ofgem do a lot of research into where on a bill a piece of information will be where it gets most impact. There is a lot of evidence that the companies do a lot of research working out where on a bill a piece of information has least impact. As we know from our psychological studies of behavioural economics, these things are very important.

Sorry, just while we are on that, the other less newsworthy remedy we are putting in place is to oblige suppliers to take part in trials. Again, the most effective way of looking at measures to engage consumers is through the use of trials, randomised control trials, whatever you like to call them. They have been hamstrung by the fact that the big players have not been prepared to play. Now they are going to have to.

Q78 Antoinette Sandbach: Right, and they can force them to play?

Roger Witcomb: We are forcing them to play.

Antoinette Sandbach: Good. Thank you very much.

Roger Witcomb: We are ordering them to play, in fact. It is an important point. Eleven of our remedies are orders. They have legal force and they have to be done. That is why it takes a long time and why we think this is important.

Q79 Dr Poulter: I would like to come on to the specific issue of price comparison sites and also the four-tariff rule that you have decided to get rid of in your review. Can you explain the rationale for that and then perhaps talk a little bit about how you envisage the principles-based approach to ensuring tariffs being comparable will work and what some of those principles may be?

Roger Witcomb: We have already spoken of one of the disadvantages, which is that it caused a certain amount of what Simeon described as “gaming” around the way in which things are presented on bills. The straight answer is that restricting people to four tariffs means that a lot of niche tariffs that customers found useful were not available anymore, and there were other restrictions. Simeon is better up with this than I.

Simeon Thornton: There are three concerns. One, as Roger says, is niche tariffs no longer existed. There is a restriction on the sorts of discounts that suppliers can offer. Those discounts can be extremely useful in attracting new customers and incentivising the suppliers to try to engage the disengaged customer. Let us all remember that 70% of the customer base of the six large energy firms are on the SVT, a very expensive tariff, so any way in which those incentives can be enhanced is a good thing.

Fundamentally, our concern around RMR was that, as others have said today, even with the four-tariff rule, if you multiply that by the number of suppliers in the market you still have over 150 tariffs. You still have a complex tariff for the standard charge and a unit rate, so unless you are very industrious and have access to a spreadsheet you are going to need to use an intermediary, such as a price comparison website or some other form of intermediary, to understand those tariffs. There were downsides of the sort that I have mentioned, and we didn't see a clear upside.

Q80 Dr Poulter: You mentioned that this allows energy companies to incentivise and bring on stream new products or offer discounts. Would it be the case that that tends to be the behaviour or actions of larger energy companies being able to offer more products, or is it your experience, for example from your research that you did coming into this report, that the smaller, new entry energy companies offer a variety of products?

Roger Witcomb: The answer is it is both. The large companies typically run two markets really. They behave like a competitor in the market for the competitive sector and then they protect their bank of customers on SVT in another market. The strategies of large companies in the competitive part of the market changes from day to day. Sometimes they are in and sometimes they are not, for reasons that are not always possible to understand. Basically, the action in the market is people trying to get new customers and ultimately to prise SVT customers away from where they are. We think they need every help to do that.

Q81 Dr Poulter: I think we are running a little bit short on time, and I have two or three more questions to get through; I do apologise for interrupting. It is not that I don't want to hear what you have to say, because you have been very helpful.

Roger Witcomb: I could go on for ever.

Dr Poulter: On those principles that you are going to be bringing in, the principles-based approached to ensuring tariffs are easily comparable, can you tell me a little bit about what those principles are going to be and how you envisage them working and being enforced?

Simeon Thornton: The principle is simply stated, because it is a principle rather than a prescriptive set of rules, that suppliers should ensure in designing their tariffs that they are easily comparable in terms of allowing customers to assess the value for money of the different tariffs.

The reason that we have suggested this principle, which enhances the fairer treatment component of RMR, is that we have found—and again I go back to the example of doorstep selling—that when there are clear principles and Ofgem enforces robustly on the back of them, supplier behaviour changes. It changes in a way that is much more positive than when you try to prescribe the activity extremely neatly and risk legitimising the sorts of behaviour that you don't want to encourage. The principle is simple. Ofgem has stated that it is intending to move in a more principles-based direction to deal with these perfectly legitimate concerns around customer confusion and too much complexity, and we think that is a good thing on the basis of the behaviour that we have seen in the market.

