



## **CPS response to Ofgem Discussion Paper ‘Future of domestic price protection’ – May 2024**

### **Q1. Do you have any reflections on our list of the cap’s successes and challenges?**

We very much welcome this discussion on the future of price protection in the retail markets and the open-ended manner in which it is being conducted. However based on the discussion put forward and the options presented, we are deeply concerned that price protection has come to be seen as the ‘default’ option for the market, rather than the temporary intervention it was always intended to be. It is difficult to think of another sector in the economy (that is not a natural monopoly) where the State directly sets prices for 90% of consumers. And yet the stated reason for setting out this consultation is essentially a practical one, namely the difficulty in maintaining the current cap structure given the increasing future diversity of electricity consumption patterns.

As a foundational principle, competition will deliver far better ‘protection’ for consumers than regulation. And indeed maintaining the currently-envisaged timelines to complete the smart meter rollout and deliver MHHS will be critical to that vision. We also urge DESNZ and Ofgem to pick back up the previously paused work on opt-in switching, as well as allowing for new and innovative tariff structures such as meter splitting / energy-as-a-service. A competitive, dynamic, innovative retail market is the one we want to see - not a stodgy state-directed system where suppliers have little ability to differentiate themselves.

Removing the price cap in its current form is key to delivering that world. We set out our vision of the future below - in short, while we agree there is still a role for price protection, it should be much more targeted than it is today.

### **Q2. Do you believe that the growing diversity of electricity consumption patterns will make it challenging to retain a flat, universal and stringent price cap? How quickly do you think this will materialise and with what impacts? What evidence can you provide to support your view?**

We see the logic and agree with the general case for change, but as to how quickly and with what impacts we do not have sufficient evidence to judge this.

### **Q3. What plans do suppliers have to launch ToU tariffs and to incentivise customers to shift their electricity consumption once MHHS is implemented?**

N/A



**Q4. How quickly and at what scale do you expect customers, especially those with large flexible loads such as EV and solar / battery users, to take up ToU tariffs once MHHS is implemented?**

N/A

**Q5. In addition to the factors set out in this chapter, are there any other important changes that might affect the ability of the current default tariff cap to achieve its objectives?**

N/A

**Q6. Do you agree that we need to retain some form of price protection in the retail market?**

We agree that price protection is still needed, to varying degrees, in the retail market. However we believe that HMG and Ofgem should take a much more targeted approach to both who should receive price protection and how that protection should be structured.

Rather than the current universal approach, we believe price protection should be viewed through the lens of two 'tests'. The first might be termed 'capacity' - is it reasonable for the State to expect you to make decisions about your energy needs? For an elderly person suffering from Alzheimers, clearly the answer is no. Similarly those suffering from severe mental illness for example, are also plainly not in a position to be thinking about who their energy supplier should be. Or there will be certain consumers who ultimately have little or no control over their energy supply contract, such as tenants who have utilities bundled into their rent (c. 12% of the rental market in England according to this [recent survey](#)), or more generally where landlords exercise control over their tenant's supplier. However for the vast majority of people, it is reasonable for the State to expect that they should be able to manage their energy needs, as they do with food, housing, transport and so on.

The second test might be termed 'livelihood' - the above notwithstanding, are you at risk of serious harm if your energy supplier overcharges you? Even if an individual is perfectly able to look after their energy bills, there is a moral and social welfare case for the State to intervene on behalf of the poorest in society. After all, we do not want anyone to be in a position of choosing between 'heating and eating'.

It is important to note that the question of price protection is distinct from the question of who should receive help with their bills and how future bill support should be structured, as per the concurrent Affordability consultation. One could envisage a future in which someone qualifies for a social tariff for example, but does not meet the criteria for price protection. However these two points are of course interlinked, not least given that if the State is partially subsidising people's bills, any 'overcharging' on the unit price of energy will



in part be passed back to taxpayers or billpayers (or at the very least make the intervention less impactful).

Deciding where to draw the line on eligibility for this second test is of course subjective and limited by practical considerations. Customers on prepayment meters or in receipt of the Warm Homes discount is a reasonable place to start, but the level of support will ultimately need to be determined by the prevailing energy price environment, which is by nature unpredictable.