Q82 Dr Poulter: 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. I can see some nodding. Do you feel that is promoting competition and benefiting the market or not?

Roger Witcomb: 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 and in this context—

Q83 Chair: But you would not want them giving less information than they have at present. We had GB Energy in and there was a bit of concern. To declare an interest, I happened to switch to them a number of months ago and now it might not be on a price comparison website. Surely it would be a retrograde step to find a company that would not be on a price comparison website.

Roger Witcomb: That is up to them. I can understand why a small supplier would like to have a situation where he or she can get on to a price comparison website for nothing.

Q84 Dr Poulter: Just a slight weakness I think is that your own report, I believe, indicated in the evidence that you have collected yourselves that 70% of consumers—and we heard this from the previous panel—use price comparison websites, two of those websites, I believe. It does not necessarily follow that if those price comparison websites are offering the best deal, that competition is going to flow with that. That is from your own evidence, so I am struggling a little bit to follow the logic. I think you mentioned about the Citizens Advice comparison website but the Centre for Competition Policy has also raised concerns about Ofgem's ability to provide that independent price comparison website you want them to. Given such a dominance in market share, price comparison sites are not going to offer the best deal. I wondered why you put so much faith in either the Citizens Advice or another independent price comparison site.

Roger Witcomb: We certainly have always thought that it was very helpful, if not essential, to have at least one site out there that offered the whole market and that is something that Citizens Advice is providing and is happy to provide going forward. We did suggest a year ago that it might be Ofgem that did it, but we were persuaded that that was not necessary.

I think the important thing is to recognise what it is that the commercial ones are there to do. They are there to sell deals to customers. They will not sell many deals if they don't offer the cheap deals. That is basically the dynamic.

Q85 Chair: Price comparison websites bill themselves as being price comparison websites. To do what it says on the tin, they would have to become price comparison websites for those who have paid to be on their website. You have mentioned it would be quite good for companies to get on there for free, but the understanding of a price comparison website is that they go round scouring the countryside. What you are saying is they are not, they are only price advertising websites, which is a big difference to what the customer understands. It would appear to me the CMA are giving cover to that change in behaviour from price comparison websites to be price advertising websites, which is a big difference. This then will lead to further consumer distrust of the whole edifice around energy.

Roger Witcomb: Two things on that, if I may. One is that we are very clear that price comparison websites will have to be transparent about what it is that they—

Chair: They would need to be renamed, in that case, because they would not be price comparisons.

Roger Witcomb: There is an argument for that. The other thing I was going to say was that no other sector has a whole-of-market requirement. What we are merely doing is putting energy back where motor insurance, home insurance and broadband deals already are. In that context one of the interesting things is—

Q86 Chair: My alarm is from the fact that you seem to be turning the clock back and that we are not going to have as good an offer from price comparison websites in the future.

Roger Witcomb: Our concern about having free riding on price comparison websites is that that will be a very unattractive market.

Q87 Chair: Who are you more bothered about, the customer or the price comparison website?

Roger Witcomb: If there are no price comparison websites the system becomes academic.

Chair: There are at present, but you want to rewind the clock and give the customer a less attractive offer on price comparison websites to become advertising websites, which would be a huge conceptual change from what the customer has with price comparison websites. I am monopolising and time is getting on.

Q88 Antoinette Sandbach: To pick up on that, the previous Committee to this one said that it is clear many consumers are bamboozled by the number of available tariffs from the whole energy industry. Ofgem gave evidence to that Select Committee, our predecessors, that 40% of those who managed to switch had switched to a worse deal. If you are looking at trust in the marketplace, does that not fundamentally undermine that trust?

Roger Witcomb: The first thing to say is that that is very old data. It is before price comparison websites. It is at the time of doorstep selling, where we know there were issues about customers choosing the right deals. To put this into context now, if you look at any of the price comparison websites out there, and you are the average Ofgem consumer, they will all tell you on the front page that the range of savings will be between £350 and £320 a year. They will all tell you that you can save a lot of money.

Q89 Chair: Weren't you telling us there are going to be less prices compared on the website? Sorry, Antoinette.

Antoinette Sandbach: Sorry, I just wanted to follow up. You have lifted the four-tariff rule in order to give that greater flexibility on specialist deals. Mr Watson from GB Energy suggested that maybe there should be a cap on the number of deals that can be offered—let us say no more than 11 or 15 by a single company—so that you do not get multiple deals with very small incremental differences effectively there to confuse rather than enlighten the customer.

Roger Witcomb: It is the price comparison websites who do the work here. They do the comparisons. I do agree. If you go on to a price comparison website and find that the whole of the front page is from the same company with twopence difference between them, one would expect the price comparison website to do something about that.

Simeon Thornton: That is precisely the point, that they cannot do that in the current regime because they are required to list the whole of the market. Before the whole of the market requirement they could brigade all of those tariffs together and say, "These are miniscule differences so we will put that one, two, and three". They are precluded from doing that activity that can help customer understanding because they have to demonstrate all of the tariffs. We are clearly aware of the Committee's previous views on it, and it is a very important area. I think for us the very stark choice is not price comparison websites as they are, with a lot of free advertising, but no price comparison websites that operate in a commercial way in the future. We think that would be a shame for customers because that is a key mechanism by which engagement can be enhanced.

Q90 Dr Poulter: One of the concerns that the previous Committee raised—and I think we are raising it today—is that there has been an undermining of consumer trust in the energy market, perhaps the behaviour of the Big Six companies in particular, and that price comparison websites are a tool that a lot of consumers turn to to access what they believe to be the best energy deals, and that is how price comparison websites market themselves. The concern is, certainly from what has been said today, that there does not appear to be any tool available except having one independent site that you are advocating, which at the moment even the independents have almost no market share, to ensure that consumers are fully informed as to all the deals in the market. What you appear to be saying—as the previous panel was saying—is that price comparison websites are not really price comparison websites. What they are is in fact an extension of the commercial activities of the energy companies that can afford the commission to be advertised on those sites. Do you think that is a good reflection of the active part of the energy market and is that good for consumers?

Roger Witcomb: I think I would say that whatever the commission is, price comparison websites are a very cheap way for a new company to get itself noticed and on to the block. It is probably the most efficient way. Clearly, if you are a small—

Q91 Chair: When you say cheap, how much would it cost?

Roger Witcomb: I cannot comment, but I think Mr Watson quoted £70 to £80 for a dual fuel customer.

Simeon Thornton: It can be much less than that.

Roger Witcomb: It can be much less. That strikes us as being high.

Chair: I thought you said they were cheap.

Roger Witcomb: Compared with other ways of getting yourself known in the marketplace, these are cheap. Compared with national advertising or television advertising, these are very cheap ways.

Q92 Chair: Television advertising would cost £70 or £80 per customer?

Roger Witcomb: It depends how many customers you get. The great thing about price comparison websites is that you only pay when you get a customer, so they are a very low risk and efficient way of establishing market share, and if you are the cheapest you get right to the top of the page.

Simeon Thornton: I think I would take issue with the idea that it will only be the small companies that lose out. What we have seen is since the amendment to the code in March 2015 there has been a substantial reduction across the board in the number of tariffs that attract commission rate—about 40% from March 2015 to December 2015. That shows in quite stark terms that the business model with this requirement to offer tariffs irrespective of whether they pay for the advertising or not is not sustainable. It is not just small firms that will not pay. Why would anyone pay, Big Six or small firms, if they are not required to in order to use a PCW?

Q93 Chair: Can I tell you why? Having used a price comparison website, it is a step of greater difficulty to go to some companies, say GB Energy, than to just click through with the price comparison website. The price comparison website has the built-in advantage of a couple of clicks and it goes somewhere. For the sake of its reputation it tells everybody. Dieter Helm has accused the CMA of being captured by the Big Six. I am sitting here thinking that the CMA has not really been captured by the Big Six perhaps—I will leave that as Dieter Helm's point—but it certainly seems to be captured by the price comparison websites. I am really surprised to find that after two years of this work that the customer and the consumer is going to be disadvantaged. Many people who might be switching may have been better off had the CMA not done anything on that particular point in the last two years.