However, for those who fail both of these tests (eg the majority of the market), the case for strict price protection akin to the current system is much weaker. The role of the State should not (and cannot) be to protect consumers from every bad decision they could potentially make - personal responsibility needs to start somewhere. Indeed for those who are currently 'disengaged', any consumer detriment will be remedied the moment they choose to shop around for a better tariff or supplier. And thanks to Ofgem's recent work in this area, switching suppliers has never been easier. Moreover as the take-up of low-carbon devices such as EVs, heat pumps and solar panels increases, this should hopefully continue to have a virtuous effect on customer engagement given the substantial savings on offer.

Hence for this type of customer, competition should be the overriding concern of Ofgem and HMG, as opposed to protection. There may well be a case for looser forms of price protection, such as those mentioned below - but these should only be implemented to the extent that they do not substantially harm competition for 'engaged' consumers. In other words, any solution needs to be a win-win - tackling the loyalty penalty cannot come at the expense of competition as with the current system.

**Q7. Do you have views on which of the three key parameters – the cap being flat, universal and stringent - should be relaxed when considering future price protection options?**

In short, all three should be relaxed to varying degrees - Ofgem and HMG should look to get more sophisticated and move away from the current 'one-size-fits-all' policy.

As discussed above, doing away with the principal of universality is paramount - the sort of price protection that should be afforded to the most vulnerable in our society is quite different from what is suited to the majority of the market. We do not take a view on exactly how price protection should work for those in the former category, particularly given that any such policy will be bound up with discussions around the future of bill support. While encouraging competition in this category of customer is still important, clearly 'protection' takes precedence here.

For those customers who fail our two 'tests' (eg the majority of the market), the 'stringent' principle should be done away with. Calculating a bottom-up price for a notionally efficient



supplier and applying this across the entire market is a very heavy-handed approach to price protection, and one which we believe damages competition and discourages innovation. Hence any future approach should use market mechanisms, and should only be put in place to the extent that this intervention does not substantially damage competition in the wider market.

As to the 'flat' parameter, again there is not a 'one-size-fits-all' policy. For those customers with high-consuming but flexible devices such as EVs, there is a strong case to make any price protection (if it exists) based on Time-of-Use rather than a flat tariff. As Ofgem and DESNZ have pointed out, there is indeed a risk of EV drivers 'sitting on' a (flat) price cap and imposing their costs on everyone else, and morally it is difficult to argue that such customers should be price protected for doing so. However for customers without such devices, a ToU tariff is unlikely to be appropriate and thus price protection should not attempt to force them onto a tariff type they would not otherwise take up.

**Q8. What are your views on options discussed? Do you have any preferred options or combination of options?**

For the average consumer without a large flexible device, any form of price protection (to the extent it should exist at all), should be as pro-competition and innovation as possible. Thus a cap on margins or on 'excess profits' is clearly not fit for purpose as it removes incentives for efficiency, innovation and investment in the sector. Among the other three options mentioned (market basket, relative cap and BAT), we do not take a definitive view as there is not enough evidence presented to make an informed decision.

**Q9. In particular, which options or combination of options do you think would best protect vulnerable customers?**

As above.

**Q10. How should consumers with large flexible loads, mainly EV and solar/ battery users, be treated with regards to future price protection?**

While we do indeed want to encourage consumers with this profile onto Time-of-Use tariffs, Ofgem and HMG should be wary of using price protection as the mechanism for doing so. This part of the market is exactly where innovation should thrive, particularly if some of the more imaginative ideas such as energy-as-a-service go ahead. Existing suppliers and new entrants should be competing to save customers money with dynamic new tariffs that take advantage of ToU pricing and automation. Given customers with large flexible loads tend to be more 'engaged' with their energy supplier anyway, there is less of a risk of price exploitation. In other words in this segment of the market more than any else, 'protection' for consumers will come from competition, not regulation.



If any price protection is absolutely necessary for certain segments of this market, it should be aligned with the approach taken in the conclusion of the recent DESNZ consultation on the future of default tariffs.

**Q11. Are there any additional options that we haven't, but should be considering?**

N/A.