Roger Witcomb: The whole-of-market requirement is relatively recent. Our very clear view is that if you left the whole-of-market requirement in there, commercial price comparison websites would exit the market.

Chair: But they have not done now. That is my point.

Roger Witcomb: It is early days, and there are still enough people—

Chair: This is the capture problem: if something happens they will act, but it is not happening. There is an advantage to paying because you can click through faster. If you have not paid, you have to get off the website and be proactive yourself with the information that you have and do something about that. That is a problem. I think we are going to disagree about that because of the time. Dieter Helm has his view with you over the Big Six; I have a view with you with the price comparison website.

Q94 Dr Poulter: I want to make one last point about the value for money for small energy companies. What we do know is that while all energy companies may potentially put forward a loss-leading deal, the Big Six have tended to do that as a routine part of their behaviour, and we have heard that from the previous panel. Certainly, if you are starting up an energy company—a new, smaller energy company—taking a hit on commission of £20 or £70 per customer is going to be seen as an impact upon your ability potentially to even enter the market in the first place. I do struggle to see how these price comparison websites are offering good value to the consumer but also are effectively enabling, through the sponsorship deals with the Big Six companies, an extension of their commercial arm, and they are effectively helping to stifle the emergence of new companies coming into competition. It is controversial to say that, and I wonder whether you have reflected upon that in your thoughts.

Roger Witcomb: For us the question is: is it appropriate to subsidise new entrants by offering them free access to websites in order to allow them to come in? The evidence that we have, which is that there are north of 30 new entrants in this market, suggests that that is not a serious barrier to entry at the moment.

Q95 Chair: But you are about to erect a barrier to entry. The CMA is recommending a barrier to entry because you will not be on the price comparison websites.

Roger Witcomb: We are suggesting taking away a subsidy to encourage entry. It is not just to encourage entry; it is a subsidy to all players in this market.

Q96 Chair: You want a status quo advantage. We will have to leave that where it is due to time. We will move on to another matter, to clarify the timetable of the mechanisms for implementation of the major CMA remedies. Going through the major remedies we have discussed this morning, can you tell us about the mechanisms and the time for their implementation? How long will it take to implement the CMA orders and their recommendations to the Government and their recommendations to the private sector? Will some of the remedies need Government legislation to enact them? I think that is a question for Susannah Meeke.

Susannah Meeke: Yes, certainly. If I start with the process that we have for implementing the CMA orders, we have a statutory six-month deadline—so that is effectively Christmas this year—by which we have to have consulted on and put into place our orders. Following on from that, those will come into effect at various times depending on the specific order. For example, the prepayment price cap is due to come into effect from April 2017, price transparency for microbusinesses is due to come into effect summer of 2017, and so on. That is the process for orders.

In terms of the recommendations that we make, these again vary depending on the specific remedy and, as Roger has mentioned before, we have quite a few of those. Some of the recommendations we expect to come into effect from the beginning of 2017, so those will have an effect on the market then. For the customer database, for example, we expect that the first letters will be going out in early 2018. In terms of the Ofgem-led programme, we would expect the first interventions or prompts for customers from 2019.

In terms of what the CMA does, we act within the next six months to put our orders into place. Where we make recommendations to others, we have set out the timetable that we hope and expect they will adhere to in those recommendations.

Roger Witcomb: Can I put in a bit of a commercial on the end of that? We have around I think my last count was 36 remedies. Of those, 11 are orders. Those are legal obligations on parties, usually the companies, to do things. The other 25 are recommendations. Quite often in reports of this type recommendations are fairly cheap because there is no particular expectation that they are based on, very much, that they will be implemented. In this case the recommendations are based on really extensive analysis. More importantly, we have discussed them with the bodies to whom we are making the recommendations, which is basically Ofgem and DECC, and I think in one case Citizens Advice. In every case both Ofgem and DECC have said that they will implement the remedies as soon as they can, which we think gives them a great deal of extra strength and is the strength of the process.

Chair: Thank you very much. I am afraid that takes us to the end of our session this morning. Thank you for coming, even if it did raise my blood pressure on price comparison websites. I certainly hope they do not take the loophole that they have been offered and do remain as price comparison websites. Thank you for your time this morning. It has definitely been informative. Doubtless, we will see each other again at some point in the future.